

# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): QUD6040/2001  
NNTT Number: QCD2010/003

**Determination Name:** [Akiba on behalf of the Torres Strait Islanders of the Regional Sea Claim Group v State of Queensland](#)

**Date(s) of Effect:** 23/08/2010

**Determination Outcome:** Native title exists in parts of the determination area

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

**Determination Date:** 23/08/2010

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

On 23 September 2008, Justice Finn split the original Torres Strait Regional Sea Claim application into Part A and Part B. On 2 July 2010, the existence of native title was recognised in relation to part of the Part A determination area and the parties were directed to file an agreed draft determination: *Akiba on behalf of the Torres Strait Islanders of the Regional Sea Claim Group v Queensland (No 2)* [2010] FCA 643. On 23 August 2010, Finn J made orders in terms of the agreed draft determination: *Akiba on behalf of the Torres Strait Islanders of the Regional Sea Claim Group v Queensland* QUD6040/2001. On 14 March 2012, the Full Court of the Federal Court allowed an appeal and varied the determination made on 23 August 2010 to add after clause 5(b): 'This right does not, however, extend to taking fish and other aquatic life for sale or trade': *Commonwealth v Akiba on behalf of the Torres Strait Islanders of the Regional Sea Claim Group* [2012] FCAFC 25. However, on 7 August 2013, the High Court allowed an appeal setting aside that judgment. The effect of the High Court's judgment was to amend clause 5(b) to delete the phrase 'This right does not, however, extend to taking fish and other aquatic life for sale or trade'.

On 26 June 2014 the Federal Court ordered that the native title recognised by Orders made on 23 August 2010 is to be held in trust and that the Malu Lamar (Torres Strait Islander) Corporation (ICN 8051), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to be the prescribed body corporate for the purpose of ss 56(2)(b) and 56(3) of the *Native Title Act 1993* (Cth) and perform the functions mentioned in s 57(1) of the *Native Title Act 1993* (Cth) after becoming a registered native title body corporate and the National Native Title Register has been updated to reflect those orders.

Part B is to be determined at a later date.

### REGISTERED NATIVE TITLE BODY CORPORATE:

Malu Lamar (Torres Strait Islander) Corporation RNTBC  
Trustee Body Corporate  
Level 1  
82 Douglas Street  
THURSDAY ISLAND Queensland 4875

*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)*

## **ORIGINAL REGISTERED NATIVE TITLE BODY CORPORATE(S):**

Malu Lamar (Torres Strait Islander) Corporation

*Note: details of the Corporation name change can be found on the Office of the Registrar of Indigenous Corporations website [www.oric.gov.au](http://www.oric.gov.au)*

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

(1) The native title holders in aggregate are the descendants of the following persons:

Abai, Aclan, Agirri, Aib, Aiwa, Aki, Alau Messiah, Ale, Amani, Ani, Annai, Ano, Anu, Anu Namai, Apaga, Apap, Ape, Apelu, Arkerr Malili, Asiah Messiah, Assau, Asse, Au, Auara, Auda, Aukapim, Aukapim, Aupau, Ausa, Ausi Waria, Awas, Bade/Bagari, Baigau, Bailat, Baira, Baki, Balozi, Bambu, Baniam, Bari, Barigud, Bauba, Bazi, Beiro, Bina, Bobok, Boggo Epei, Boingan, Buli, Busei, Dabad, Dabor, Dadu, Dako, Daleku, Damu, Damui, Darima, Daugiri, Dawao, Demag, Deri, Diri, Diwadi, Dobam, Duawadi, Dudei, Eba/Matul, Ekai, Ema, Emeni, Enemi, Epei, Eti, Gabai, Gagabe, Gaiba, Gaidan, Gainab, Galeka, Ganagi, Ganume, Garmai, Gavid, Gawadi, Gebadi, Gedor, Geigi, Geigi, Gemai, Getawan, Gewar, Gewe Jack, Gi, Gibuma, Gizu, Goa, Gumaroo, Ika/Aiaka, Ikasa, Ikob, Imai, In, Inor, Isaka, Jack Moa, Jack Oroki, Janny, Jawa, Jawai, Kadal, Kaidam, Kaigod, Kakai, Kalai, Kamui, Kapen, Kapen Kuk, Karud, Kaupa, Kauta, Kawiri, Kebei, Kebekut, Kebisu, Keisur, Kelam, Kober, Kogikep, Koia, Koim, Koiop, Koit, Komagaigai, Konai, Kopam, Kopam, Koreg, Kudin, Kuniam, Kupad, Kuri, Lag, Laieh, Laza, Maber/Garau, Mabo, Mabua, Madi, Madua, Maga, Maiamaia, Maigi, Maii, Maima, Maima, Maite, Maki/Salgar, Maku, Malili, Malo, Mamai, Mano, Mapoo, Marau/Daueme, Mariget, Masig, Mau, Maudar, Mele, Meo, Migui, Mogar, Mogi, Mononi/Babi, Morabisi, Nadai, Nadai, Naiama, Naisi, Namagoin, Namai, Namu, Nanai Pisupi, Narmalai, Nawarie Goba, Nazir, Nazir, Nazir Mesepa, Neru, Newar, Nipuri, Nokep, Nosarem, Nuku Idagi, Nunu, Odi (I), Odi (II), Odoro, Opiso, Oroki, Pagai, Pagem/Naii, Pai, Paipa, Paipa, Paipa/Alageda, Panetha, Peid, Petelu, Piapi, Pitpit, Pitu, Polpol, Porrie Daniel, Rebes, Rusia, Saba, Sagiba, Sagigi, Sagul, Saimo, Sakauber, Sam, Samukie, Sapal, Sawi, Seik, Sepa Bani, Seregay, Serib, Sesei (I), Sesei (II), Sesei/Mokar, Sibari, Siboko, Sida, Sidmu, Sigai, Sipo, Siwia, Sogoi, Sorogo, Soroi, Spia, Suere, Supaiya, Tabu, Tabu, Tagai, Taku, Taroa, Tau, Timoto, Toik, Tom Ober, Udai, Ugarie, Ulud, Umai, Uria, Urpi, Vabun, Wabu, Wada, Wadai, Wagai, Waina, Wairu, Waisie, Wakaisu, Walit, Wamo, Waria, Wasada, Wasalgi, Wasi, Wawa, Whaleboat, Whap, Wimet, Wyio, Yart, Zaber, Zaiar, Zarzar, Zaua, Ziai, Zib, Zimoia.

(2) The members of the island communities referred to in Order 4 are, respectively the descendants of:

(a) Meriam - Kopam, Naisi, Sibari, Koiop, Ano, Apap, Kaidam, Dabor, Masig, Nipuri, Sogoi, Wada, Busei, Bauba, Kebekut, Dudei, Awas, Malo, Odoro, Barigud, Taroa, Diri, Sakauber, Mogar, Kopam, Maki/Salgar, Kebei, Wasalgi, Udai, Komagaigai, Gaidan, Wamo, Eba/Matul, Madi, Maber/Garau, Maii, Pagem/Naii, Paipa, Siboko, Bina, Bade/Bagari, Zaiar, Kuniam, Kober, Koim, Sipo, Sesei/Mokar, Marau/Daueme, Galeka, Mabo, Lag, Mele, Toik, Urpi, Keisur, Soroi, Ekai, Mononi/Babi, Darima, Tagai, Beiro, Geigi, Nosarem, Mano, Kogikep, Opiso, Polpol, Kawiri, Geigi, Sawi, Serib, Nunu, Imai, Kadal, Enemi, Aiwa, Emeni, Koit, Namu, Kauta, Balozi, Geigi, Daugiri;

(b) Erubam Le - Amani, Odi (I), Saimo, Narmalai, Nazir Mesepa, Meo, Deri, Ape, Odi (II), Demag, Rebes, Buli, Damui, Baigau, Dako, Malili, Nazir, Bambu, Dobam, Bobok, Nokep, Wadai, Arkerr Malili, Aukapim, Isaka, Kaigod, Kapen, Petelu, Ale, Epei, Bailat, Ema, Boggo Epei, Ikob, Annai, Eti, Aib, Wagai, Gedor, Dabad, Nazir, Kaupa, Nanai Pisupi, Sagiba, Nuku Idagi, Diwadi, Gewar, In, Aukapim, Timoto, Suere, Gemai, Pagai, Pai, Kapen, Kapen Kuk, Spia, Konai, Ani, Morabisi, Koreg, Kuri, Damu, Wasi, Gi, Mamai, Sesei (I), Kakai, Sesei (II), Sida, Maima, Wakaisu, Whaleboat, Supaiya, Tau, Ulud, Waisie, Wasada, Wimet, Mogi, Yart, Ziai, Assau, Oroki, Zib, Nazir, Gaiba;

(c) Ugarem Le - Janny, Maima, Baniam, Jack Oroki;

(d) Masigalgal - Aclan, Alau Messiah, Apelu, Asiah Messiah, Auara, Gewe Jack, Kudin, Ikasa, Maudar, Sidmu, Seregay, Tabu, Wabu;

(e) Porumalgal - Laieh, Gavid, Kalai, Wawa, Mapoo;

(f) Warraberalgal - Gagabe, Wawa, Mapoo, Baki, Ulud;

- (g) Iamalgal - Kebisu, Rusia, Ausa, Auda, Porrie Daniel, Gawadi, Kelam;
- (h) Mualgal - Samukie, Taku, Vabun, Kupad, Nawarie Goba, Maga, Anu Namai, Maiamaia, Ika/Aiaka, Dadu, Waina, Jack Moa, Koia;
- (i) Badulgal - Getawan, Sagul, Uria, Baira, Inor, Zimoia, Newar, Sagigi, Jawa, Wairu, Paipe, Waria, Kamui, Mabua, Laza, Gainab, Zaua, Walit, Namagoin, Paipe/Alageda, Mariget, Bazi, Ugarie, Karud, Duawadi, Gizu, Aupau, Zarzar;
- (j) Gumulgal - Peid, Maku, Bari, Pitu;
- (k) Saibailgal - Au, Sapal, Ausi Waria, Maigi, Apaga, Panetha, Ganume, Aki, Nadai, Gumaroo, Anu, Tom Ober, Gebadi, Sigai, Migui, Piapi, Sam, Zaber, Dawao, Asse, Whap, Goa, Madua;
- (l) Boigulgal - Mau, Umai, Gabai, Maite, Nadai, Tabu, Agirri, Abai, Daleku, Namai, Ganagi, Daleku, Gibuma; and
- (m) Dauanalgal - Jawai, Garmai, Siwia, Seik, Saba, Naiama, Boingan.

## **MATTERS DETERMINED:**

### **THE COURT DETERMINES THAT:**

1. The determination area is the waters described in Schedule 1.
2. Native title does not exist in the parts of the determination area described in Schedule 3.
3. Native title exists in those parts of the determination area described in Schedule 4 (native title areas).
4. (1) The group rights comprising the native title are held by the members of each of the following island communities in respect of the native title areas described in Schedule 4:
  - (a) Meriam (Mer);
  - (b) Erubam Le (Erub);
  - (c) Ugarem Le (Ugar);
  - (d) Masigalgai (Masig);
  - (e) Porumalgai (Poruma);
  - (f) Warraberalgal (Warraber);
  - (g) Iamalgai (Iama);
  - (h) Mualgal (Mua);
  - (i) Badulgal (Badu);
  - (j) Gumulgal (Mabuiag);
  - (k) Saibailgal (Saibai);
  - (l) Boigulgal (Boigu); and
  - (m) Dauanalgal (Dauan).
- (2) The native title holders are, in aggregate, the persons identified in Schedule 5(1).
5. The native title rights and interests are:
  - (a) the rights to access, to remain in and to use the native title areas; and
  - (b) subject to orders 6 and 9, the right to access resources and to take for any purpose resources in the native title areas.
6. No determination is made as to any native title right or interest in relation to access to or the taking of minerals and petroleum resources in the native title areas.

7. The native title rights and interests do not confer:

- (a) possession, occupation, use and enjoyment of the native title areas or any parts thereof on the native title holders to the exclusion of all others; or
- (b) any right to control the conduct of others.

8. The native title rights and interests are subject to and exercisable in accordance with the:

- (a) traditional laws and customs of the native title holders; and
- (b) laws of the State of Queensland and the Commonwealth of Australia including the common law.

9. Notwithstanding anything in this determination, there are no native title rights and interests in the native title areas in or in relation to:

- (a) such minerals as are wholly owned by the Crown; or
- (b) such petroleum as is wholly owned by the Crown.

10. The nature and extent of the other interests in relation to the native title areas are set out in Schedule 6 (other interests).

11. The relationship between the native title rights and interests and the other interests is as follows:

- (a) the other interests co-exist with the native title rights and interests;
- (b) the determination does not affect the validity of those other interests;
- (c) to the extent of any inconsistency, the native title rights and interests yield to the other interests referred to in Schedule 6.

12. In this determination, including its schedules, unless the contrary intention appears:

(a) 'high water mark' has the same meaning as in the Land Act 1994 (Qld) except where it is defined otherwise to identify the seaward boundary of land in or in the immediate vicinity of the native title areas in any existing:

- (i) determination of native title;
- (ii) native title determination application that has not been finalised,

in which case it has the meaning attributed to it in that determination of native title or native title determination application as the case may be;

- (b) 'waters' has the same meaning as in the Native Title Act;
- (c) 'Native Title Act' means the Native Title Act 1993 (Cth); and

(d) 'Treaty' means the Treaty between Australia and the Independent State of Papua New Guinea concerning Sovereignty and Maritime Boundaries in the area between the two Countries, including the area known as Torres Strait, and Related Matters signed at Sydney on 18 December 1978.

13. In the event of any inconsistency between a line or area shown on the Map in Schedule 7 and a line or area described in any other schedule, the written description shall prevail.

AND THE COURT ORDERS THAT:

14. Within 12 months of the date of this order, the native title holders are to file and serve:

- (a) a notice in accordance with section 56(2)(a) of the Native Title Act indicating whether the native title holders intend to have their native title held in trust by one or more prescribed body or bodies corporate; alternatively whether they intend to have one or more prescribed body or bodies corporate perform the functions in section 57(3) of the Native Title Act; and
- (b) if the native title is to be held in trust - the name and the rules of the proposed prescribed body or bodies corporate and the written consent of the prescribed body or bodies corporate;
- (c) if the native title is to be held by the common law holders with one or more prescribed body or bodies corporate to

perform the functions in sub-section 57(2) of the Native Title Act - the name and the rules of the proposed prescribed body or bodies corporate.

15. In the event that in respect of any part of the native title areas there is no nomination within the time specified in Order 14 or such later time as the Court may order, the applicant is to forthwith apply to the Court for further directions.

16. Until such time as there is a registered native title body corporate in relation to a part of the native title areas any notices required under the Native Title Act or otherwise to be served on the native title holders, the native title claim group or the applicant may be served upon the solicitor for the applicant and the representative Aboriginal body for the native title areas, and such service shall be deemed to be sufficient.

17. In respect of the native title areas, application QUD 6040 of 2001 is not "finalised" within the meaning of s 190(4) (e) of the Native Title Act until a prescribed body corporate has been determined, in accordance with s 56(1) or s 57 (2) of the Native Title Act, to perform the functions mentioned in s 57(1) or s 57(3) of that Act as the case may be in respect of all parts of the native title areas.

18. The applicant is granted leave to amend the definition of 'high water mark' in the native title determination application to conform with the definition in this determination.

19. Liberty to apply:

(a) in relation to Orders 14 to 17; and

(b) for the purpose of establishing the boundaries of the adjacent areas referred to in Schedule 2 Item (2).

20. The Respondents, Pende Gamogab, Peter Niwia Sawabarri, Naga Bewani Resources Association, Robinson Gibuma and Frank Warapa cease to be parties to the proceedings.

THE COURT DECLARES THAT:

1. Kawoi Ausa Songoro and those he represents have not established that they have any customary rights and interests in the claim area which were acquired by descent from a Torres Strait Islander.

2. The Gamia Family has not established that it has any customary rights and interests in the claim area which were acquired by descent from a Torres Strait Islander.

SCHEDULE 1 - THE DETERMINATION AREA

[See Order 1]

(see NNTR Attachment 1, "Schedule 1 - The Determination Area")

SCHEDULE 2 - AREAS NOT FORMING PART OF THE DETERMINATION AREA

[See Order 1]

[Areas not included in the determination area because they are not included in the area covered by the native title determination application]

The areas within the external boundaries of the determination area described in Schedule 1 that are excluded from that area are:

(1) The waters upon which the following aids to navigation are situated and in respect of each of them, the adjacent areas within the meaning of s 251D of the Native Title Act, being, in respect of each of them, waters within a radius of 150 metres from the centre of the aid to navigation

(a) Bet Reef (Bara);

(b) Dove Islet (Uttu); and

(c) Sue Islet (Warraber).

(2) The waters upon which the following aids to navigation are situated and in respect of each of them, the adjacent areas within the meaning of s 251D of the Native Title Act:

(a) Arden Island (Garboi);

- (b) Bramble Cay (Maizab Kaur);
- (c) Dalrymple Islet (Darmut); and
- (d) Harvey Rocks (Yurin Kula).

#### SCHEDULE 3 - WHERE NATIVE TITLE DOES NOT EXIST

(see NNTR Attachment 2, "Schedule 3 - Where native title does not exist")

#### SCHEDULE 4 - WHERE NATIVE TITLE EXISTS

[See Order 3]

The parts of the determination area where the native title exists are those parts other than the parts described in Schedule 3 and comprise the areas which are the marine territories of each island community identified in Order 4 and described in Schedule 5(2) which are owned by the respective community or are shared with one or more other island community or communities.

#### SCHEDULE 5 - NATIVE TITLE HOLDERS

[See Order 4]

(1) The native title holders in aggregate are the descendants of the following persons:

Abai, Aclan, Agirri, Aib, Aiwa, Aki, Alau Messiah, Ale, Amani, Ani, Annai, Ano, Anu, Anu Namai, Apaga, Apap, Ape, Apelu, Arkerr Malili, Asiah Messiah, Assau, Asse, Au, Auara, Auda, Aukapim, Aukapim, Aupau, Ausa, Ausi Waria, Awas, Bade/Bagari, Baigau, Bailat, Baira, Baki, Balozi, Bambu, Baniam, Bari, Barigud, Bauba, Bazi, Beiro, Bina, Bobok, Boggo Epei, Boingan, Buli, Busei, Dabad, Dabor, Dadu, Dako, Daleku, Damu, Damui, Darima, Daugiri, Dawao, Demag, Deri, Diri, Diwadi, Dobam, Duawadi, Dudei, Eba/Matul, Ekai, Ema, Emeni, Enemi, Epei, Eti, Gabai, Gagabe, Gaiba, Gaidan, Gainab, Galeka, Ganagi, Ganume, Garmai, Gaud, Gawadi, Gebadi, Gedor, Geigi, Geigi, Gemai, Getawan, Gewar, Gewe Jack, Gi, Gibuma, Gizu, Goa, Gumaroo, Ika/Aiaka, Ikasa, Ikob, Imai, In, Inor, Isaka, Jack Moa, Jack Oroki, Janny, Jawa, Jawai, Kadal, Kaidam, Kaigod, Kakai, Kalai, Kamui, Kapen, Kapen Kuk, Karud, Kaupa, Kauta, Kawiri, Kebei, Kebekut, Kebisu, Keisur, Kelam, Kober, Kogikep, Koia, Koim, Koiop, Koit, Komagaigai, Konai, Kopam, Kopam, Koreg, Kudin, Kuniam, Kupad, Kuri, Lag, Laieh, Laza, Maber/Garau, Mabo, Mabua, Madi, Madua, Maga, Maiamaia, Maigi, Maii, Maima, Maima, Maite, Maki/Salgar, Maku, Malili, Malo, Mamai, Mano, Mapoo, Marau/Daueme, Mariget, Masig, Mau, Maudar, Mele, Meo, Migui, Mogar, Mogi, Mononi/Babi, Morabisi, Nadai, Nadai, Naiama, Naisi, Namagoin, Namai, Namu, Nanai Pisupi, Narmalai, Nawarie Goba, Nazir, Nazir, Nazir, Nazir Mesepa, Neru, Newar, Nipuri, Nokep, Nosarem, Nuku Idagi, Nunu, Odi (I), Odi (II), Odoro, Opiso, Oroki, Pagai, Pagem/Naii, Pai, Paipa, Paipa, Paipa/Alageda, Panetha, Peid, Petelu, Piapi, Pitpit, Pitu, Polpol, Porrie Daniel, Rebes, Rusia, Saba, Sagiba, Sagigi, Sagul, Saimo, Sakauber, Sam, Samukie, Sapal, Sawi, Seik, Sepa Bani, Seregay, Serib, Sesei (I), Sesei (II), Sesei/Mokar, Sibari, Siboko, Sida, Sidmu, Sigai, Sipo, Siwia, Sogoi, Sorogo, Soroi, Spia, Suere, Supaiya, Tabu, Tabu, Tagai, Taku, Taroa, Tau, Timoto, Toik, Tom Ober, Udai, Ugarie, Ulud, Umai, Uria, Urpi, Vabun, Wabu, Wada, Wadai, Wagai, Waina, Wairu, Waisie, Wakaisu, Walit, Wamo, Waria, Wasada, Wasalgi, Wasi, Wawa, Whaleboat, Whap, Wimet, Wyio, Yart, Zaber, Zaiar, Zarzar, Zaua, Ziai, Zib, Zimoia.

(2) The members of the island communities referred to in Order 4 are, respectively the descendants of:

(a) Meriam - Kopam, Naisi, Sibari, Koiop, Ano, Apap, Kaidam, Dabor, Masig, Nipuri, Sogoi, Wada, Busei, Bauba, Kebekut, Dudei, Awas, Malo, Odoro, Barigud, Taroa, Diri, Sakauber, Mogar, Kopam, Maki/Salgar, Kebei, Wasalgi, Udai, Komagaigai, Gaidan, Wamo, Eba/Matul, Madi, Maber/Garau, Maii, Pagem/Naii, Paipa, Siboko, Bina, Bade/Bagari, Zaiar, Kuniam, Kober, Koim, Sipo, Sesei/Mokar, Marau/Daueme, Galeka, Mabo, Lag, Mele, Toik, Urpi, Keisur, Soroi, Ekai, Mononi/Babi, Darima, Tagai, Beiro, Geigi, Nosarem, Mano, Kogikep, Opiso, Polpol, Kawiri, Geigi, Sawi, Serib, Nunu, Imai, Kadal, Enemi, Aiwa, Emeni, Koit, Namu, Kauta, Balozi, Geigi, Daugiri;

(b) Erubam Le - Amani, Odi (I), Saimo, Narmalai, Nazir Mesepa, Meo, Deri, Ape, Odi (II), Demag, Rebes, Buli, Damui, Baigau, Dako, Malili, Nazir, Bambu, Dobam, Bobok, Nokep, Wadai, Arkerr Malili, Aukapim, Isaka, Kaigod, Kapen, Petelu, Ale, Epei, Bailat, Ema, Boggo Epei, Ikob, Annai, Eti, Aib, Wagai, Gedor, Dabad, Nazir, Kaupa, Nanai Pisupi, Sagiba, Nuku Idagi, Diwadi, Gewar, In, Aukapim, Timoto, Suere, Gemai, Pagai, Pai, Kapen, Kapen Kuk, Spia, Konai, Ani, Morabisi, Koreg, Kuri, Damu, Wasi, Gi, Mamai, Sesei (I), Kakai, Sesei (II), Sida, Maima, Wakaisu, Whaleboat, Supaiya, Tau, Ulud, Waisie, Wasada, Wimet, Mogi, Yart, Ziai, Assau, Oroki, Zib, Nazir, Gaiba;

(c) Ugarem Le - Janny, Maima, Baniam, Jack Oroki;

(d) Masigalgal - Aclan, Alau Messiah, Apelu, Asiah Messiah, Auara, Gewe Jack, Kudin, Ikasa, Maudar, Sidmu, Seregay, Tabu, Wabu;

(e) Porumalgal - Laieh, Gaud, Kalai, Wawa, Mapoo;

- (f) Warraberalgal - Gagabe, Wawa, Mapoo, Baki, Ulud;
- (g) Iamalgal - Kebisu, Rusia, Ausa, Auda, Porrie Daniel, Gawadi, Kelam;
- (h) Mualgal - Samukie, Taku, Vabun, Kupad, Nawarie Goba, Maga, Anu Namai, Maiamaia, Ika/Aiaka, Dadu, Waina, Jack Moa, Koia;
- (i) Badulgal - Getawan, Sagul, Uria, Baira, Inor, Zimoia, Newar, Sagigi, Jawa, Wairu, Paipe, Waria, Kamui, Mabua, Laza, Gainab, Zaua, Walit, Namagoin, Paipe/Alageda, Mariget, Bazi, Ugarie, Karud, Duawadi, Gizu, Aupau, Zarzar;
- (j) Gumulgal - Peid, Maku, Bari, Pitu;
- (k) Saibailgal - Au, Sapal, Ausi Waria, Maigi, Apaga, Panetha, Ganume, Aki, Nadai, Gumaroo, Anu, Tom Ober, Gebadi, Sigai, Migui, Piapi, Sam, Zaber, Dawao, Asse, Whap, Goa, Madua;
- (l) Boigulgal - Mau, Umai, Gabai, Maite, Nadai, Tabu, Agirri, Abai, Daleku, Namai, Ganagi, Daleku, Gibuma; and
- (m) Dauanalgal - Jawai, Garmai, Siwia, Seik, Saba, Naiama, Boingan.

#### SCHEDULE 6 - OTHER INTERESTS

[See Order 10]

The nature and extent of the other interests in relation to the determination area are the following so far as they exist as at the date of this determination:

- (1) The international right of innocent passage through the territorial sea.
- (2) Any subsisting public right to fish.
- (3) The public right to navigate.
- (4) The rights and interests of holders of licences, permits, authorities, resource allocations or endorsements issued under the Fisheries Act 1994 (Qld), the Fisheries Regulation 2008 (Qld), Torres Strait Fisheries Act 1984 (Cth) and the Fisheries Management Act 1991 (Cth), or any other legislative scheme for the control, management and exploitation of the living resources within the determination area.
- (5) The rights and interests of the holders of licences, certificates, permits and authorities issued under the Transport Operations (Marine Safety) Act 1994 (Qld) and the Transport Operations (Marine Safety) Regulation 2004 (Qld).
- (6) The rights and interests of persons to whom any other valid and validated rights and interests have been:
  - (a) granted by the Crown pursuant to statute or otherwise in the exercise of its executive power; or
  - (b) otherwise conferred by statute.
- (7) Rights of access by an employee, servant, agent or instrumentality of the State, Commonwealth or other statutory authority as required in the performance of his or her statutory or common law duties.
- (8) 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 and the Commonwealth.
- (9) The rights and interests of the Australian Maritime Safety [sic] Authority:
  - (a) as the owner, manager or operator of aids to navigation located at the following places in the determination area (navigational aids):
    - (i) Kirkcaldie Reef;
    - (ii) East Cay;
    - (iii) Newman Reef;
    - (iv) Ackers Shoal;
    - (v) Caldbeck Reef;
    - (vi) Smith Cay; and

(vii) Sugar Ran Reef.

(b) under the following sub-leases:

(i) sub-lease from Queensland to AMSA of Lot 1 on SP 138809 (being the whole of Kirkcaldie Reef down to the point of lowest astronomical tide) for the period 22 December 2004 to 20 December 2024 (dealing number 708994912) with respect to that part of the sub-leased area that is seaward of the high water mark;

(ii) sub-lease from Queensland to AMSA of Lot 1 on CP882191 (being part of Arden Island) for the period 1 July 2000 to 30 June 2049 (dealing number 704533968, term lease 214397), including rights of access to and from Lot 1 on CP882191 over the inter-tidal zone of Arden Island insofar as such rights of access are expressly provided for in the said sub-lease or exist by implication;

(iii) sub-lease from Queensland to AMSA of Lot 1 on TS80 (being part of Bramble Cay) for the period 30 March 2003 to 27 March 2053 (term lease 219010), including: (a) leasehold rights with respect to that part of the sub-leased area (if any) that is seaward of the high water mark; and (b) rights of access to and from Lot 1 on TS80 over the inter-tidal zone of Bramble Cay insofar as such rights of access are expressly provided for in the said sub-lease or exist by implication;

(vi) the sub-lease from Queensland to AMSA of Lot 1 on TS840868 (being the whole of one of the islands known collectively as Harvey Rocks) for the period 1 July 1997 to 30 June 2046 (dealing number 702542786) including: (a) leasehold rights with respect to that part of the sub-leased area (if any) that is seaward of the high water mark; and (b) rights of access to and from Lot 1 on TS840868 over the inter-tidal zone of the said island insofar as such rights of access are expressly provided for in the said sub-lease or exist by implication;

(c) under the Lighthouses Act 1911 (Cth) to establish, maintain (including use, operate and repair), add to, alter, remove, inspect, or vary the character of:

(i) the navigational aids;

(ii) any marine navigation aid in the determination area further and additional to the navigational aids.

(d) under s 8(1)(a) of the Lighthouses Act 1911 (Cth) to enter into any part of the determination area;

(e) under s 8(1)(b) of the Lighthouses Act 1911 (Cth) to transport goods through any part of the determination area;

(f) to exercise its powers under s 109 of the Lighthouses Act 1911 (Cth).

(10) Subject to the laws of Australia, a customary right, if any, that:

(a) is held by a person or persons who: live in the Protected Zone or the adjacent coastal area of Papua New Guinea (as each is defined in the Treaty); is a citizen, or are citizens, of Papua New Guinea; and maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities;

(b) applies within the determination area;

(c) is recognised by the law of Australia;

(d) does not purport to authorise the control of access to or conduct in the determination area by any person; and

(e) involves free movement or the performance of lawful traditional activities within the determination area

## SCHEDULE 7 - THE MAP

[See Schedules 1 and 3]

[Generally showing the external boundaries described in Parts 1 and 2 of Schedule 1 and the areas described in Schedule 3]

(see NNTR Attachment 3, "Schedule 7 -The Map")

## REGISTER ATTACHMENTS:

1. Attachment 1 - Schedule 1 - The Determination Area, 11 pages - A4, 23/08/2010

2. Attachment 2 - Schedule 3 - Where native title does not exist, 8 pages - A4, 23/08/2010



3. Attachment 3 - Schedule 7 - The Map, 1 page - A4, 23/08/2010

*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.*