



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6119/1998
NNTT Number: QCD2014/016

Determination Name: [Daphney on behalf of the Kowanyama People v State of Queensland](#)

Date(s) of Effect: 11/03/2015

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 31/10/2014

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

This determination was handed down by the Federal Court on 31 October 2014 and was to take effect upon the registration of an Indigenous Land Use Agreement (ILUA) on the Register of Indigenous Land Use Agreements:

QI2014/079 - Carpentaria Shire Council Kowanyama People ILUA

This ILUA was registered on the Register of Indigenous Land Use Agreements on 11 March 2015. The condition attached to the determination has therefore been met and the determination came into effect on 11 March 2015.

REGISTERED NATIVE TITLE BODY CORPORATE:

Abm Elgoring Ambung Aboriginal Corporation RNTBC
Agent Body Corporate
C/- Kowanyama Land Office
PO BOX 27
KOWANYAMA Queensland 4892

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 native title holders are the Kowanyama People who comprise those people known as the Yir Yoront (sometimes called Kokomenjen), Koko Bera, Kunjen and Koko Berrin Peoples. The Yir Yoront, Koko Bera, Kunjen and Koko Berrin Peoples are those Aboriginal people who are:

1. the cognatic descendants of:
 - (i) Solomon Minyalk;
 - (ii) Thin Mitin Mart;
 - (iii) Min Yal Panaurin;
 - (iv) Art Kadlaurin
 - (v) any of the siblings Kal Koral, Kor Mart, Min Koko Taren or Mad Len;
 - (vi) Pow Mon Alithanem;
 - (vii) Kauan Kor Mar'pen;
 - (viii) any of the siblings Paul, Rio or Bidy;
 - (ix) Yor Kantl Yamen;
 - (x) any of the siblings Mark, Barnabas or Kate;
 - (xi) Arthur, the father of Smiler Misson;
 - (xii) Luke;
 - (xiii) any of the siblings Native, Wilson, Akul Edngan, Uyan or Ginger;
 - (xiv) any of the siblings Major, Sergeant, Bobella or Gregory;
 - (xv) Mickey;
 - (xvi) Boandonolly (aka Puntanolli);
 - (xvii) George Black (aka Thamil Polp);
 - (xviii) either of the brothers "Barramundi" Charlie or Lamp;
 - (xix) Gilbert;
 - (xx) Eagleman, the father of Barney Jubilee;
 - (xxi) Joe Highbury;
 - (xxii) Jackson;
 - (xxiii) Tent (aka Thol Kol Kith);
 - (xxiv) Bruno (aka Wurrpwin)
 - (xxv) Min Kawlto Tower Moilin;
 - (xxvi) Wo Pam Mal Yamin;
 - (xxvii) Mokara Hudson;
 - (xxviii) either of the siblings George or Purt Ngon;

- (xxix) Bob Patterson;
- (xxx) Moses (aka War'luran);
- (xxxi) Yowalyamen;
- (xxxii) Jolly;
- (xxxiii) either Mailman or his siblings;
- (xxxiv) any of the siblings Stephen, Louie, Reubin (aka Robin), Jimmy Braddley, Mabel Rio or Poppy;
- (xxxv) Old Mokara;
- (xxxvi) Taw Wil Yir;
- (xxxvii) Colin Dinghy;
- (xxxviii) Fred Dunbar;
- (xxxix) Alick (aka Alec and Kauwunbengk);
- (xl) Goanna (aka Melder);
- (xli) Pluto;
- (xlii) either Mundie Shalfo or his sister;
- (xlili) Piper;
- (xliv) Willie Daphney;
- (xlv) any of the siblings Fanny, Lucy Tommy, Waterloo, Elsie or Tommy Burns;
- (xlvi) Nipper;
- (xlvii) Dick;
- (xlviii) Peppo;
- (xlix) Ben;
- (l) Smiler;
- (li) Bernard;
- (lii) Monday;
- (liii) Kangaroo;
- (liv) Mosquito;
- (lv) either of the brothers Billy Flower or Goggle-Eye or their siblings;
- (lvi) Jimmy;
- (lvii) either of the brothers Rainbow Christie or Bowyang Charlie;
- (lviii) Nellie;
- (lix) either of the brothers Bob Dunbar or Bendigo or their siblings;
- (lx) any of the siblings Jimmy Koolatah, Coglin Dick, Kunjen Dick or George Murray;
- (lxi) Frank Yam;
- (lxii) Brumby (aka Jack Brumby)

- (lxiii) Old Mud;
- (lxiv) Charlie Inkerman;
- (lxv) any of the siblings Mimosa, Alison or May; or
- (lxvi) Maggie; or

2. recruited by adoption, in accordance with the traditional laws and customs of the Yir Yoront, Koko Bera, Kunjen and Koko Berrin Peoples.

**MATTERS DETERMINED:
THE COURT NOTES THAT:**

A. A Native Title Determination Application was lodged in the Federal Court of Australia on 30 September 1998, QUD 6119 of 1998 (“the Application”) which relates to an area which includes the land and waters the subject of the proposed determination.

B. On 22 October 2009 a determination that native title exists was made by consent by the Federal Court of Australia over the land and waters of Part A of the area covered by the Application (“the Part A determination”).

C. On 5 December 2012 a determination that native title exists was made by consent by the Federal Court of Australia over the land and waters of Parts B and C of the area covered by the Application (“the Parts B and C determinations”).

D. The parties to the Application that hold an interest in relation to the land or waters of Part D of the area covered by the Application have asked the Federal Court of Australia to make a consent order for a determination of native title over the land and waters of Part D of the area covered by the Application.

E. The land and waters of Part D of the area covered by the Application include the land and waters covered by Native Title Determination Application QUD 282/2012 and by Native Title Determination Application QUD 743/2013, which applications were combined with the Application on 5 December 2013.

BEING SATISFIED that a determination in the terms sought by the parties 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. The determination will take effect upon the agreement referred to in para 4(c) of Sch 4 being registered on the Register of Indigenous Land Use Agreements.
3. In the event that the agreement referred to in para 4(c) of Sch 4 is not registered on the Register of Indigenous Land Use Agreements within six months of the date of this order or such later time as this Court may order, the matter is to be listed for further directions.
4. Native title exists in relation to that part of the Determination Area described in Pts 1, 2 and 4 of Sch 2.
5. The native title is held by the persons described in Sch 1 (“the native title holders”).
6. Subject to paras 8, 9 and 10 the nature and extent of the native title rights and interests in relation to that part of the Determination Area identified in Pt 1 of Sch 2 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.

7. Subject to paras 8, 9 and 10 the nature and extent of the native title rights and interests in relation to land and waters within that part of the Determination Area identified in Pts 2 and 4 of Sch 2 as the non exclusive rights to:

- (a) access, be present on, move about on and travel over the area;
- (b) hunt and fish in or on, and gather from, the land and Water for non commercial, cultural, spiritual, personal, domestic or communal purposes;
- (c) take, use, share and exchange Natural Resources for non-commercial, cultural, spiritual, personal, domestic or communal purposes;
- (d) take and use the Water for cultural, personal, domestic and non-commercial communal purposes;
- (e) live and camp on the area and for those purposes erect shelters and other structures on the area;
- (f) light fires on the area for cultural, spiritual or domestic purposes, including cooking, but not for the purpose of hunting or clearing vegetation;
- (g) be buried and bury native title holders within the area;
- (h) conduct ceremonies on the area;
- (i) hold meetings on the area;
- (j) teach on the area the physical and spiritual attributes of the area;
- (k) 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 harm; and
- (l) be accompanied on to the area by those persons who, though not native title holders, are:
 - (i) spouses or partners of native title holders;
 - (ii) people who are members of the immediate family of a spouse or partner of a native title holder;
 - (iii) people reasonably required by the native title holders under traditional law and custom for the performance of ceremonies or cultural activities on the Determination Area; or
 - (iv) people who have specialised knowledge based on their training, study or experience who are requested by native title holders to observe or record traditional activities or otherwise to investigate matters of cultural significance on the Determination Area.

8. 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) and other resources legislation.

9. 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.
10. The native title rights and interests referred to in paras 6(b) and 7 do not confer possession, occupation, use or enjoyment to the exclusion of all others.
11. The nature and extent of any other rights and interests in relation to the Determination Area (or respective parts thereof) are set out in Sch 4.
12. The relationship between the native title rights and interests described in paras 6 and 7 and the other rights and interests described in Sch 4 (“the other rights and interests”) is that:
- (a) the other rights and interests continue to have effect, and the rights conferred by or held under the other rights and interests may be exercised notwithstanding the existence of the native title rights and interests;
 - (b) where the non extinguishment principle applies to the other rights and interests, to the extent the other rights and interests are inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests:
 - (i) 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 and interests to the extent of the inconsistency; and
 - (ii) if the other rights and interests are later removed or otherwise permanently cease to operate, either wholly or partly, the native title rights and interests will again have effect to the extent of the removal or cessation of the other rights and interests; 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, prevail over the native title rights and interests and any exercise of the native title rights and interests.
13. If a word or expression is not defined in this order and is defined in the *Native Title Act 1993* (Cth), it has the meaning given to it in the *Native Title Act 1993* (Cth). In addition, unless the contrary intention appears:

“Determination Area” means the land and waters described in Pts 1, 2 and 4 of Sch 2 excluding the areas described in Pt 3 of Sch 2, and shown on the map in Sch 3, and to the extent of any inconsistency between them, Sch 2 prevails;

“High Water Mark” means the ordinary high-water mark at spring tides;

“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” has the meaning given in the *Local Government Act 2009* (Qld);

“native title determination applications” means the Application, QUD 282/2012 and QUD 743/2013;

“Natural Resources” includes:

- (a) animals;
- (b) plants; and
- (c) charcoal, wax, resin, clay, soil, sand, shell, gravel, rock or other such material naturally occurring in the land and waters of the Determination Area,

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

- (d) animals that are the private personal property of another;
- (e) crops that are the private personal property of another; and
- (f) minerals as defined in the *Mineral Resources Act 1989* (Qld) or petroleum as defined by the *Petroleum Act 1923* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld);

“Tidal River” means a river, creek or stream, connecting to the sea, whether in a natural state or otherwise, as far up as the spring tide ordinarily flows and reflows;

“Tidal Water” means any part of the sea (including any Tidal River and the beds and banks of such river) ordinarily within the ebb and flow of the tide at spring tides; and

“Water” has the meaning giving in the *Water Act 2000* (Qld) and Tidal Water.

THE COURT FURTHER ORDERS THAT:

- 14. The native title is not held in trust.
- 15. The Abm Elgoring Ambung Aboriginal Corporation RNTBC (ICN 7163), 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 57(2) of the *Native Title Act 1993* (Cth); and
 - (b) perform the functions mentioned in s 57(3) of the *Native Title Act 1993* (Cth).

SCHEDULE 1 - NATIVE TITLE HOLDERS

The native title holders are the Kowanyama People who comprise those people known as the Yir Yoront (sometimes called Kokomenjen), Koko Bera, Kunjen and Koko Berrin Peoples. The Yir Yoront, Koko Bera, Kunjen and Koko Berrin Peoples are those Aboriginal people who are:

- 1. the cognatic descendants of:
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 - (v) any of the siblings Kal Koral, Kor Mart, Min Koko Taren or Mad Len;
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- (vii) Kauan Kor Mar'pen;
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- (ix) Yor Kantl Yamen;
- (x) any of the siblings Mark, Barnabas or Kate;
- (xi) Arthur, the father of Smiler Misson;
- (xii) Luke;
- (xiii) any of the siblings Native, Wilson, Akul Edngan, Uyan or Ginger;
- (xiv) any of the siblings Major, Sergeant, Bobella or Gregory;
- (xv) Mickey;
- (xvi) Boandonolly (aka Puntanolli);
- (xvii) George Black (aka Thamil Polp);
- (xviii) either of the brothers "Barramundi" Charlie or Lamp;
- (xix) Gilbert;
- (xx) Eagleman, the father of Barney Jubilee;
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- (xxii) Jackson;
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- (xxv) Min Kawlto Tower Moilin;
- (xxvi) Wo Pam Mal Yamin;
- (xxvii) Mokara Hudson;
- (xxviii) either of the siblings George or Purt Ngon;
- (xxix) Bob Patterson;
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- (xxxiii) either Mailman or his siblings;
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- (xxxvii) Colin Dinghy;
- (xxxviii) Fred Dunbar;
- (xxxix) Alick (aka Alec and Kauwunbengk);
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- (xli) Pluto;
- (xlii) either Mundie Shalfo or his sister;
- (xliii) Piper;
- (xliv) Willie Daphney;
- (xlv) any of the siblings Fanny, Lucy Tommy, Waterloo, Elsie or Tommy Burns;
- (xlvi) Nipper;
- (xlvii) Dick;
- (xlviii) Peppo;
- (xlix) Ben;
- (l) Smiler;
- (li) Bernard;
- (lii) Monday;
- (liii) Kangaroo;
- (liv) Mosquito;
- (lv) either of the brothers Billy Flower or Goggle-Eye or their siblings;
- (lvi) Jimmy;
- (lvii) either of the brothers Rainbow Christie or Bowyang Charlie;
- (lviii) Nellie;
- (lix) either of the brothers Bob Dunbar or Bendigo or their siblings;
- (lx) any of the siblings Jimmy Koolatah, Coglin Dick, Kunjen Dick or George Murray;
- (lxi) Frank Yam;
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- (lxiii) Old Mud;
- (lxiv) Charlie Inkerman;
- (lxv) any of the siblings Mimosa, Alison or May; or
- (lxvi) Maggie; or

2. recruited by adoption, in accordance with the traditional laws and customs of the Yir Yoront, Koko Bera, Kunjen and Koko Berrin Peoples.

SCHEDULE 2 - DETERMINATION AREA

The Determination Area comprises all of the land and waters described in Pts 1, 2 and 4 below, and depicted on the determination map in Sch 3, excluding the areas described in Pt 3 below.

Part 1 - Exclusive areas

All of the land and waters described in the following table and depicted in dark blue on the determination map:

Area description (as at date of determination)

Lot 5 on Plan SP215744

Part 2 - Non-exclusive areas

All of the land and waters described in the following table and depicted in light blue on the determination map:

Area description (as at date of determination)

The area of road formerly described as Lot 4 on Plan SP215744

That part of Lot 2457 on Plan PH2043 south of the centreline of the Staaten River.

That part of Lot 893 on Plan FK2 that is within the area described as:

Commencing at the intersection of the southern bank of the Staaten River and the western bank of an unnamed creek at approximate Longitude 141.301517° East, being on the northern boundary of Lot 893 on Plan FK2; then generally southerly along the western bank of that creek to Latitude 16.431035° South; then south westerly to the High Water Mark at Latitude 16.438868° South; then generally northerly along the coastline of the Gulf of Carpentaria at the High Water Mark, also being the western boundary of Lot 893 on Plan FK2, and onwards to the southern bank of the Staaten River; then generally south easterly along the southern bank of the Staaten River back to the commencement point.

That part of Topsy Creek, Mitchell River, Nassau River, Alice River and Staaten River as described in Part 4.

Part 3 - Areas excluded from the Determination Area

The areas in this Part are excluded from the Determination Area on the grounds that at the times at which the native title determination applications were 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.

The land or waters on which any other 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).

Part 4 - Non-exclusive watercourse descriptions

All the land and waters within the areas described as:

Nassau River

Commencing at the north east corner of Lot 2480 on PH2046 (Kuparee) and extending generally westerly and generally south westerly along the northern boundary of that lot, being the southern bank of the Nassau River, to the High Water Mark of the Gulf of Carpentaria; then northerly across the mouth of that river between the seaward extremities at High Water Mark of each of the opposite banks; then generally north easterly and generally easterly along the southern boundary of Lot 1796 on PH1651, being the northern bank of the Nassau River back to the commencement point.

Alice River

Commencing at the southwest corner of Lot 12 on CTH804427 (Helmsley), being a point on the northern bank of the Alice River, and extending south westerly along the prolongation of the western boundary of Lot 12 on CTH804427 across the Alice River to its southern bank; then generally westerly along that bank to the intersection of the south eastern bank of the Mitchell River; then north westerly to again the northern bank of the Alice River at approximate Longitude 141.968323° East; then generally easterly along that bank, being the boundary of Lot 19 on SP224321, back to the commencement point.

Mitchell River Part 1

Commencing at the intersection of the northern bank of the Alice River and approximate Longitude 141.968323° East and extending south easterly to the intersection of the southern bank of the Alice River and eastern bank of the Mitchell River; then generally south westerly and generally south easterly along that bank, being the north west and south west boundaries of Lot 5 on SP215744 and southwest boundary of Lot 13 on CTH3 (Kulata), to Lot 3 on MM2 (Dunbar); then south westerly along the northern boundary of that lot to the south western bank of the Mitchell River; then generally north westerly and generally north easterly along the south western and north western bank of the Mitchell River back to the commencement point. This area includes the anabranch of the Mitchell River adjacent to Lot 5 on SP215744.

Mitchell River Part 2

Commencing at the southeast corner of Lot 2 on CTH1 and extending south westerly, generally south westerly and north easterly along the boundaries of Lot 3 on MM2 (Dunbar Pastoral Lease) to the northern bank of the Mitchell River; then generally north easterly along the northern bank of that river back to the commencement point.

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Staaten North Branch

Commencing at the southeast corner of Lot 2322 on SP254319 (Alma) and extending generally north westerly and generally south westerly along the northern boundaries of Lot 2457 on PH2043 (Galbraith) and Lot 746 on OL298, being the southern bank of the Staaten River (North Branch), to the eastern bank of the Staaten River; then northerly across the mouth of that North Branch to its northern bank; then generally north easterly and

generally south easterly along the southern boundary of Lot 2322 on SP254319 (Alma), being the northern bank of the Staaten River (North Branch) back to the commencement point.

Staaten River (Western Section)

Commencing at the intersection of the centreline of the Staaten River and the southern boundary of Lot 2457 on PH2043, being near the confluence with Wyaaba Creek and extending generally westerly along the centreline of the Staaten River to its intersection with a line from the junction of the southern bank of the Staaten River and the western bank of an unnamed creek on the northern boundary of Lot 893 on Plan FK2 at approximate Longitude 141.301517° East and a point on the southern boundary of Lot 2322 on Plan 254319 at Longitude 141.301818° East, then south westerly along that line to the southern bank of the Staaten river; then north westerly along that bank, also being the northern boundary of Lot 893 on Plan FK2 to the mouth of the Staaten River at the High Water Mark on the Gulf of Carpentaria and extending north easterly across the mouth of that river between the seaward extremities at the High Water Mark of each of the opposite banks; then generally easterly along the northern bank of that river back to the commencement point.

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Staaten River (Eastern Section)

Commencing at the intersection of the centreline of the Staaten River and eastern boundary of Lot 2457 on PH2043 (Galbraith Pastoral Holding) and extending northerly along the eastern boundary of that lot to the northern bank of the Staaten River; then generally easterly along that northern bank to Lot 2 on NPW123 (Staaten River National Park); then southerly along a western boundary of that lot to the centreline of the Staaten River; then generally westerly along that centreline back to the commencement point.

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Topsy Creek

Commencing at the north west corner of Lot 1796 on PH1651 (Rutland Plains), being a point on the southern bank of Topsy Creek and the High Water Mark of the Gulf of Carpentaria and extending northerly across the mouth of that creek between the seaward extremities at High Water Mark of each of the opposite banks; then generally easterly along the southern boundary of Lot 19 on SP224321 (Kowanyama), eastern boundary of Topsy Road, southern boundary of Lot 20 on SP224321 and again the southern boundary of Lot 19 on SP224321 (Kowanyama) to Lot 1796 on PH1651; then generally westerly along the northern boundary of that lot, being the southern bank of Topsy Creek, back to the commencement point.

For the avoidance of doubt, the Determination Area excludes any areas subject to the Part A determination and the Parts B and C determinations.

NOTE

Data Reference and source

- Application boundary data compiled by Client Mapping, Department of Natural Resources and Mines.
- Maritime boundaries data is © Commonwealth of Australia (Geoscience Australia) 2006. AMB 6th

Edition released in February 2006.

- Rivers/Creeks where available are based on Casement data sourced from the Department of Natural Resources and Mines, Qld (February 2014) - else Topographic vector data is © Commonwealth of Australia (Geoscience Australia) 2003.

- Cadastral data sourced from Department of Natural Resources and Mines, Qld (February 2014).

Reference datum

Geographical coordinates have been provided by Client Mapping, Department of Natural Resources and Mines and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time.

Use of Coordinates

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

Prepared by Client Mapping, Department of Natural Resources and Mines (20 May 2014).

SCHEDULE 3 - DETERMINATION MAP

[See NNTR attachment 1: "Schedule 3 - Determination Map"]

SCHEDULE 4 - OTHER RIGHTS AND INTERESTS IN THE DETERMINATION AREA

The nature and extent of the other rights and interests in the Determination Area are the following as they exist at the date of this determination:

1. The rights and interests of:
 - (a) the lessee and others under a term lease being title reference No. 17668080 comprising Lot 2457 on PH2043; and
 - (b) the lessee and others under a term lease being title reference No. 17668055 comprising part of Lot 893 on FK2.

2. The rights and interests of the State of Queensland and the Carpentaria Shire Council to access, use, operate and maintain the area delineated as road on plan SP215744 for its dedicated purpose and the rights and interests of the public to access and use the road.

3. The rights and interests of Carpentaria Shire Council including any rights the Council, its employees, agents or contractors have:

(a) under its local government jurisdiction and functions under the *Local Government Act 2009* (Qld), under the *Land Protection (Pest and Stock Route Management) Act 2002* (Qld) and under any other legislation, for that part of the Determination Area within its local government area, as defined in the *Local Government Act 2009* (Qld);

(b) as the:

(i) holder of any validly granted licences, permits or other rights and interests which were granted as at the date of the determination;

(ii) trustee of any validly gazetted reserves that exist in the Determination Area as at the date of the determination;

(c) as the owner and operator of infrastructure, facilities and other improvements located in the Determination Area as at the date of the Determination including but not limited to:

(i) dedicated roads controlled by Council;

(ii) gravel pits operated by Council;

(d) as the manager of undedicated but constructed roads except for those not operated by Council;

(e) to enter the land described in paras 3(a) to 3(d) in compliance with any legislative requirements regarding notice or otherwise to:

(i) exercise any of the rights and interests referred to in paras 3(a) to 3(d);

(ii) inspect, maintain and repair the infrastructure facilities and other improvements referred to in paras 3(c) and 3(d); and

(iii) undertake operational activities in its capacity as a local government such as feral animal control, weed control, erosion control, waste management and fire management.

4. The rights and interests of the parties under the following agreements:

(a) the Indigenous Management Agreement between the Errk Oygangand National Park Land Trust and State of Queensland for Errk Oygangand National Park (Cape York Peninsula Aboriginal Land) dated 23 October 2009;

(b) the Indigenous Land Use Agreement for Errk Oygangand National Park (Cape York Peninsula Aboriginal Land) dated 23 October 2009; and

(c) the Indigenous Land Use Agreement between Lawrence Daphney and Ors on behalf of the Kowanyama People and Carpentaria Shire Council authorised by the Kowanyama People on 14 October 2014 and dated 21 October 2014.

5. The rights and interests of the State of Queensland in those parts of the Staaten-Gilbert and Nassau River declared fish habitat areas within the Determination Area, as shown on Plan FHA 059 and Plan FHA 061 held by the Department of National Parks, Recreation, Sport and Racing and the interests of persons entitled to access and use those habitats.

6. The rights and interests granted by the State of Queensland pursuant to statute or otherwise in the exercise of its executive power including, but not limited to, the rights and interests of persons holding licenses, permits or authority pursuant to the *Fisheries Act 1994* (Qld) and regulations, declarations or management plans made under that Act.

7. The rights and interests granted by the Commonwealth pursuant to statute or otherwise in the exercise of its executive power including, but not limited to, the rights and interests of persons holding licences, permits, statutory fishing rights, or other statutory rights pursuant to:

(a) the *Fisheries Management Act 1991* (Cth), or regulations or management plans made under that Act; and

(b) any other legislative scheme for the control, management and exploitation of the living resources within the Determination Area.

8. The rights and interests of members of the public arising under the common law, including but not limited to:

(a) the public right to fish; and

(b) the public right to navigate.

9. 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) waterways;

(b) beds and banks or foreshores of waterways;

(c) coastal waters;

(d) beaches;

(e) stock routes; and

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

10. Any other rights and interests:

- (a) held by the State or Commonwealth; or
- (b) existing by reason of the force and operation of the Laws of the State and the Commonwealth.

REGISTER ATTACHMENTS:

1. Schedule 3 - Determination Map, 1 page - A4, 31/10/2014

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.