



## Extract from the National Native Title Register

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### Determination Information:

**Determination Reference:** Federal Court Number(s): QUD6008/1998  
NNTT Number: QCD2007/002

**Determination Name:** [Walker on behalf of the Eastern Kuku Yalanji People v State of Queensland](#)

**Date(s) of Effect:** 9/12/2007

**Determination Outcome:** Native title exists in the entire determination area

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

**Determination Date:** 09/12/2007

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

Not Applicable

### REGISTERED NATIVE TITLE BODY CORPORATE:

Jabalbina Yalanji Aboriginal Corporation RNTBC  
Trustee Body Corporate  
PO Box 1430  
MOSSMAN Queensland 4873

*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](http://www.oric.gov.au)*

### COMMON LAW HOLDER(S) OF NATIVE TITLE:

In respect of the Determination Area, the common law holders are those people known as the Eastern Kuku Yalanji People. The Eastern Kuku Yalanji People are those Aboriginal people who are:

- a) descended from the following Eastern Kuku Yalanji Maja Maja Ngujakarimun (apical ancestors in descent groups):
- (i) Siblings Wawuyilkinga, Lily Kajakaja, Ulurban, Kurlur, Juwalkji, Jinabaji;
  - (ii) Kilkil (Gilgil) and Yougie (Emera);
  - (iii) Ngamubaralba;
  - (iv) Jimmy Johnson Snr and his brothers Toby King and Peter King;

- (v) Brothers Billy King, Willie King 1 and Willie King 2;
- (vi) Siblings Nambaji, Bijun (Dangara) and Jimmy (Mandilba) Rossville;
- (vii) Old Man Jimmy and Sarah;
- (viii) Kurukuna and Nellie;
- (ix) Bluja King Kunarra and his three wives Ngingkibaji #1 and Ngingkibaji #2, and Baral-Baral;
- (x) Dimbanga and Mara Baril Baril;
- (xi) Sisters Mujala and Rosie;
- (xii) Brothers Dickie Springvale and Mundy Nunn;
- (xiii) Jilngarr;
- (xiv) Burradi and Wawu Dimbi;
- (xv) Siblings Jimmy, Polly (Jukura), Nellie (Wuynkul-baka), Charlie (Junjurr or Munjurr), Lily (Jabi or Chubby) Blanket;
- (xvi) Rosie Gurrmurragudgee;
- (xvii) Brothers George Doughboy, Toby Bloomfield and Peter Bloomfield (Kalka Jurungu);
- (xviii) Brothers Charlie Ball (Dirrakari) and Billy Collins and Davey Douglas and Sandy Peterson;
- (xix) Isabella Henderson (Wawu-kuwa)
- (xx) Ginny Bamboo;
- (xxi) Siblings Archibald (Baulu) Mossman, Jessie Mossman (Bawanya) and Billy Mossman;
- (xxii) Siblings Jessie Buchanan (Babi Milbija or Narrijinya) and King Charlie Diamond;
- (xxiii) Henry Bloomfield;
- (xxiv) Yangki and Buji;
- (xxv) Willy Ngamu-Darrba and his two wives Molly Kalumba and Yimaday;
- (xxvi) Kalkamanangu and Duraja;
- (xxvii) Kalkaymba;
- (xxviii) Rosie Maund Jankarji and her husbands Tommy Jinjarrba Lefthand, Tommy Ngangkun Johnson (Buchanan), Barney Lunn (Lund), Billie Lunn (Lund) and Tommy Jindalman Hide;
- (xxix) Big Friday Ngamu-Ngulmbay and Ruby;
- (xxx) Leslie Yerry;(xxx) Brothers King Toby and Old Man Toby (Jinjirrba);
- (xxxii) Maggie Queen;
- (xxxiii) Siblings Miliji, Kalkabinda, Kuruwuja, Peter Smith (Marray-Marray or Murrabi or Jinakulu);
- (xxxiv) Kitty Wulbar (Maymi);
- (xxxv) Rosie Rosie;
- (xxxvi) Brothers Old Man Juwalba (Willie Cross-eye) and Wunbu Cross-eye;
- (xxxvii) Jimmy Mossman;
- (xxxviii) Wabaj;
- (xxxix) Old Kokoe ;

- (xl) Charlie Ogilvie and Maggie;
  - (xli) Old Man Yorkey and Rosie;
  - (xlii) George Mero;
  - (xliii) Old Man Kooka and Maudie;
  - (xliv) Jerry Wotton and Frances Diamond; or
- b) recruited by adoption, in accordance with the traditional laws and customs of the Eastern Kuku Yalanji People.

**MATTERS DETERMINED:**

BY CONSENT THE COURT ORDERS, DECLARES AND DETERMINES THAT:

1. Native title exists in relation to the Determination Area.
2. The native title is held by the persons described in Schedule 1 ("the native title holders").
3. Subject to orders 5, 6 and 8, the nature and extent of the native title rights and interests, other than in relation to Water, are:
  - (a) in relation to that part of the Determination Area identified in Schedule 3, the rights to:
    - (i) possession, occupation, use and enjoyment to the exclusion of all others; and
    - (ii) inherit and succeed to the native title rights and interests referred to in order 3(a)(i).
  - (b) in relation to that part of the Determination Area identified in Schedule 4, the non-exclusive rights to:
    - (i) be present on, including by accessing, traversing and Camping on, the Determination Area;
    - (ii) hunt Animals, gather Plants and take Natural Resources from the Determination Area, but not for the purposes of trade or commerce;
    - (iii) conduct ceremonies on the Determination Area;
    - (iv) be buried and to bury native title holders, by interment in the ground, within the Determination Area;
    - (v) maintain Springs and wells in the Determination Area where underground Water rises naturally, for the sole purpose of ensuring the free flow of Water;
    - (vi) maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas, by lawful means, from physical harm; and
    - (vii) the right to inherit and succeed to the native title rights and interests referred to in order 3(b)(i) to 3(b)(vi).
4. Subject to orders 5, 6 and 8, the nature and extent of the native title rights and interests in relation to Water within the Determination Area are the non-exclusive rights to:
  - (a) hunt and fish in or on, and gather from, the Water for personal, domestic and non-commercial communal purposes;
  - (b) take, use and enjoy the Water for the purposes of satisfying personal, domestic and non-commercial communal needs; and
  - (c) inherit and succeed to the native title rights and interests referred to in order 4(a) and 4(b).
5. There are no native title rights:
  - (a) to gather Plants in relation to that part of the Determination Area identified in Schedule 5;
  - (b) in or in relation to minerals as defined by the Mineral Resources Act 1989 (Qld) and petroleum as defined by the Petroleum Act 1923 (Qld) and the Petroleum and Gas (Production and Safety) Act 2004 (Qld).
6. The native title rights and interests are subject to and exercisable in accordance with:

(a) the Laws of the State and the Commonwealth; and

(b) the traditional laws acknowledged and traditional customs observed by the native title holders.

7. The native title rights and interests referred to in orders 3(b) and 4 do not:

(a) extend to a right to control access to or a right to control the use of the Determination Area; or

(b) otherwise confer possession, occupation, use or enjoyment to the exclusion of all others.

8. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 6.

9. The relationship between the native title rights and interests described in orders 3 and 4, and the other rights and interests described in Schedule 6 (the "other rights and interests") is that:

(a) the other rights and interests continue to have effect;

(b) to the extent the other rights and interests are inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests in relation to the land and waters of the Determination Area identified in Schedule 3, the native title continues to exist in its entirety but the native title rights and interests have no effect in relation to the other rights to the extent of the inconsistency for so long as the other rights and interests exist; and

(c) the other rights and interests and any activity that is required or permitted by or under, and done in accordance with, the other rights and interests, or any activity that is associated with or incidental to such an activity, prevail over the native title rights and interests and any exercise of the native title rights and interests, but will not extinguish them, except in relation to acts that consist of the construction or establishment of a public work, done after this determination, where section 24JA of the Native Title Act 1993 (Cth) applies.

10. The native title is held in trust.

11. The Jabalbina Yalanji Aboriginal Corporation, incorporated under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth), is to:

(a) be the prescribed body corporate for the purpose of s 56(1) of the Native Title Act 1993 (Cth); and

(b) perform the functions mentioned in s 57(1) of the Native Title Act 1993 (Cth) after becoming a registered native title body corporate.

12. The words and expressions used in this determination have the same meanings as they have in Part 15 of the Native Title Act 1993 (Cth) except for the following defined words and expressions:

"Animal" means "animal" as defined in the Nature Conservation Act 1992 (Qld), but does not include fish;

"Camping" does not include permanent residence or the construction of permanent:

(a) structures; or

(b) fixtures;

"Determination Area" means the land and waters within the area described in Part A of Schedule 2 and shown on the plan in Part B of Schedule 2 to this determination, and to the extent of any inconsistency between them, Part A of Schedule 2 prevails;

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

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

"Natural Resources" means any clays, soil, sand, gravel and rock on or below the surface of the Determination Area but does not include minerals as defined in the Minerals Resources Act 1989 (Qld) and petroleum as defined in the Petroleum Act 1923 (Qld) or the Petroleum and Gas (Production and Safety) Act 2004 (Qld);

"Plant" has the meaning given in the Nature Conservation Act 1992 (Qld);

"Spring" means the land to which Water rises naturally from below the ground and the land over which the Water then flows;

"Tidal Navigable River" has the meaning given in the Land Act 1994 (Qld);

"Tidal Water" has the meaning given in the Land Act 1994 (Qld); and

"Water" means water as defined by the Water Act 2000 (Qld) and Tidal Water.

## SCHEDULE 1

### NATIVE TITLE HOLDERS

In respect of the Determination Area, the common law holders are those people known as the Eastern Kuku Yalanji People. The Eastern Kuku Yalanji People are those Aboriginal people who are:

a) descended from the following Eastern Kuku Yalanji Maja Maja Ngujekarimun (apical ancestors in descent groups):

- (i) Siblings Wawuyilkinga, Lily Kajakaja, Ulurban, Kurlur, Juwalkji, Jinabaji;
- (ii) Kilkil (Gilgil) and Yougie (Emera);
- (iii) Ngamubaralba;
- (iv) Jimmy Johnson Snr and his brothers Toby King and Peter King;
- (v) Brothers Billy King, Willie King 1 and Willie King 2;
- (vi) Siblings Nambaji, Bijun (Dangara) and Jimmy (Mandilba) Rossville;
- (vii) Old Man Jimmy and Sarah;
- (viii) Kurukuna and Nellie;
- (ix) Bluja King Kunarra and his three wives Ngingkibaji #1 and Ngingkibaji #2, and Baral-Baral;
- (x) Dimbanga and Mara Baril Baril;
- (xi) Sisters Mujala and Rosie;
- (xii) Brothers Dickie Springvale and Mundy Nunn;
- (xiii) Jilngarr;
- (xiv) Burradi and Wawu Dimbi;
- (xv) Siblings Jimmy, Polly (Jukura), Nellie (Wuynkul-baka), Charlie (Junjurr or Munjurr), Lily (Jabi or Chubby) Blanket;
- (xvi) Rosie Gurrmurragudjee;
- (xvii) Brothers George Doughboy, Toby Bloomfield and Peter Bloomfield (Kalka Jurungu);
- (xviii) Brothers Charlie Ball (Dirrakari) and Billy Collins and Davey Douglas and Sandy Peterson;
- (xix) Isabella Henderson (Wawu-kuwa)
- (xx) Ginny Bamboo;
- (xxi) Siblings Archibald (Baulu) Mossman, Jessie Mossman (Bawanya) and Billy Mossman;
- (xxii) Siblings Jessie Buchanan (Babi Milbija or Narijinya) and King Charlie Diamond;
- (xxiii) Henry Bloomfield;
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- (xxv) Willy Ngamu-Darba and his two wives Molly Kalumba and Yimaday;
- (xxvi) Kalkamanangu and Duraja;
- (xxvii) Kalkaymba;

(xxviii) Rosie Maund Jankarji and her husbands Tommy Jinjarrba Lefthand, Tommy Ngangkun Johnson (Buchanan), Barney Lunn (Lund), Billie Lunn (Lund) and Tommy Jindalman Hide;

(xxix) Big Friday Ngamu-Ngulmbay and Ruby;

(xxx) Leslie Yerry;

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(xlii) George Mero;

(xliii) Old Man Kooka and Maudie;

(xliv) Jerry Wotton and Frances Diamond; or

b) recruited by adoption, in accordance with the traditional laws and customs of the Eastern Kuku Yalanji People.

## SCHEDULE 2

DETERMINATION AREA (See Attachments 1 and 2)

## SCHEDULE 3

EXCLUSIVE AREAS (See Attachment 3)

## SCHEDULE 4

NON-EXCLUSIVE AREAS (See Attachment 4)

## SCHEDULE 5

## NO NATIVE TITLE RIGHT TO GATHER PLANTS

The land and waters in the following table, to the extent that the area is below the highest astronomical tide, as defined by the Marine Parks Regulation 1990 (Qld), and above the High Water Mark:

### LOT ON DETERMINATION

PLAN AP14233	AREA DESCRIPTION
34	Lot 4 on USL 8888
33	Lot 2 on USL 8832
31	Lot 3 on USL 8832
32	Lot 4 on USL 8832
29	Lot 3 on USL 8888

30	Lot 6 on USL 8888
24	Lot 17 on USL 8892
26	Lot 21 on USL8885
27	Lot 22 on USL 8885
28	Lot 23 on USL 8885
23	Lot 19 on USL 8892

## SCHEDULE 6

### OTHER INTERESTS

(a) the interests of the State of Queensland under the Forestry Act 1959 (Qld) and subordinate legislation relating to the use and management of Lot 1 on AP14233 and part of Lot 9 on AP14233;

(b) the rights and interests of the Cook Shire Council under its local government jurisdiction and as an entity exercising statutory powers in respect of the land and waters in its local government area;

(c) the rights and interests of the Douglas Shire Council under its local government jurisdiction and as an entity exercising statutory powers in respect of the land and waters in its local government area;

(d) the rights and interests of Telstra Corporation Limited, being:

(i) rights and interests as the owner or operator of telecommunications facilities installed within the Determination Area, including customer radio terminals and optic fibre and local distribution cabling, and as the holder of a carrier licence under the Telecommunications Act 1997 (Cth);

(ii) rights and interests created under the Post and Telegraph Act 1901 (Cth), the Telecommunications Act 1975 (Cth), the Australian Telecommunications Corporation Act 1989 (Cth), the Telecommunications Act 1991 (Cth) and the Telecommunications Act 1997 (Cth);

(iii) rights of access over the Determination Area by employees, agents or contractors of Telstra Corporation Limited to its telecommunications facilities in, and in the vicinity, of the Determination Area in the performance of their duties;

(e) the rights and interests of Ergon Energy Corporation Limited as an entity exercising statutory powers and as owner and operator of electricity transmission and distribution facilities within the Determination Area;

(f) the rights and interests of the parties to the following agreements, under those agreements:

(i) Eastern Yalanji, Queensland and WTMA (Freehold Grants) Indigenous Land Use Agreement executed on 19 March 2007;

(ii) Eastern Yalanji, Queensland and WTMA (National Parks) Indigenous Land Use Agreement executed on 19 March 2007;

(iii) Eastern Yalanji, Queensland and DSC Indigenous Land Use Agreement executed on 19 March 2007;

(iv) Eastern Yalanji and DSC Indigenous Land Use Agreement executed on 6 March 2007;

(v) Eastern Yalanji, Queensland and CSC Indigenous Land Use Agreement executed on 19 March 2007;

(vi) Eastern Yalanji and CSC Indigenous Land Use Agreement executed on 6 March 2007;

(vii) Eastern Yalanji, Queensland and WWASC Indigenous Land Use Agreement executed on 19 March 2007;

(viii) Eastern Yalanji, Queensland and BAC Indigenous Land Use Agreement executed on 19 March 2007;

(ix) Eastern Yalanji, Queensland and BMAC Indigenous Land Use Agreement executed on 19 March 2007;

(x) Eastern Yalanji, Queensland and Harlow Indigenous Land Use Agreement executed on 19 March 2007;

(xi) Eastern Yalanji, Queensland and Marshall Indigenous Land Use Agreement executed on 19 March 2007;

(xii) Eastern Yalanji, Queensland and Brandt Indigenous Land Use Agreement executed on 19 March 2007;

(xiii) Eastern Yalanji, Queensland and McLean Indigenous Land Use Agreement executed on 19 March 2007;

(xiv) Eastern Yalanji and Telstra Indigenous Land Use Agreement executed on 6 March 2007; and

(xv) Eastern Yalanji and Ergon Indigenous Land Use Agreement executed on 20 March 2007;

(g) the rights and interests of the holders of the following special leases granted under the Land Act 1962 (Qld) and the Forestry Act 1959 (Qld):

(i) SL14/50125 for primary industry (grazing) purposes in relation to part of Lot 9 on AP14233;

(ii) SL14/47767 for primary industry (grazing) purposes in relation to part of Lot 9 on AP14233;

(iii) SL14/50020 for primary industry (grazing) purposes in relation to part of Lot 1 on AP14233;

(iv) SL14/50795 for primary industry (grazing) purposes in relation to part of Lot 1 on AP14233; and

(v) TL231001 for grazing purposes in relation to part of Lot 1 on AP14233;

(h) the rights and interests of the holders of the following interests granted under the Mineral Resources Act 1989 (Qld):

(i) mining leases ML2796, ML2827, ML3065, ML3066, ML3067, ML3068, ML3069 and ML3070; and

(ii) mineral development licences MDL111 and MDL112;

(i) the rights and interests of the Wet Tropics Management Authority pursuant to the Wet Tropics World Heritage Protection and Management Act 1993 (Qld) and the Wet Tropics Management Plan 1998 (Qld), and the rights and interests of the holders of any permits granted under the Wet Tropics Management Plan 1998 (Qld) as may be current at the date of this determination;

(j) any rights and interests of the holder of an authority issued under the Fisheries Act 1994 (Qld) that authorises a commercial fishing operation in the Water of the Determination Area as may be current at the date of this determination;

(k) the rights and interests of the holders of the following licences issued under the Water Act 2000 (Qld):

(i) 35843K in relation to Lot 1 on AP14233;

(ii) 46817K in relation to Lot 1 on AP14233;

(iii) 35939K in relation to Lot 9 on AP14233;

(iv) 36167K in relation to Lot 1 on AP14233;

(v) 46683K in relation to Lot 1 on AP14233;

(vi) 46764K in relation to Lot 1 on AP14233;

(vii) 48267K in relation to Lot 1 on AP14233;

(viii) 49996K in relation to Lot 1 on AP14233;

(ix) 49997K in relation to Lot 1 on AP14233;

(x) 49998K in relation to Lot 1 on AP14233;

(xi) 53604K in relation to Lot 1 on AP14233; and

(xii) 55316K in relation to Lot 1 on AP14233;

(l) the rights and interests of the holder of a licence, permit, permission or other authority in relation to the Determination Area as may be current at the date of this determination, under the Forestry Act 1959 (Qld), the Marine Parks Regulation 1996 (Qld), or the Maine Park (Great Barrier Reef Coast) Zoning Plan 2004 (Qld);

(m) the public right to fish in any Tidal Water and to navigate in any Tidal Navigable River within the Determination Area; and

(n) any other rights and interests held by the State or Commonwealth, or by reason of the force and operation of the laws of the State or the Commonwealth, as may be current at the date of this determination.



**REGISTER ATTACHMENTS:**

1. Attachment 1 - SCHEDULE 2 - DETERMINATION AREA - PART A Determination Area Description, 3 pages - A4, 09/12/2007
2. Attachment 2 - SCHEDULE 2 - DETERMINATION AREA - PART B Determination Plan, 36 pages - A4, 09/12/2007
3. Attachment 3 - SCHEDULE 3 - EXCLUSIVE AREAS, A4, 3 pages - A4, 09/12/2007
4. Attachment 4 - SCHEDULE 4 - NON-EXCLUSIVE AREAS, 3 pages - A4, 09/12/2007

*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.*