



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6006/2003
NNTT Number: QCD2011/006

Determination Name: [Hart on behalf of the Djiru People #3 v State of Queensland](#)

Date(s) of Effect: 01/09/2011

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 01/09/2011

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Djiru Warrangburra Aboriginal Corporation RNTBC
Agent Body Corporate
23 Grace Street
INNISFAIL QLD 4860

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:

3. The native title is held by the Djiru People described in Schedule 2 ("the native title holders").

SCHEDULE 2- NATIVE TITLE HOLDERS

The Djiru People means those persons who are:

(i) The Clumpoint, Geia, Spencer, Nona and Sarabo family groups being the descendants of Polly Illich and her descendants Bidy Illich, Paddy Illich and Major Clumpoint.

(ii) The Masina, Andy, Mow, Mooner, Assan and Ryan family groups being the descendants of siblings Minnie (Buynoo), Rosie (Koojilun), Maggie and Kitty Nguyam.

(iii) The Barney, Dickman and Thaiday family groups being the descendants of Toby King and Nellie and their son

Barney King.

(iv) The Palmer and Obah family groups being the descendants of Lucy Palmer and her children Alf Palmer, Daisy Obah and Daphne Palmer.

(v) The Nullajar family group being the descendants of Bobby Nullajar and his son, Mick Nullajar.

(vi) The Parker family group being the descendants of Charlie Mungoola (also known as Charlie Mungalla).

(vii) The Banfield, Bonner, Thimble and Pickles family groups being the descendants of Jimmy Banfield and his mother.

(viii) And includes persons adopted by any of those descendants according to the traditional laws and customs of the claim group.

MATTERS DETERMINED:

Being satisfied that an order in the terms set out below is within the power of the Court, and it appearing appropriate to the Court to do so, pursuant to s 87 of the Native Title Act 1993 (Cth),

BY CONSENT THE COURT ORDERS THAT:

1. There be a determination of native title in the terms set out below ("the Determination").

2. This Determination takes effect upon the making of the Order.

THE COURT DETERMINES THAT:

1. The determination area is the land and waters described in Schedule 1, and shown on the plans attached to Schedule 1 (the "Determination Area").

2. Native title exists in relation to that part of the Determination Area identified in Part 1 of Schedule 1.

3. The native title is held by the Djiru People described in Schedule 2 ("the native title holders").

4. Subject to paragraphs 5 and 6 below the nature and extent of the native title rights and interests in relation to the land described in Part 1 of Schedule 1 are the rights to possession, occupation, use and enjoyment of the area to the exclusion of all others.

5. 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.

6. There are no native title rights and interests 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).

7. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 3.

8. The relationship between the native title rights and interests described in paragraph 4 and the other interests described in Schedule 3 (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;

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

(c) the other interests and any activity that is required or permitted by or under, and done in accordance with, the other 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.

9. The native title is not held in trust.

10. The Djiru Warrangburra Aboriginal Corporation, ICN 7257, incorporated under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth), is to:

- (a) be the prescribed body corporate for the purpose of ss 57(2) and 57(3) of the Native Title Act 1993 (Cth); and
- (b) perform the functions mentioned in s 57(3) of the Native Title Act 1993 (Cth) after becoming a registered native title body corporate.

11. In this Determination, unless the contrary intention appears:

"land" has the same meanings as in the Native Title Act 1993 (Cth);

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

Other words and expressions used in this Determination have the same meanings as they have in Part 15 of the Native Title Act 1993 (Cth).

SCHEDULE 1 - DETERMINATION AREA

A. DESCRIPTION OF DETERMINATION AREA

The Determination Area comprises all of the land described in Part 1 below, excluding any area of land on which any other public work, as defined in s 253 of the NTA, is constructed, established or situated, and to which ss 23B(7) and 23C(2) of the NTA and/or s 23B(7) of the NTA and s 21 of the Native Title (Queensland) Act 1993 (Qld), applies, together with any adjacent land or waters in accordance with s 251D of the NTA.

PART 1 EXCLUSIVE AREAS

All of the land and waters described in columns 1 and 2 of the following table and shown on the determination plan described in column 3 of the following table:

Area Description (at time of Determination)	Area Description (at time of claim)	Lot on Determination Plan
Lot 646 on Plan AP17230 CAR124226	Lot 646 on Plan AP20076	Lot 39 on Plan
Lot 341 on Plan CWL3153	Lot 341 on Plan CWL3153 AP20076	Lot 39 on Plan
Lot 634 on Plan CWL3519	Lot 634 on Plan CWL3519 AP20076	Lot 34 on Plan
Lot 7 (Pt) on Plan CWL631 USL42304	Lot 55 (Pt) on Plan AP20076	Lot 33 on Plan
Lot 113 (Pt) on Plan NPW876	Lot 1 on Plan SP125434 AP20076	Lot 37 on Plan
Lot 199 on Plan NR3587	Lot 199 on Plan NR3587 AP20076	Lot 31 on Plan
Lot 459 on Plan NR4627	Lot 459 on Plan NR4627 AP20076	Lot 32 on Plan
Lot 2 on Plan SP125433	Lot 2 on Plan SP125433 AP20076	Lot 37 on Plan

Lot 2 on Plan SP125434 Lot 2 on SP125434 Lot 37 on Plan

AP20076

Lot 3 on Plan SP171843 Lot 3 on Plan USL42219 Lot 36 on Plan

AP20076

Lot 38 on Plan USL42219 Lot 38 on Plan USL42219 Lot 35 on Plan

AP20076

Lot 26 on Plan USL42247 Lot 26 on USL42247 Lot 38 on Plan

AP20076

Lot 163 (Pt) on Plan Lot 163 (Pt) on Plan Lot 40 on Plan

USL42248 USL42248 AP20076

B. DETERMINATION PLANS

(see NNTR Attachment 1: "Schedule 1 - Determination Plans")

SCHEDULE 2- NATIVE TITLE HOLDERS

The Djiru People means those persons who are:

(i) The Clumpoint, Geia, Spencer, Nona and Sarabo family groups being the descendants of Polly Illich and her descendants Bidy Illich, Paddy Illich and Major Clumpoint.

(ii) The Masina, Andy, Mow, Mooner, Assan and Ryan family groups being the descendants of siblings Minnie (Buynoo), Rosie (Koojilun), Maggie and Kitty Nguyam.

(iii) The Barney, Dickman and Thaiday family groups being the descendants of Toby King and Nellie and their son Barney King.

(iv) The Palmer and Obah family groups being the descendants of Lucy Palmer and her children Alf Palmer, Daisy Obah and Daphne Palmer.

(v) The Nullajar family group being the descendants of Bobby Nullajar and his son, Mick Nullajar.

(vi) The Parker family group being the descendants of Charlie Mungoola (also known as Charlie Mungalla).

(vii) The Banfield, Bonner, Thimble and Pickles family groups being the descendants of Jimmy Banfield and his mother.

(viii) And includes persons adopted by any of those descendants according to the traditional laws and customs of the claim group.

SCHEDULE 3 - OTHER INTERESTS IN THE DETERMINATION AREA

The nature and extent of the other interests in relation to the Determination Area are the following, as they exist as at the date of the Determination:

1. The rights and interests of the Cassowary Coast Regional Council under:

(a) the Local Government Act 2009 (Qld) for that part of the Determination Area within its local government area, as defined in that Act, including:

i) as owner and operator of infrastructure, facilities and other improvements which are in the Determination Area as at the date of this Determination; and

ii) to enter and exercise rights within the Determination Area,

(b) an Indigenous Land Use Agreement between Dawn Hart, John Clumpoint, Charity Ryan, Beryl Buller, Rae Kelly, Margaret Murray and John Andy on their own behalf and on behalf of the native title holders and the Cassowary Coast Regional Council registered on 29 April 2010.

2. The rights and interests of Ergon Energy Corporation Limited (ACN 087 646 062):

- (a) as the owner and operator of any "Works" as that term is defined in the Electricity Act 1994 (Qld) within the Determination Area;
- (b) as a distribution entity and the holder of a distribution authority under the Electricity Act 1994 (Qld);
- (c) created under the Electricity Act 1994 (Qld) and the Government Owned Corporations Act 1993 (Qld), including:
 - i) rights in relation to any agreement relating to the Determination Area existing or entered into before the date of this Determination; and
 - ii) rights to enter the Determination Area by its employees, agents or contractors to exercise any of the rights and interests referred to in this paragraph; and to inspect, maintain and manage any Works in the Determination Area,
- (d) under an Indigenous Land Use Agreement between the native title holders and Ergon Energy Corporation Limited dated 9 March 2011.

3. The rights and interests of Queensland Electricity Transmission Corporation Limited (ACN 078 849 233) trading as Powerlink Queensland 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 in order to access, use, maintain, repair, replace, upgrade, or otherwise deal with those facilities and infrastructure in accordance with the law.

4. The rights and interests of the Djiru People, the Djiru Warrangburra Aboriginal Corporation and the State of Queensland in relation to the Determination Area as parties to the Djiru People Tenure Resolution Indigenous Land Use Agreement dated 22 February 2011.

5. The rights and interests of the Djiru People, the Djiru Warrangburra Aboriginal Corporation, the Wet Tropics Management Authority and the State of Queensland in relation to the Determination Area as parties to the Djiru People Protected Areas Indigenous Land Use Agreement dated/registered dated 22 February 2011.

6. 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) relating to the use and management of part of the Determination Area.

7. 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.

8. The rights and interests of the State of Queensland pursuant to the Nature Conservation Act 1992 (Qld) and subordinate legislation relating to the use and management of part of the Determination Area.

9. The rights and interests of the holders of any leases, agreements, licenses, permits or authorities granted under the Nature Conservation Act 1992 (Qld) as may be current at the date of this Determination.

10. The rights and interests of the Commonwealth of Australia pursuant to the Environment Protection and Biodiversity Conservation Act 1999 (Cth) ("EPBC Act") and relevant, regulations, declarations and plans made under the EPBC Act relating to the use and management of that part of the Determination Area that is a declared World Heritage property or a National Heritage place within the meaning of the EPBC Act.

11. So far as confirmed pursuant to s 212(2) of the Native Title Act 1993 (Cth) and s 18 of the Native Title (Queensland) Act 1993 (Qld) as at the date of this Determination, any existing rights of the public to access and enjoy, the following places in the Determination Area:

(a) beaches; and

(b) areas that were public places at the end of 31 December 1993.

12. Any other rights and interests held by the State of Queensland or Commonwealth, or by reason of the force and operation of the Laws of the State and the Commonwealth, as may be current at the date of this Determination.

REGISTER ATTACHMENTS:

1. Attachment 1 - Schedule 1 - Determination Plans, 11 pages - A4, 01/09/2011

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.