



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6222/1998
NNTT Number: QCD2001/007

Determination Name: [Bar-Barrum People v State of Queensland & Others](#)

Date(s) of Effect: 28/06/2001

Determination Outcome: Native title exists in parts of the determination area

Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

Determination Date: 28/06/2001

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Bar-Barrum Aboriginal Corporation RNTBC
Agent Body Corporate
37 Tait Street
MUTCHILBA Queensland 4872

Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations www.oric.gov.au

COMMON LAW HOLDER(S) OF NATIVE TITLE:

The Bar-Barrum People

MATTERS DETERMINED:

THE COURT ORDERS, DECLARES AND DETERMINES WITH THE CONSENT OF THE PARTIES THAT:

1. Native title exists in the "determination area" save for the areas of land or waters described in Schedule 2. The determination area comprises the following areas of land or waters as shown on Plan AP5171 attached at Schedule 1:

(a) Lots 83, 115, 128, 135, 141, 142, 147, 150, 151, and 156 on USL21437;

- (b) Lot 19 on USL21563;
- (c) Lot 1 on USL21432;
- (d) Lot 1 on USL21433;
- (e) Lot 26 on HG723;
- (f) Lot 27 on HG724;
- (g) Lot 35 on USL21562;
- (h) Lot 3 on USL21433;
- (i) Lot 53 on plan AP7039 (previously known as Lot 53 on USL21566);
- (j) Lot 14 on USL21562;
- (k) Lot 127 on USL21437;
- (l) Part of Lot 567 on OL57 (previously known as Lots 91 and 100 on USL21437);
- (m) Lots 1 to 4 on plan AP3453 (previously known as Lot 146 on USL 21437);
- (n) Lot 18 on LD96 being Reserve for Camping and Water R.87; and
- (o) Lot 8 on LD149 being Reserve for Departmental and Official (Training Farm) Purposes R.139.

2. The persons holding the communal and group rights comprising the native title ("the common law holders") are the Bar-Barrum People.

3. The native title rights and interests may have been affected by the grant of, or by lawful activity that has taken place pursuant to, the interests set out in Schedule 3.

4. The nature and extent of the native title rights and interests are the rights and interests of the common law holders to possess, occupy, use and enjoy the determination area in accordance with and subject to their traditional laws and customs and the force and operation of laws of the Commonwealth and the State, and in particular to:

- (a) live on the area;
- (b) conserve the natural resources of the area for the benefit of the common law holders;
- (c) maintain, use, manage and enjoy the area for the benefit of the common law holders, that is to:
 - (i) maintain and protect sites of significance to the common law holders and other Aboriginal people within the meaning of that term in the Native Title Act 1993 (Cth);
 - (ii) inherit, dispose of or give native title rights and interests in the determination area to others provided that such persons are Aboriginal People within the meaning of that term in the Native Title Act 1993 (Cth);
 - (iii) decide who are the Bar-Barrum people, provided that such persons must be Aboriginal people within the meaning of that term in the Native Title Act 1993 (Cth);
 - (iv) regulate among, and resolve disputes between, the common law holders in relation to the rights of possession, occupation, use and enjoyment of the area;
 - (v) conduct social, religious, cultural and economic activities on the area;
 - (vi) exercise and carry out economic life on the area, including harvesting, fishing, cultivating, management and exchange of economic resources;
- (d) conserve, use and enjoy the natural resources of the area for social, cultural, economic, religious, spiritual, customary and traditional purposes; and
- (e) make decisions about, and to control the access to, and the use and enjoyment of, the area and its natural resources by the common law holders.

5. The native title rights and interests referred to in Order 4 are not exclusive of the rights and interests of others.

6. The nature and extent of any other interests in relation to the determination area are:

(a) the interests of Mareeba Shire Council under its local government jurisdiction and functions as an entity exercising statutory powers, including:

- (i) its legal and equitable interests under any reserves, permits and other estates or interests; and
- (ii) its interests under a deed of agreement dated 9 February 2001 between it and the common law holders;

(b) the interests of Herberton Shire Council under its local government jurisdiction and functions and as an entity exercising statutory powers, including:

- (i) its legal and equitable interests under any reserves, permits and other estates or interests; and
- (ii) its interests under a deed of agreement dated 25 January 2001 between it and the common law holders;

(c) the interests of Ergon Energy Corporation Limited (ACN 087 646 062) as an entity exercising statutory powers and as owner and operator of electricity transmission and distribution facilities including:

- (i) the right to enter upon the determination area in accordance with the law; and
- (ii) its interests under a deed of agreement dated 20 March 2001 between it and the common law holders;

(d) the interests of Powerlink Queensland (ACN 078 849 233) as an electricity entity exercising statutory functions, powers or rights and as owner and operator of electricity transmission facilities, and associated infrastructure situated upon the determination area, including but not limited to the right to enter upon the determination area at any reasonable time in order to access, use, maintain, repair, replace, upgrade or otherwise deal with those facilities and infrastructure in accordance with the law;

(e) the interests of the Telstra Corporation Limited (ABN 33 051 775 556) as an entity exercising statutory powers and as owner and operator of telecommunications facilities including above and below ground cabling and associated telecommunications facilities situated upon the determination area, and also including, but not limited to:

- (i) the right to enter upon the determination area in accordance with law; and
- (ii) its interests under a deed of agreement dated 5 March 2001 between it and the representatives of the common law holders;

(f) the interests of licensees under occupational licences issued under the Land Act 1910 (Qld) and the Land Act 1962 (Qld);

(g) the interests of lessees under leases granted under the Mining Act 1898 (Qld), the Mining Act 1968 (Qld) and the Mineral Resources Act 1989 (Qld);

(h) the interests of holders of tenements granted under the Mining Act 1968 (Qld) and the Mineral Resources Act 1989 (Qld);

(i) the interests of trustees of reserves dedicated under the Crown Lands Act 1884 (Qld), the Land Act 1910 (Qld) and the Land Act 1962 (Qld);

(j) the State's 'absolute property' for the purposes of the Forestry Act 1959 in forest products and quarry materials; and

(k) other interests that may be held by reason of laws of the Commonwealth and the State.

7. The relationship between the native title rights and interests described in Order 4 and the other interests described in Order 6 ("the other interests") is that:

(a) the other interests continue to have effect and the rights conferred by or held under the other interests may be exercised notwithstanding the existence of the native title rights and interests; and

(b) the other interests and an activity done in exercise of the rights conferred by or held under the other interests prevail over the native title rights and interests and any exercise of those native title rights and interests.

8. The words and expressions used in this Order have the same meanings as they have in the Native Title Act 1993 (Cth) except for the following defined words and expressions:

(a) "forest products" has the same meaning given in the Forestry Act 1959 (Qld);

(b) "laws of the Commonwealth and the State" means the laws of the Commonwealth of Australia and the State of

Queensland, and includes regulations, statutory instruments, local government schemes and by-laws and the common law;

(c) "natural resources" means animal, fish and plant life, water, clays and soils found on the determination area from time to time but does not include petroleum as defined in the Petroleum Act 1923 (Qld), minerals as defined in the Mineral Resources Act 1989 (Qld) or natural gas as defined in the Petroleum Act 1923 (Qld);

(d) "quarry materials" has the same meaning given in the Forestry Act 1959 (Qld);

(e) "road" has the same meaning given in the Land Act 1994 (Qld).

AND THE COURT FURTHER ORDERS THAT:

9. The native title is not to be held in trust.

10. The Bar-Barrum Aboriginal Corporation is to:

(a) be the prescribed body corporate for the purposes of s57(2) of the Native Title Act 1993 (Cth); and

(b) perform the functions mentioned in s57(3) of the Native Title Act 1993 (Cth) after becoming a registered native title body corporate.

11. Until such time as there is a registered native title body corporate in relation to the determination area any notices required under the Native Title Act 1993 (Cth) or otherwise to be served on the common law holders may be served upon the Bar-Barrum Aboriginal Corporation, and such service shall be deemed to be sufficient.

REGISTER ATTACHMENTS:

1. Attachment A - Schedule 1 to the determination - plans of the determination area (Plan AP5171), 7 pages - A4, 28/06/2001

2. Attachment B - Schedule 2 to the determination - Parts of determination area where native title has been extinguished, 1 page - A4, 28/06/2001

3. Attachment C - Schedule 3 to the determination - mining tenures granted before 31 October 1975, 5 pages - A4, 28/06/2001

4. Attachment D - DNRM produced map of determination area, 1 page - A4, 28/06/2001

Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.