



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6015/2003
NNTT Number: QCD2005/004

Determination Name: [Patrick Thaiday, Jack Billy and Jenson Pearson on behalf of the Warraber, Poruma and Iama Peoples v The State of Queensland](#)

Date(s) of Effect: 15/08/2005

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 15/08/2005

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Wakeyama (Torres Strait Islanders) Corporation RNTBC
Trustee Body Corporate
PO Box 38, Iama Island via,
THURSDAY ISLAND QLD 4875

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 Warraber, Poruma and Iama peoples, being:

(a) the descendants of one or more of the following apical ancestors:

Kebisu, Rusia, Ausa, Auda, Porrie Daniel, Gawadi, Kelam, Laieh, Gaudid, Kalai, Gagabe, Wawa, Mapoo, Baki and Ulud; and

(b) Torres Strait Islanders who have been adopted by the above people in accordance with the traditional laws acknowledged and traditional customs observed by those people.

MATTERS DETERMINED:

THE COURT ORDERS BY CONSENT THAT:

1. Native title exists in relation to the land and waters on the landward side of the High Water Mark of Lot 39 on Crown Plan TS 215 known as Sassie (also referred to as Long Island) and Lots 19-27, 29, 30, 32, 36-39 and 42-45 on USL 36706 and shown on the plan in Schedule 1 ("the Determination Area"). (See Attachment 1 - SCHEDULE 1)

2. Native title is held by the people described in Schedule 2 ("the Native Title Holders").

3. Subject to paragraphs 4 and 5, the native title is a right to possession, occupation, use and enjoyment of the Determination Area to the exclusion of all others.

4. Subject to paragraph 5, the native title in relation to Water is a non-exclusive right to:

(a) hunt and fish in or on, and gather from, the Water for the purpose of satisfying personal, domestic or non-commercial communal needs; and

(b) take, use and enjoy the Water for the purpose of satisfying personal, domestic or non-commercial communal needs.

The native title in relation to Water does not confer possession, occupation, use and enjoyment of the Water on the Native Title Holders to the exclusion of all others.

5. The native title is subject to and exercisable in accordance with:

(a) the laws of the Commonwealth of Australia and the State of Queensland; and

(b) traditional laws acknowledged and traditional customs observed by the Native Title Holders.

6. The nature and extent of the other interests in relation to the Determination Area are set out in Schedule 3.

7. The relationship between the native title and the other interests referred to in paragraph 6 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 native title; and

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

8. If a word or expression is not defined in this order, but is defined in the Native Title Act 1993 (Cth) then it has the meaning given to it in the Native Title Act 1993 (Cth). In addition to the other words defined in this order:

(a) "High Water Mark" has the meaning given to it in the Land Act 1994 (Qld);

(b) "Laws of the Commonwealth and the State of Queensland" means the common law and the laws of the State of Queensland and Commonwealth of Australia and includes legislation, regulations, statutory instruments, local planning instruments and local laws;

(c) "Local Government" has the meaning given to it in the Local Government Act 1993 (Qld); and

(d) "Water" has the meaning given to it in the Water Act 2000 (Qld).

9. The native title is to be held in trust by the Wakeyama (Torres Strait Islanders) Corporation for the benefit of the Native Title Holders.

SCHEDULE 2 - NATIVE TITLE HOLDERS

The Warraber, Poruma and lama peoples, being:

(a) the descendants of one or more of the following apical ancestors:

Kebisu, Rusia, Ausa, Auda, Porrie Daniel, Gawadi, Kelam, Laieh, Gavid, Kalai, Gagabe, Wawa, Mapoo, Baki and Ulud; and

(b) Torres Strait Islanders who have been adopted by the above people in accordance with the traditional laws acknowledged and traditional customs observed by those people.

SCHEDULE 3 - OTHER INTERESTS

The nature and extent of the other interests in relation to the Determination Area are:

(a) the interests of the State of Queensland in Reserve 19 over Lot 39 on Crown Plan TS215, the interests of the persons in whom that reserve is vested and the interests of the persons entitled to access and use that reserve for the purpose for which it is reserved;

(b) the interests, powers and functions of the Torres Shire Council as Local Government for Lot 39 on Crown Plan TS215, Lots 19-27, 29, 30, 32, 36-39 and 42-45 on USL 36706;

(c) the interests recognised under the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters signed at Sydney on 18 December 1978 as in force at the date of this order including the interests of indigenous Papua New Guinea persons in having access to the Determination Area for traditional purposes; and

(d) any other interests that may be held by reason of the force or operation of the laws of the Commonwealth of Australia or the State of Queensland including the common law.

REGISTER ATTACHMENTS:

1. Attachment 1 - SCHEDULE 1 - NATIVE TITLE DETERMINATION PLAN, 1 page - A4, 15/08/2005

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.