



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): QUD504/2011  
NNTT Number: QCD2014/012

**Determination Name:** [Weatherall on behalf of the Kooma People #4 Part A v State of Queensland](#)

**Date(s) of Effect:** 25/06/2014

**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:** 25/06/2014

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

Not Applicable

### REGISTERED NATIVE TITLE BODY CORPORATE:

Kooma Aboriginal Corporation RNTBC  
Trustee Body Corporate  
C/- Queensland South Native Title Services Ltd  
Level 10, 307 Queen Street  
BRISBANE Queensland 4001

*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:

#### Schedule 3 – NATIVE TITLE HOLDERS

1. The native title holders are the Kooma People. The Kooma People are those Aboriginal people who are descended from one or more of the following people:
  - (a) Maggie of Bendena;
  - (b) Kitty of Bollon;
  - (c) Sarah of Fernlee;

- (d) Mary Button of Murra Murra;
- (e) Susan Mitchell;
- (f) Annie Murray;
- (g) Julia Powell; or
- (h) Lucy Sheridan.

**MATTERS DETERMINED:**

**THE COURT ORDERS THAT:**

**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 87A 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. Each party to the proceedings is to bear its own costs.

**BY CONSENT THE COURT DETERMINES THAT:**

3. The Determination Area is the land and waters described in Schedule 1, and depicted in the map attached to Schedule 1.
4. The native title is held by the Kooma People described in Schedule 3 (“the native title holders”).
5. Subject to paragraphs 8, 9 and 10 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 1 of Schedule 1 are:
  - (a) other than in relation to Water, the rights to possession, occupation, use and enjoyment of the area to the exclusion of all others; and
  - (b) in relation to Water, the non-exclusive rights to:
    - (i) hunt, fish and gather from the Water of the area;
    - (ii) take and use the Natural Resources of the Water in the area; and
    - (iii) take and use the Water of the area,for personal, domestic and non-commercial communal purposes.
6. Subject to paragraphs 8, 9 and 10 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 2 of Schedule 1 are the non-exclusive rights to:
  - (a) access, be present on, move about on and travel over the area;
  - (b) camp, and live temporarily on the area as part of camping, and for that purpose build temporary shelters;
  - (c) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;
  - (d) take and use Natural Resources from the land and waters of the area for personal, domestic and non-

- commercial communal purposes;
- (e) take and use the Water of the area for personal, domestic and non-commercial communal purposes;
  - (f) conduct ceremonies on the area;
  - (g) be buried and bury native title holders within the area;
  - (h) 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 from physical harm;
  - (i) teach on the area the physical and spiritual attributes of the area;
  - (j) hold meetings on the area; and
  - (k) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.
7. Subject to paragraphs 8, 9 and 10 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 3 of Schedule 1 are the non-exclusive rights to:
- (a) access, be present on, move about on and travel over the area;
  - (b) 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 from physical harm; and
  - (c) teach on the area the physical and spiritual attributes of the area.
8. 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.
9. The native title rights and interests referred to in paragraphs 5(b), 6 and 7 do not confer possession, occupation, use or enjoyment to the exclusion of all others.
10. There are no native title rights 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).
11. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 4.
12. The relationship between the native title rights and interests described in paragraphs 5, 6 and 7 and the other interests described in Schedule 4 (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 land and waters of 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.
13. Upon the determination taking effect:
- (a) The native title is held in trust;
  - (b) The Kooma Aboriginal Corporation (ICN: 8053), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:

- (i) be the prescribed body corporate for the purpose of ss 56(2)(b) and 56(3) of the *Native Title Act 1993* (Cth); and
- (ii) perform the functions mentioned in s 57(1) of the *Native Title Act 1993* (Cth) after becoming a registered native title body corporate.

### ***Definitions and Interpretation***

14. In this determination, unless the contrary intention appears:

“land” and “waters”, respectively, have 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;

“Local Government Act” has the meaning in the *Local Government Act 2009*;

“Local Government Area” has the meaning in the *Local Government Act 2009*;

“Natural Resources” means:

- (a) any animal, plant, fish, bird life and ochre, found on or in the land and waters of the Determination Area; and
- (b) any clays, soil, sand, gravel or rock found on or below the surface of the Determination Area,

that have traditionally been taken and used by the native title holders, but does not include:

- (a) animals that are the private personal property of another;
- (b) crops that are the private personal property of another; and
- (c) minerals (except ochre taken in accordance with the traditional laws and customs of the native title holders) as defined in the *Mineral Resources Act 1989* (Qld) or petroleum as defined in the *Petroleum Act 1923* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld);

“Pastoral Respondents” means Hugh Arthur Cameron, Marcia Joyce Cameron, Jeanette Coral Murphy, Owen Douglas Murphy, Kathleen Mary Margaret O’Brien, Neville Laurence O’Brien, Timothy Ernest Perrottet, William Malcolm Perrottet, William James Reynolds, John Charles Denyer Warren and Rosemary Susan Warren.

“Pastoral Respondent Implementation Agreement” means the agreement referred to in paragraph 1 of Schedule 4.

“Water” means:

- (a) water which flows, whether permanently or intermittently, within a river, creek or stream;
- (b) any natural collection of water, whether permanent or intermittent; and
- (c) water from an underground water source.

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).

**AND THE COURT MAKES THE FOLLOWING FURTHER ORDER:**

15. In the event that the terms of the Pastoral ILUA Implementation Agreement have not been performed by 31 October 2014 the native title holders (through the Kooma Aboriginal Corporation ICN 8053) or any of the Pastoral Respondents have liberty to apply on 14 days' notice to a single judge of the Court to address any changes to paragraph 12 above as it relates to the relationship between the native title rights and interests and the other interests of the Pastoral Respondents set out in paragraphs 1 to 9 of Schedule 4 to the determination.

### **Schedule 1 – DETERMINATION AREA**

[See NNTR attachment 1: 'Schedule 1 - Determination Area']

[See NNTR attachment 2: 'Schedule 1 - Map of Determination Area']

### **Schedule 2 – AREAS NOT FORMING PART OF THE DETERMINATION AREA**

The areas in this Schedule are excluded from the determination area on the grounds that at the time at which the native title determination application was made -

- these areas were the subject of one or more previous exclusive possession acts, as defined in s 23B of the *Native Title Act 1993* (Cth), despite the fact that the areas, or parts of them, may have been subject to earlier acts that extinguished native title; and
- therefore, in accordance with s 61A of the *Native Title Act 1993* (Cth), these areas could not be claimed.

#### *Public Works Based Exclusions:*

1. The land or waters on which any public work, as defined in s 253 of the *Native Title Act 1993* (Cth), is constructed, established or situated, and to which ss 23B(7) and 23C(2) of the *Native Title Act 1993* (Cth) and/or s 23B(7) of the *Native Title Act 1993* (Cth) 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 *Native Title Act 1993* (Cth).
2. Specifically, and to avoid any doubt, the land and waters described in paragraph 1 immediately above includes, but is not limited to the whole of the land and waters described as:
  - (a) Lot 35 on BLM522;
  - (b) Lot 54 on SP135745; and
  - (c) Lot 5 on BLM1209.

### **Schedule 3 – NATIVE TITLE HOLDERS**

1. The native title holders are the Kooma People. The Kooma People are those Aboriginal people who are descended from one or more of the following people:
  - (a) Maggie of Bendena;
  - (b) Kitty of Bollon;
  - (c) Sarah of Fernlee;

- (d) Mary Button of Murra Murra;
- (e) Susan Mitchell;
- (f) Annie Murray;
- (g) Julia Powell; or
- (h) Lucy Sheridan.

#### Schedule 4 – 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 Grace Weatherall, Cheryl Buchanan, Bill Chapman, Clarence Colliss, Annette Daisy, Brett Leavy, Rosemary Lucas, Angus Mitchell, Jack Nelson and Mick Speedy ('the Kooma #4 Applicant'); the Kooma Aboriginal Corporation ICN 8053; and Hugh Arthur Cameron, Marcia Joyce Cameron, Jeanette Coral Murphy, Owen Douglas Murphy, Kathleen Mary Margaret O'Brien, Neville Laurence O'Brien, Timothy Ernest Perrottet, William Malcolm Perrottet, William James Reynolds, John Charles Denyer Warren and Rosemary Susan Warren ('the Pastoral Respondents') as parties to the Pastoral ILUA Implementation Agreement.
2. The rights and interests of Renton Mark Bredhauer and Anne Elizabeth Bredhauer under SH 15/3764 comprising part of Lot 4 on BAN100 as shown on the maps at Schedule 1(B) and known as 'Claverton.'
3. The rights and interests of Hugh Arthur Cameron and Marcia Joyce Cameron under TL 0/234977 comprising part of Lot 5105 on PH595 as shown on the maps at Schedule 1(B) and known as 'Rundalua.'
4. The rights and interests of John Sinclair Leslie Hill under TL 0/217879 comprising Lot 9 on MGL47 known as shown on the maps at Schedule 1(B) and known as 'Boanbirra.'
5. The rights and interests of Jeanette Coral Murphy and Owen Douglas Murphy under PH708 (PPH 10/5140) comprising part of Lot 5140 on PH708 as shown on the maps at Schedule 1(B) and known as 'Sherwood (aka Karatang).'
6. The rights and interests of Kathleen Mary Margaret O'Brien and Neville Laurence O'Brien under PO 0/214580 comprising Lot 4 on NB2 as shown on the maps at Schedule 1(B) and known as 'Santa Fe.'
7. The rights and interests of Timothy Ernest Perrottet and William Malcolm Perrottet under PH 39/3940 comprising Lot 4 on BLM1089 as shown on the maps in Schedule 1(B) and known as 'Argyle.'
8. The rights and interests of William James Reynolds under:
  - (a) PH 39/924 comprising Lot 924 on SP254476 as shown on the maps in Schedule 1(B) and known as 'Brenda'; and
  - (b) PH 39/3900 comprising Lot 3 on BLM255 as shown on the maps in Schedule 1(B) and known as 'Brenda East.'
9. The rights and interests of John Charles Denyer Warren and Rosemary Susan Warren under PPH 10/5244 comprising part of Lot 5244 on PH1377 as shown on the maps in Schedule 1(B) and known as 'Kalyan'.
10. The rights and interests of Telstra Corporation Limited ACN 051 755 566:
  - (a) as the owner or operator of telecommunications facilities installed within the Determination Area;
  - (b) created pursuant to 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), including rights:

- (i) to inspect land;
  - (ii) to install and operate existing and new telecommunication facilities, including cabling, customer terminal sites, customer radio sites and ancillary facilities;
  - (iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its existing and any new telecommunications facilities including cabling, customer terminal sites, customer radio sites, and ancillary facilities;
  - (c) for its employees, agents or contractors to access the Determination Area for the purposes of exercising the rights in (i)(ii) and (iii) above in respect of telecommunication facilities in and in the vicinity of the Determination Area;
  - (d) under any licences, leases, access agreements or easements relating to its telecommunications facilities in the Determination Area.
11. The rights and interests of the Paroo Shire Council, Balonne Shire Council, Maranoa Regional Council and Murweh Shire Council ("the Councils") as the local governments for that part of the Determination Area within their respective Local Government Areas, including:
- (a) their powers, functions, responsibilities and jurisdiction under *Local Government Acts*;
  - (b) their rights and interests in land or waters within the Determination Area including under any lease, license, access agreement, easement or reserve in the Determination Area;
  - (c) the rights to use, operate, maintain, replace, restore, remediate, repair and otherwise exercise all other rights as the owners and operators of infrastructure, structures, earthworks, access works, facilities and other improvements within the Determination Area;
  - (d) the rights under any agreements between the Councils and third parties which relate to land or water in the Determination Area; and
  - (e) the rights of their employees, agents and contractors to enter upon the Determination Area for the purpose of performing their powers and responsibilities under paragraphs (a) to (d).
12. The rights and interests of the holders of any permits, claims, licences or leases granted under the *Mineral Resources Act 1989* (Qld) in the Determination Area as may be current as at the date of the determination.
13. The rights and interests of the holders of any leases, licences, reservations, permits, easements or authorities granted under the *Land Act 1994* (Qld), and any relevant regulations or subordinate legislation made under that Act.
14. So far as confirmed pursuant to s 212(2) of the *Native Title Act 1993* (Cth) and s 18 of the *Native Title Act (Queensland) Act 1993* as at the date of this determination, any existing public access to, and enjoyment of, the following places in the Determination Area:
- (a) stock routes;
  - (b) beds, banks and foreshores of waterways and
  - (c) areas that were public places at the end of 31 December 1993.
15. Any other rights and interests:
- (a) held by the State of Queensland or Commonwealth of Australia; or
  - (b) existing by reason of the force and operation of the Laws of the State and Commonwealth.

**REGISTER ATTACHMENTS:**

1. Schedule 1 - Determination Area, 8 pages - A4, 25/06/2014
2. Schedule 1 - Map of Determination Area, 6 pages - A4, 25/06/2014

*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.*