



SCHEDULE 5

AREAS NOT FORMING PART OF THE DETERMINATION AREA

The following areas of land and waters are excluded from the determination area as described in Part 1 of Schedule 4 and Part 2 of Schedule 4:

1. Those land and waters within the External Boundary which at the time the native title determination application was made were, or had been, the subject of one or more Previous Exclusive Possession Acts, within the meaning of s 23B of the NTA as they could not be claimed in accordance with s 61A of the NTA.
2. Specifically, and to avoid any doubt, the land and waters described in (1) above includes:
 - (a) the Previous Exclusive Possession Acts described in ss 23B(2) and 23B(3) of the NTA to which s 20 of the *Native Title (Queensland) Act 1993* (Qld) applies, and to which none of ss 47, 47A or 47B of the NTA applied; and
 - (b) the land and waters on which any public work, as defined in s 253 of the NTA, is or was constructed, established or situated, and to which ss 23B(7) and 23C(2) of the NTA and to which 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.
3. Those land and waters within the External Boundary on which, at the time the native title determination application was made, public works were validly constructed, established or situated after 23 December 1996, where s 24JA of the NTA applies, and which wholly extinguished native title.
4. Those land and waters within the External Boundary which, at the time the native title determination application was made, were the subject of one or more Pre-existing Rights Based Acts, within the meaning of s 24IB of the NTA, which wholly extinguished native title.