



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): QUD579/2005  
NNTT Number: QCD2011/007

**Determination Name:** [Doyle on behalf of the Kalkadoon People #4 v State of Queensland \(No 3\)](#)

**Date(s) of Effect:** 12/06/2012

**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:** 12/12/2011

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

This determination was handed down by the Federal Court on 12 December 2011 and was conditional on the registration of 4 Indigenous Land Use Agreements:

QI2011/030 - Kalkadoon People and Ergon Energy ILUA

QI2012/026 - Kalkadoon Pre-Determination ILUA

QI2012/038 - Kalkadoon People and Local Government ILUA

QI2012/042 - Kalkadoon People Xstrata Queensland Limited

QI2011/030 was registered on the Register of Indigenous Land Use Agreements on 28 November 2011.

QI2012/026 was registered on the Register of Indigenous Land Use Agreements on 17 May 2012.

QI2012/038 was registered on the Register of Indigenous Land Use Agreements on 31 May 2012.

QI2012/042 was registered on the Register of Indigenous Land Use Agreements on 12 June 2012.

The conditions attached to the determination have therefore now been met.

Please note that the 12 December 2011 determination orders were corrected by Court order on 19 October

2012 by: 1. deleting the following items from the determination: - Schedule 3 (a) 716 - Lot 1 on MPH22108- Schedule 3 (a) 918 - Lot 60 on AP15888 (formerly part of Lot 60 on USL4820)- the words "and 4B(c)" from Schedule 3 item (a) 21- Schedule 4B (c) 1 - Easement U over Lot 16 on CW62 2. substituting sheets 10 and 11 of the determination map in Schedule 5B.

**REGISTERED NATIVE TITLE BODY CORPORATE:**

Kalkadoon Native Title Aboriginal Corporation RNTBC  
Agent Body Corporate  
109 Barkly Highway  
MOUNT ISA Queensland 4825

*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):**

Kalkadoon Native Title Aboriginal 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:**

The native title holders are the Kalkadoon People. The Kalkadoon People are the Biological descendants of the following people:

1. Lardie Roberts (aka Lardie Moonlight);
2. Dolly Prosser;
3. Kitty Frogg;
4. Annie Whip (mother of Martin Connelly (Snr));
5. Ida (aka Ada) Elston;
6. Leichardt Toby;
7. Rosie Waddibungera (mother of George Thorpe);
8. Willy Malcolm;
9. Nancy Daniels;
10. Fanny (Nellie) McLennan;
11. Nellie and Jimmy (parents of Topsy, Harry, Annie Sam and Jack Kippen);
12. Maggie Sautelle;
13. Daisy Barton (nee McLean);
14. Mundi MacDonald (aka King Mundie);
15. Charlie Caldwell (Snr);
16. Carbine;
17. Jimmy Rolleston and Louisa Muni (parents of Bessie Mowbray);
18. Gypsy Reid (aka Gypsy Ryan);
19. Nellie Monkira;
20. Polly Wilson (nee Hopkins) Marajundu;

21. Jack Elston;
22. Jessie Frogg (Snr);
23. Polly Alroy (aka Polly George);
24. Nobie Clay;
25. Spider;
26. Maryann (mother of Annie Reid and Eva Patterson);
27. Sophie MacDonald;
28. Julie (mother of Eulie and Lizzie Hickson); and
29. Bessie Ah Fat

**MATTERS DETERMINED:**

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 DETERMINES THAT:

1. Native title exists in the parts of the Determination Area identified in Schedules 2 and 3 and does not exist in the part of the Determination Area identified in Schedule 4B.
2. The native title is held by the persons described in Schedule 1 (the 'native title holders').
3. Subject to paragraphs 5, 6 and 7 the nature and extent of the native title rights and interests in relation to the Determination Area, other than in relation to Water, are:
  - (a) in relation to that part of the Determination Area identified in Schedule 2, the rights to possession, occupation, use and enjoyment to the exclusion of all others; and
  - (b) in relation to that part of the Determination Area identified in Schedule 3 ('the Area'), the non-exclusive rights to:
    - (i) be present on, including by accessing, traversing and Camping on, the Area;
    - (ii) take (including by hunting), use, share and exchange Traditional Natural Resources from the Area for personal, domestic and non-commercial communal purposes;
    - (iii) conduct cultural and spiritual activities and ceremonies on the Area;
    - (iv) be buried and to bury native title holders in the ground, within the Area;
    - (v) 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, by lawful means, from physical harm;
    - (vi) teach on the Area the physical and spiritual attributes of the Area; and
    - (vii) hold meetings on the Area.
4. Subject to paragraphs 5, 6 and 7 the nature and extent of the native title rights and interests in relation to Water within the Determination Area are the non-exclusive rights to:
  - (a) hunt and fish in or on, and gather from, the Water for personal, domestic and non-commercial communal purposes; and
  - (b) take and use the Water for personal, domestic and non-commercial communal purposes.
5. 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).
6. 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.

7. The native title rights and interests referred to in paragraphs 3(b) and 4 do not confer the right to possession, occupation, use or enjoyment to the exclusion of all others.

8. The nature and extent of any other rights in relation to the Determination Area (or respective parts thereof) are set out in Schedule 6.

9. The relationship between the native title rights and interests described in paragraphs 3 and 4 and the other rights described in Schedule 6 is that:

(a) the other rights continue to have effect, and the rights conferred by or held under the other rights may be exercised notwithstanding the existence of the native title rights and interests;

(b) to the extent the other rights 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 rights to the extent of the inconsistency for so long as the other rights exist; and

(c) the other rights and any activity that is required or permitted by or under, and done in accordance with, the other rights, 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 but do not extinguish the native title rights and interests except in accordance with the law.

10. The words and expressions used in this determination have the same meanings as they have in Part 15 of the Native Title Act 1993 (Cth) except for the following defined words and expressions:

'Camping' does not include permanent residence or the construction of permanent structures or fixtures;

'External Boundary' means the boundary described and shown in Schedule 5A;

'Determination Area' means the land and waters described in Schedules 2, 3 and 4B and shown on the maps in Schedule 5B, and does not include those areas described in Schedule 4A. To the extent of any inconsistency, Schedules 2, 3, 4A, 4B and 5A prevail over Schedule 5B;

'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;

'Traditional Natural Resources' means:

(a) 'animals' as defined in the Nature Conservation Act 1992 (Qld), but not including:

(i) fish; or

(ii) animals;

that are the private personal property of another;

(b) 'plants' as defined in the Nature Conservation Act 1992 (Qld); and

(c) any clay, soil, sand, gravel or rock on or below the surface of the Determination Area,

that have traditionally been taken and used by the native title holders; and

'Water' means water as defined by the Water Act 2000 (Qld).

THE COURT ORDERS THAT:

11. Paragraphs 1-10 take effect upon the agreements referred to in paragraphs 1(a), 3(e), 9(d), 10(d), 11(b) and 12(d) of Schedule 6 being registered on the Register of Indigenous Land Use Agreements.

12. Upon paragraphs 1-10 taking effect:

(a) The native title is not held in trust.

(b) The Kalkadoon Native Title Aboriginal Corporation, 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 and 57(2) of the Native Title Act 1993 (Cth);

(ii) act as agent for the native title holders; and

(iii) perform the functions mentioned in s 57(3) of the Native Title Act 1993 (Cth) after becoming a registered native title body corporate.

13. In the event that the agreements referred to in paragraph 11 are not registered on the Register of Indigenous Land Use Agreements within six (6) 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.

#### SCHEDULE 1 ' NATIVE TITLE HOLDERS

The native title holders are the Kalkadoon People. The Kalkadoon People are the biological descendants of the following people:

1. Lardie Roberts (aka Lardie Moonlight);
2. Dolly Prosser;
3. Kitty Frogg;
4. Annie Whip (mother of Martin Connelly (Snr));
5. Ida (aka Ada) Elston;
6. Leichardt Toby;
7. Rosie Waddibungera (mother of George Thorpe);
8. Willy Malcolm;
9. Nancy Daniels;
10. Fanny (Nellie) McLennan;
11. Nellie and Jimmy (parents of Topsy, Harry, Annie Sam and Jack Kippen);
12. Maggie Sautelle;
13. Daisy Barton (nee McLean);
14. Mundi MacDonald (aka King Mundie);
15. Charlie Caldwell (Snr);
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17. Jimmy Rolleston and Louisa Muni (parents of Bessie Mowbray);
18. Gypsy Reid (aka Gypsy Ryan);
19. Nellie Monkira;
20. Polly Wilson (nee Hopkins) Marajundu;
21. Jack Elston;
22. Jessie Frogg (Snr);
23. Polly Alroy (aka Polly George);
24. Nobie Clay;

25. Spider;
26. Maryann (mother of Annie Reid and Eva Patterson);
27. Sophie MacDonald;
28. Julie (mother of Eulie and Lizzie Hickson); and
29. Bessie Ah Fat.

#### SCHEDULE 2 ' AREAS IN THE DETERMINATION AREA WHERE EXCLUSIVE NATIVE TITLE EXISTS

The land and waters comprised of the lots listed below:

- | No. | Description  |
|-----|--|
| 1.  | Lot 5 on CP865892 (formerly Lot 5 on TG34 (Calton Hills Holdings - PH 13/4151)); |
| 2.  | Lot 8 on TG35 (Canworth Holdings - PH 13/5539);                                  |
| 3.  | Lot 2 on SP162421 (formerly Lot 2 on BR9 (Gundaria Holdings ' PH 13/2514));      |
| 4.  | Lot 12 on RD186 (Injilnji Youth Centre);   |
| 5.  | Lot 77 on CP894140 (Kalkadoon Information Centre);                               |
| 6.  | Lot 6 on CP889285 (Wulliberi Aboriginal Reserve);                                |
| 7.  | Lot 9 on RD207 (Orana Park Aboriginal Reserve); and                              |
| 8.  | Lot 20 on RD46 (Yallabee Aboriginal Reserve).                                    |

#### SCHEDULE 3 ' AREAS IN THE DETERMINATION AREA WHERE NON-EXCLUSIVE NATIVE TITLE EXISTS

[See NNTR Attachment 1: 'Schedule 3 ' Areas in the Determination Area where non-exclusive native title exists']

#### SCHEDULE 4A ' AREAS EXCLUDED FROM THE DETERMINATION AREA

The following areas are wholly excluded from the Determination Area on the grounds that they have been the subject of a previous exclusive possession act, as defined in s 23B of the Native Title Act 1993 (Cth) and therefore, in accordance with s 61A of the Native Title Act 1993 (Cth), could not be claimed:

(a) 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).

(b) Specifically, and to avoid any doubt, the land and waters described in paragraph (a) above includes the whole of the land and waters described as:

1. Lot 40 on M758125 (pump station);
2. Lot 22 on M758133 (pump station);
3. Lot 4 on M758206 (pump station);
4. Lot 41 on RD203 (pump station);
5. Lot 17 on M758117 (pump station);
6. Lot 8 on MPH22119 (Turanga car park);
7. That part of Lot 12 on M758118 (Barkly Highway State School) that is north of the east-west fence line shown on Map 4A below;

8. Lot 11 on SP159000 (Happy Valley State School);
9. Lot 46 on RD142 (Healy State School);
10. Lot 3 on M758232 (residence);
11. Lot 10 on M758231 (residence);
12. Lot 1 on SP159001 (Mt Isa Central State School);
13. Lot 23 on MPH40065 (residence);
14. Lot 64 on MPH30760 (residence);
15. Lot 1 on M758183 (residence);
16. Lot 36 on MPH40096 (residence);
17. Lot 27 on M758211 (residence);
18. Lot 13 on M75858 (residence);
19. Lot 55 on RD116 (residence);
20. Lot 25 on M758221 (residence);
21. Lot 24 on M758145 (residence);
22. Lot 85 on M758179 (residence);
23. Lot 101 on M758179 (residence);
24. Lot 4 on M758246 (residence);
25. Lot 58 on M758247 (residence);
26. Lot 4 on M758248 (residence);
27. Lot 23 on M758123 (residence);
28. Lot 1 on RD115 (residence);
29. Lot 1 on SP158999 (residence);
30. Lot 1 on M758186 (residence);
31. Lot 12 on MPH40091 (residence);
32. Lot 3 on CP 863424 (East Leichhardt River Optic Fibre Regenerator Site);
33. Lot 313 on CP 863227 (Corella River Optic Fibre Regenerator Site);
34. Lot 321 on SP 139282;
35. Lot 191 on SP 136499;
36. Lot 111 on SP 136498;
37. Lot 62 on SP 136497;
38. Lot 51 on SP 136496;
39. Lot 12 on SP 136495;
40. Lot 341 on SP 136492;
41. Lot 301 on SP 136491;
42. Lot 282 on SP 136490;

43. Lot 284 on SP 136490;
44. Lot 261 on SP 136489;
45. Lot 262 on SP 136489;
46. Lot 222 on SP 136488;
47. Lot 181 on SP 136487;
48. Lot 12 on SP 136483;
49. Lot 11 on SP 136482;
50. Lot 361 on SP 136481;
51. Lot 131 on Sp 136480;
52. Lot 111 on SP 136479;
53. Lot 171 on SP 136476;
54. Lot 161 on SP 136475;
55. Lot 351 on SP 136470;
56. Lot 352 on SP 136470;
57. Lot 251 on SP 136469;
58. Lot 252 on SP 136469;
59. Lot 211 on SP 136468;
60. Lot 172 on Sp 136467;
61. Lot 131 on SP 136466;
62. Lot 112 on SP 136465;
63. Lot 91 on SP 136464;
64. Lot 61 on SP136463;
65. Lot 12 on SP 136443;
66. Lot 13 on SP 136443;
67. Lot 191 on SP 136441;
68. Lot 26 on SP 130412;
69. Lot 281 on SP 130190;
70. Lot 321 on SP 130185;
71. Lot 301 on SP 130184;
72. Lot 251 on SP 130182;
73. Lot 1 on SP 122674;
74. Lot 241 on SP 122509;
75. Lot 2 on RP 724915;
76. Lot 7 on GR 43;

77. Lot 2 on CW59;
78. Lot 17 on CP 891312;
79. Lot 13 on CP 891310;
80. Lot 9 on CP 891285;
81. Lot 10 on CP 891285;
82. Lot 12 on CP 891285;
83. Lot 14 on CP 891285;
84. Lot 30 on RD 88;
85. Lot 40 on RD 195;
86. Lot 39 on RD 194;
87. Lot 38 on RD 193;
88. Lot 51 of RD 193;
89. Lot 68 on RD 193;
90. Lot 35 on RD 192;
91. Lot 36 on RD 192;
92. Lot 37 on RD 192;
93. Lot 32 on RD 191;
94. Lot 33 on RD 191;
95. Lot 34 on RD 191;
96. Lot 31 on RD 161;
97. Lot 10 on CP865891; and
98. Lot 1 on SW802391.

(c) Those areas of Mining Lease number 8058 which are previous exclusive possession acts by reason of s 23B(2)(c) (vii) of the Native Title Act 1993 (Cth) ('dissected mining lease areas').

#### MAP 4A - BARKLY HIGHWAY STATE SCHOOL

[See NNTR Attachment 2: 'Map 4A ' Barkly Highway State School']

#### SCHEDULE 4B ' AREAS WHERE NATIVE TITLE HAS BEEN EXTINGUISHED

[See NNTR Attachment 3: 'Schedule 4B ' Areas where native title has been extinguished']

#### SCHEDULE 5A ' EXTERNAL BOUNDARY

[See NNTR Attachment 4: 'Schedule 5A ' External Boundary' and NNTR Attachment 5 : "Map 5A - External Boundary"]

#### SCHEDULE 5B ' DETERMINATION MAPS

[See NNTR Attachment 6: 'Schedule 5B ' Determination Maps']

#### SCHEDULE 6 ' OTHER INTERESTS IN THE DETERMINATION AREA

[See NNTR Attachment 7: 'Schedule 6 ' Other Interests in the Determination Area']

## **REGISTER ATTACHMENTS:**

1. Attachment 1 - Schedule 3 Areas in the Determination Area where non-exclusive native title exists (Varied 19/10/2012), 31 pages - A4, 12/12/2011
2. Attachment 2 - Map 4A - Barkly Highway State School, 1 page - A3, 12/12/2011
3. Attachment 3 - Schedule 4B - Areas where native title has been extinguished (Varied 19/10/2012), 7 pages - A4, 12/12/2011
4. Attachment 4 - Schedule 5A - External Boundary, 21 pages - A4, 12/12/2011
5. Attachment 5 - Map 5A - External Boundary, 1 page - A3, 12/12/2011
6. Attachment 6 - Schedule 5B - Determination Maps (Varied 19/10/2012), 16 pages - A4, 12/12/2011
7. Attachment 7 - Schedule 6 - Other Interests in the Determination Area, 14 pages - A4, 12/12/2011

*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.*