



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD101/2009
NNTT Number: QCD2017/003

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

Date(s) of Effect: 23/06/2017

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 23/06/2017

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Bigambul Native Title Aboriginal Corporation RNTBC
Trustee Body Corporate
78 Marshall Street
Goondiwindi Queensland 4390

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

ORIGINAL REGISTERED NATIVE TITLE BODY CORPORATE(S):

Bigambul 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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

5. The native title is held by the Bigambul People described in Schedule 3 ("the native title holders").

1. The native title holders are the Bigambul People. The Bigambul People are those people who are biological descendants of the following deceased persons:

- (i) Nellie Yumbeina;
- (ii) Queen Susan of Welltown;
- (iii) Jack Noble;
- (iv) Sally Murray;
- (v) Susan, Mother of Duncan Daniels; or
- (vi) Jack and James Armstrong.

MATTERS DETERMINED:

BY CONSENT THE COURT ORDERS THAT:

1. There be a determination of native title in the terms set out below ("the Determination").

BY CONSENT THE COURT DETERMINES THAT:

3. The Determination Area is the land and waters described in Schedule 1 and depicted on the map attached to Schedule 1. To the extent of any inconsistency between the written description and the map, the written description prevails.
4. Native title exists in relation to the Determination Area described in Part 1 of Schedule 1.
5. The native title is held by the Bigambul People described in Schedule 3 ("the native title holders").
6. Subject to paragraphs 7, 8 and 9 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 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 on the area;
 - (c) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;
 - (d) take, use, share and exchange 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) teach on the area the physical, cultural and spiritual attributes of the area;
 - (i) 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;

(j) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation; and

(k) be accompanied onto the area by certain non-Bigambul people, being people required for the performance of ceremonies and cultural activities.

7. 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.

8. The native title rights and interests referred to in paragraph 6 do not confer possession, occupation, use or enjoyment of the Determination Area to the exclusion of all others.

9. 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).

10. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) as they exist at the date of this Determination are set out in Schedule 4 ("Other Interests").

11. The relationship between the native title rights and interests described in paragraph 6 and the Other Interests described in Schedule 4 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;

(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;

(d) without limiting the operation of paragraphs 11(a) to (c) above, before the native title rights and interests (referred to in paragraph 6 above) are exercised on state forest land over which a term lease for grazing purposes has been granted, the native title holders must contact the lessee of the grazing lease, provided their contact details have been provided to the Bigambul Native Title Aboriginal Corporation ICN No. 8479, and discuss any safety issues associated with the proposed exercise of native title rights and interests and make reasonable efforts to agree on the route of access.

DEFINITIONS AND INTERPRETATION

12. 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 same meaning as in the *Local Government Act 2009* (Qld);

“Local Government Area” has the same meaning as in the *Local Government Act 2009* (Qld);

“Natural Resources” means:

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

“Reserves” means reserves that are dedicated or taken to be reserves under the *Land Act 1994* (Qld);

“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).

THE COURT DETERMINES THAT:

13. The native title is held in trust.

14. The Bigambul Native Title Aboriginal Corporation ICN No. 8479, incorporated under the Corporations

(Aboriginal and Torres Strait Islander) Act 2006 (Cth), is to:

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

SCHEDULE 1 - DETERMINATION AREA

Description of Determination Area

The Determination Area comprises all of the land and waters described in Part 1 below, to the extent that they are within the external boundary described in Part 2 below, and depicted on the determination map, excluding the areas described in Schedule 2.

Part 1 – Non-Exclusive Areas

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

Area Description (at date of Description)	Sheet No.
That part of Lot 155 on FTY1778 excluding the area formerly described as Lot 25 on DY390 and that is within the external boundary described in Part 2	1 and 2
That part of Lot 223 on FTY1496 excluding the areas formerly described as Lot 18 on DY485 and Lot 1 on PG19 and that is within the external boundary described in Part 2	1
That part of Lot 235 on FTY1669 excluding the area formerly described as Lot 17 on MH616 and that is within the external boundary described in Part 2	1

Part 2 – External Boundary Description

This Determination Area covers all lands and waters within the external boundary described below:

Commencing at the intersection of the New South Wales - Queensland Border and the southern boundary of the Macintyre Brook watershed, north westerly of the Township of Texas, and extending generally westerly along that State Border to Longitude 149.676692° east; then generally north westerly passing through the following coordinate points.

Longitude (East)	Latitude (South)
149.679790	28.613495
149.672157	28.593771

149.658073	28.571512
149.645099	28.547181
149.630502	28.527717
149.591578	28.462834
149.574186	28.447433
149.550646	28.425801
149.525591	28.393401
149.512571	28.367355
149.497507	28.347668
149.484534	28.311983
149.451184	28.289219
149.408392	28.292940
149.369320	28.309684
149.337690	28.320846
149.317890	28.339911
149.303153	28.343504
149.288138	28.351219
149.275658	28.359798
149.239664	28.379669
149.210342	28.389628
149.195129	28.389765
149.161310	28.367760
149.125580	28.349340
149.096890	28.330100
149.062700	28.310690
149.030880	28.292240
149.020890	28.285340
148.999470	28.272140
148.966770	28.247750
148.936050	28.226910

Then north westerly to a point approximately 38 kilometres southeast of the Township of St George at Longitude 148.919302° east and Latitude 28.204870° south; then generally north easterly passing through the following coordinate points.

Longitude (East)	Latitude (South)
148.951670	28.178710
148.992580	28.153330
149.049680	28.095820
149.075660	28.053030
149.119810	28.021940
149.135040	28.007850

Then north easterly to the centreline of Moonie River at Longitude 149.166497° east; then generally easterly and generally north easterly along the centreline of that river and the centreline of Teelba Creek to Latitude 27.794790° south; then generally north easterly and generally easterly passing through the following coordinate points:

Longitude (East)	Latitude (South)
149.411070	27.777196
149.605041	27.752949
149.848859	27.723215
150.123897	27.644421
150.234960	27.570935
150.286851	27.520291
150.403210	27.408453
150.481252	27.371987
150.534133	27.347660
150.607791	27.332272
150.666675	27.333492
150.752710	27.343340
150.793880	27.356010

Then easterly to the intersection of the line joining Longitude 150.793880° east, Latitude 27.356010° south and Longitude 150.835970° east, Latitude 27.368300° south with the south western boundary of the Condamine River watershed; then generally southerly, generally easterly and again generally southerly along that watershed to its intersection with the line joining Longitude 151.125600° east, Latitude 27.802770° south and Longitude 151.125600° east, Latitude 27.833340° south; then generally southerly passing through the following coordinate points:

Longitude (East)	Latitude (South)
-------------------------	-------------------------

151.125600	27.833340
151.124630	27.858290
151.121580	27.881990
151.120030	27.896420
151.118280	27.909150
151.110020	27.929610
151.098030	27.951260
151.092600	27.971170
151.081170	27.995050
151.068760	28.021590
151.061730	28.044510
151.053110	28.070420
151.040150	28.097860
151.036560	28.119890
151.030760	28.142410
151.026540	28.167350
151.021280	28.188960
151.017820	28.214980
151.016180	28.239980
151.013960	28.262750
151.012780	28.294560
151.017410	28.320720
151.022500	28.347980
151.028350	28.381740
151.033690	28.405540
151.040640	28.432070
151.045590	28.463620
151.053170	28.492650
151.063060	28.522060
151.073560	28.551110
151.088930	28.582880

Then south easterly to the intersection of the line joining Longitude 151.088930° east, Latitude 28.582880° south and Longitude 151.098730° east, Latitude 28.619720° south with the southern boundary of the Macintyre

Brook watershed; then generally westerly along that watershed back to the commencement point.

Note

Data Reference and source

Drainage basin sub-area data depicts a subdivision of the major drainage basins (catchment) in Queensland, Dataset sourced from Department of Natural Resources and Mines, Qld (20 Feb 2009).

Cadastral data Department of Natural Resources and Mines, Qld (20 Feb 2009).

Topographic vector data is © Commonwealth of Australia (Geoscience Australia) 2003.

Reference datum

Geographical coordinates have been provided by the NNTT Geospatial Services 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.

Part 3 – Map of Determination Area

[See NNTR attachment 1: “Schedule 1 - Part 3 - Map of Determination Area”]

SCHEDULE 2 - AREAS NOT FORMING PART OF THE DETERMINATION AREA

The following areas of land and waters are excluded from the Determination Area:

1. Those land and waters within the External Boundary described in Part 2 of Schedule 1, which at the time the native title determination application was made were the subject of one or more Previous Exclusive Possession Acts, within the meaning of s 23B of the *Native Title Act 1993* (Cth) and are excluded from the Determination Area as they could not be claimed in accordance with s 61A of the *Native Title Act 1993* (Cth).

2. Specifically and to avoid any doubt, the land and waters described in (1) above includes:

(a) the tenure based exclusions under ss 23B(2) and 23B(3) of the *Native Title Act 1993* (Cth), and to which s 21 of the *Native Title (Queensland) Act 1993* (Qld) applies;

(b) the land or waters on which any public work, as defined in s 253 of the *Native Title Act 1993* (Cth), is or was constructed, established or situated, and to which ss 23B(7) and 23C(2) of the *Native Title Act 1993* (Cth), 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 *Native Title Act 1993* (Cth);

(c) but is not limited to, all of the land and waters described in the following table and depicted in pink on the determination map:

Area Description (at date of Description)	Sheet No.
Lot 3 on CP853479	3
Lot 4 on CP853479	3
Lot 25 on CVN395	3
The area formerly described as Lot 25 on DY390 within that part of Lot 155 on FTY1778 that is within the external boundary described in Part 2 of Schedule 1	2
The areas formerly described as Lot 18 on DY485 and Lot 1 on PG19 within that part of Lot 223 on FTY1496 that is within the external boundary described in Part 2 of Schedule 1	1
The area formerly described as Lot 17 on MH616 within that part of Lot 235 on FTY1669 that is within the external boundary described in Part 2 of Schedule 1	1

SCHEDULE 3 - NATIVE TITLE HOLDERS

1. The native title holders are the Bigambul People. The Bigambul People are those people who are biological descendants of the following deceased persons:

- (i) Nellie Yumbeina;
- (ii) Queen Susan of Welltown;
- (iii) Jack Noble;
- (iv) Sally Murray;
- (v) Susan, Mother of Duncan Daniels; or
- (vi) Jack and James Armstrong.

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 the parties under the following agreements:

(a) the agreement between Russell Doctor, Elaine Georgetown, Rhonda Sandow and Cyril Logan on their own behalf and on behalf of the Bigambul People (QUD 101/2009) and the Balonne Shire Council, Western Downs Regional Council, Goondiwindi Regional Council and Toowoomba Regional Council which was authorised by the native title claim group on 9 September 2016 (the Bigambul People and Local Government ILUA); and

(b) the agreement between Russell Doctor, Elaine Georgetown, Cyril Logan and Rhonda Sandow on their own behalf and on behalf of the Bigambul People (QUD101/2009) and Ergon Energy Corporation Limited ACN 087 646 062, which was authorised by the native title claim group on 9 September 2016 (the Bigambul People and Ergon Energy Indigenous Land Use Agreement).

2. The rights and interests of the State of Queensland, Goondiwindi Regional Council, Toowoomba Regional Council and Western Downs Regional Council to access, use, operate, maintain and control the dedicated roads in the Determination Area and the rights and interests of the public to use and access those roads.

3. The rights and interests of the Western Downs Regional Council, Goondiwindi Regional Council and Toowoomba Regional Council 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 a Local Government Act;

(b) their rights and interests under any interest 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 local governments 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).

4. The rights and interests of the State of Queensland in Reserves, the rights and interests of the trustees of those Reserves and of the persons entitled to access and use those Reserves for the respective purpose for which they are reserved.

5. The rights and interests of Telstra Corporation Limited (ACN 051 775 556):

(a) as the owner or operator of telecommunications facilities 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 telecommunications facilities; and
 - (iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities;
- (c) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Determination Area in performance of their duties; and
- (d) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Determination Area.

6. The rights and interests of Ergon Energy Corporation Limited ACN 087 646 062:

- (a) as the owner and operator of any “works” as that term is defined in the *Electricity Act 1994* (Qld) within the Determination Area;
- (b) as a distribution entity and the holder of a distribution authority under the *Electricity Act 1994* (Qld);
- (c) created under the *Electricity Act 1994* (Qld) and the *Government Owned Corporations Act 1993* (Qld) including:
 - (i) rights in relation to any agreements relating to the Determination Area existing or entered into before this Determination is made;
 - (ii) rights to enter the Determination Area by its employees, agents or contractors to exercise any of the rights and interests referred to in this paragraph; and
 - (iii) to inspect, maintain and manage any works in the Determination Area.

7. The rights and interests of Australia Pacific LNG Pty Limited as the holder of Authority to Prospect 663 granted under the *Petroleum Act 1923* (Qld) and administered under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld);

8. The rights and interests of Australia Pacific LNG Pty Limited as the holder of Potential Commercial Area 85, granted and administered under the *Petroleum and Gas (Production and Safety) Act 2004* (Qld).

9. The rights and interests of Australia Pacific LNG Pty Limited arising under the Right to Negotiate Deed of Agreement dated 19 August 2010, entered into under s 31(1)(b) of the *Native Title Act 1993* (Cth), regarding the Addition of Excluded Land into Authority to Prospect 663.

10. The rights and interests of Australia Pacific LNG Pty Limited arising under the Agreement dated 16 June 2010 that is ancillary to the Deed in paragraph 10 above between Russell Doctor, Arthur Georgetown, Cheryl Moggs, Tony Turnbull, George Hopkins, Gary Woodbridge and Veronica Jarrett, in their capacity as the “Bigambul Applicant” acting on behalf of the Bigambul People, and Australia Pacific LNG Pty Limited.

11. The rights and interests of Origin Energy Resources Limited and Australia Pacific LNG Pty Limited arising under the Cultural Heritage Management Plan dated 13 November 2009 between Russell Doctor, Arthur Georgetown, Cheryl Moggs, Tony Turnbull, George Hopkins, Gary Woodbridge and Veronica Jarrett, in their capacity as "Endorsed Aboriginal Parties" acting on behalf of the Bigambul People, and Origin Energy Resources Limited.

12. The rights and interests of members of the public arising under the common law, including but not limited to any subsisting public right to fish.

13. 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* (Qld) as at the date of this Determination, any existing public access to, and enjoyment of, the following places in the Determination Area:

- (a) waterways;
- (b) beds and banks or foreshores of waterways;
- (c) stock routes; and
- (d) areas that were public places at the end of 31 December 1993.

14. 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 the Commonwealth.

REGISTER ATTACHMENTS:

1. Schedule 1 - Part 3 - Map of Determination Area, 4 pages - A4, 23/06/2017

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.