

Order NOT Entered

**IN THE FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY
GENERAL DIVISION**

No: (P)QUD6040/2001

**LEO AKIBA
GEORGE MYE
TORRES STRAIT REGIONAL SEAS CLAIM
Applicant**

**JIMMY ALISON
APUDAHMA LAND TRUST
AUSTRALIAN MARITIME SAFETY AUTHORITY
DANNY BROWNLOW
GUY STEWART BRUCE
BEVERLEY JOAN BRUCE
COMMONWEALTH OF AUSTRALIA
CARL DAGUIAR
DIAKEN PTY LTD
BARRY EHRKE
DENNIS FRITZ
GAMIA FAMILY
PENDE GAMOGAB
ROBERT GARNER
PETER GEAGEA
ZIPPORAH GEAGEA
ROBINSON GIBUMA
ROBERT GEORGE GIDDINS
LARRY HUDSON
PAMELA HUDSON
PHILLIP JOHN HUGHES
DIANNE MAREE HUGHES
RICHARD LAURENCE JONES
BOB LAMACCHIA
NOEL LOLLBACK
ROBERT BRUCE LOWDEN
KIWAT LUI
M G KAILIS PTY LTD
STEVEN MACDONALD
MARKIM HOLDINGS
JOHN STEWART MCKENZIE
GEOFFREY DONALD MCKENZIE
KENNETH JAMES MCKENZIE
MARK MILLWARD
MABEL MOORE
RAYMOND MOORE
NAGA BEWANI RESOURCES ASSOCIATION INC
ALISON NEWBOLD**

PETER J PAHLKE
THEOPHANIS PETROU
ELFREDA PETROU
QUEENSLAND ROCK LOBSTER ASSOCIATION
BRUCE ROSE
PETER NIWIA SAWABARRI
KAREN SKUDDER
SONGORO FAMILY
ROBERT STEFAN JOHN STANDEN
STATE OF QUEENSLAND
TASMANIAN SEAFOODS PTY LTD
JENNY TITASEY
AUGUSTINUS TITASEY
TORRES STRAIT REGIONAL AUTHORITY
TROPICAL SEAFOOD OPERATION PTY LTD
NEIL WADE
FRANK WARAPA
MARK WILLIS
BARRY WILSON
Respondent

ORDER

JUDGE: Justice Finn

DATE OF ORDER: 23 August 2010

WHERE MADE: Adelaide (via videolink to Brisbane and Melbourne and
telelink to Thursday Island)

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) Masigalgal (Masig);
 - (e) Porumalgal (Poruma);
 - (f) Warraberalgal (Warraber);
 - (g) Iamalgal (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]

The determination area comprises:

- (a) excepting the areas described in Schedule 2 - all of the waters on the seaward side of the high water mark within the external boundaries described in Part 1 of this Schedule and shown generally on the map in Schedule 7; and
- (b) all of the waters on the seaward side of the high water mark, but not the seabed or subsoil, exclusive of the territorial seas of Aubusi, Boigu, Moimi, Dauan, Kaumag and Saibai as defined in Part 1 within the external boundary described in Part 2 of this Schedule and shown generally in the map in Schedule 7.

Part 1

- (1) Commencing at the point of Latitude 10°33'30" South, at its intersection with the western boundary of the area the subject of proceeding QUD 266 of 2008 [a point west of the western entrance of Prince of Wales Channel], thence in a westerly direction along the parallel of Latitude 10°33'30" to its intersection with the meridian of Longitude 141°00'00", thence in a northerly direction to its intersection with the Fisheries Jurisdiction Line as described at Annex 8 to the Treaty, thence in a north-easterly direction along that Fisheries Jurisdiction Line to the point of Latitude 9°46'00" South, Longitude 142°00'00" East [recorded as point (d) in the description at Annex 8], and thence north-easterly along that Fisheries Jurisdiction Line to the point of Latitude 9°45'24" South, Longitude 142°03'30" East [point (e) at Annex 8]; thence in a north-easterly direction along the Seabed Jurisdiction Line as described at Annex 5 to the Treaty to the point of Latitude 9°42'00" South, Longitude 142°23'00" East [point (f) at Annex 5]; thence north-easterly along that Seabed Jurisdiction Line to the point of Latitude 9°40'30" South, Longitude 142°51'00" East [point (g) at Annex 5]; thence along the Fisheries Jurisdiction Line as described at Annex 8 to the Treaty as follows: north-easterly along the geodesic to the point of Latitude 9°40'00" South, Longitude 143°00'00" East [point (w) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°33'00" South, Longitude 143°05'00" East [point (x) at Annex 8]; thence east along the parallel of Latitude 9°33'00" South to its intersection by the meridian of Longitude

143°20'00" [point (y) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°24'00" South, Longitude 143°30'00" East [point (z) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°22'00" South, Longitude 143°48'00" East [point (za) at Annex 8]; thence south-easterly along the geodesic to the point of Latitude 9°30'00" South, Longitude 144°15'00" East [point (zb) at Annex 8]; thence south along the meridian of Longitude 144°15'00" East to its intersection with the parallel of Latitude 10°30'06" South; thence west along the parallel of Latitude 10°30'06" to its intersection with the boundary of the area the subject of proceeding QUD 266 of 2008; thence generally northwesterly, westerly and south westerly through Bramble Channel following the northern boundary of the area the subject of proceeding QUD 266 of 2008 to the point of commencement.

(2) TERRITORIAL SEA OF THE ISLANDS OF AUBUSI, BOIGU AND MOIMI

The outer limit of the territorial sea of the islands of Aubusi, Boigu and Moimi, being a continuous line—

- (a) commencing at the point of Latitude 9°15'43" South, Longitude 142° specified as Point 1 at Annex 1 to the Treaty;
- (b) running thence along the geodesics successively joining the points specified as Points 1 to 8 at Annex 1 to the Treaty, being Latitude 9°15'43" South, Longitude 142°03'30" East ("Point 1"); Latitude 9°12'50" South, Longitude 142°06'25" East ("Point 2"); Latitude 9°11'51" South, Longitude 142°08'33" East ("Point 3"); Latitude 9°11'58" South, Longitude 142°10'18" East ("Point 4"); Latitude 9°11'22" South, Longitude 142°12'54" East ("Point 5"); Latitude 9°11'34" South, Longitude 142°14'08" East ("Point 6"); Latitude 9°13'53" South, Longitude 142°16'26" East ("Point 7"); and Latitude 9°16'04" South, Longitude 142°20'41" East ("Point 8"); and
- (c) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points described at Annex 3 to the Treaty—

	<u>Latitude</u> (South)	<u>Longitude</u> (East)
(i)	9° 15' 53"	142° 17' 39"
(ii)	9° 16' 26"	142° 17' 36"
(iii)	9° 16' 28"	142° 17' 36"
(iv)	9° 16' 31"	142° 17' 30"
(v)	9° 17' 06"	142° 17' 30"
(vi)	9° 17' 15"	142° 17' 30"
(vii)	9° 17' 26"	142° 17' 15"
(viii)	9° 17' 50"	142° 16' 46"
(ix)	9° 17' 55"	142° 16' 39"
(x)	9° 17' 56"	142° 16' 30"
(xi)	9° 17' 53"	142° 16' 11"
(xii)	9° 17' 52"	142° 16' 07"
(xiii)	9° 17' 44"	142° 14' 52"
(xiv)	9° 17' 45"	142° 14' 49"
(xv)	9° 17' 44"	142° 14' 38"
(xvi)	9° 17' 44"	142° 14' 30"
(xvii)	9° 17' 38"	142° 14' 06"
(xviii)	9° 17' 38"	142° 13' 59"
(xix)	9° 17' 36"	142° 13' 47"
(xx)	9° 17' 34"	142° 13' 31"
(xxi)	9° 17' 33"	142° 13' 20"
(xxii)	9° 17' 32"	142° 12' 56"
(xxiii)	9° 17' 32"	142° 12' 46"
(xxiv)	9° 17' 33"	142° 12' 26"
(xxv)	9° 17' 38"	142° 11' 56"
(xxvi)	9° 17' 39"	142° 11' 51"
(xxvii)	9° 17' 38"	142° 11' 34"
(xxviii)	9° 17' 37"	142° 11' 30"
(xxix)	9° 17' 33"	142° 10' 20"
(xxx)	9° 17' 30"	142° 10' 13"
(xxxi)	9° 17' 15"	142° 09' 08"

(xxxii)	9° 17' 13"	142° 09' 00"
(xxxiii)	9° 17' 02"	142° 08' 35"
(xxxiv)	9° 16' 56"	142° 08' 23"
(xxxv)	9° 16' 52"	142° 08' 15"
(xxxvi)	9° 16' 47"	142° 08' 01"
(xxxvii)	9° 16' 46"	142° 07' 58"
(xxxviii)	9° 16' 21"	142° 06' 52"
(xxxix)	9° 16' 19"	142° 06' 51"
(xl)	9° 15' 08"	142° 06' 28"

to the point of commencement.

(3) TERRITORIAL SEA OF THE ISLANDS OF DAUAN, KAUMAG AND SAIBAI

The outer limit of the territorial sea of the islands of Dauan, Kaumag and Saibai, being a continuous line—

- (a) commencing at the point Latitude 9°22'04" South, Longitude 142°29'41" South specified as Point 9 at Annex 1 to the Treaty;
- (b) running thence along the geodesics successively joining the following points specified as Points 9 to 15 at Annex 1 to the Treaty, being Latitude 9°22'04" South, Longitude 142°29'41" East ("Point 9"); Latitude 9°21'48" South, Longitude 142°31'29" East ("Point 10"); Latitude 9°22'33" South, Longitude 142°33'28" East ("Point 11"); Latitude 9°21'25" South, Longitude 142°35'29" East ("Point 12"); Latitude 9°20'21" South, Longitude 142°41'43" East ("Point 13"); Latitude 9°20'16" South, Longitude 142°43'53" East (Point 14"); and Latitude 9°19'26" South, Longitude 142°48'18" East ("Point 15"); and;
- (c) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points described at Annex 3 to the Treaty—

	Latitude	Longitude
	(South)	(East)
(i)	9° 22' 24"	142° 47' 49"

(ii)	9° 22' 28"	142° 47' 53"
(iii)	9° 22' 39"	142° 47' 57"
(iv)	9° 22' 48"	142° 48' 00"
(v)	9° 22' 58"	142° 48' 01"
(vi)	9° 23' 02"	142° 48' 01"
(vii)	9° 23' 06"	142° 47' 59"
(viii)	9° 23' 12"	142° 47' 55"
(ix)	9° 23' 28"	142° 47' 46"
(x)	9° 23' 44"	142° 47' 41"
(xi)	9° 25' 46"	142° 46' 36"
(xii)	9° 25' 48"	142° 46' 36"
(xiii)	9° 25' 53"	142° 46' 29"
(xiv)	9° 26' 05"	142° 46' 12"
(xv)	9° 26' 10"	142° 46' 03"
(xvi)	9° 26' 15"	142° 45' 47"
(xvii)	9° 26' 15"	142° 45' 34"
(xviii)	9° 26' 12"	142° 45' 25"
(xix)	9° 26' 09"	142° 45' 12"
(xx)	9° 26' 06"	142° 45' 07"
(xxi)	9° 25' 57"	142° 44' 39"
(xxii)	9° 25' 48"	142° 43' 07"
(xxiii)	9° 25' 54"	142° 42' 42"
(xxiv)	9° 25' 53"	142° 42' 13"
(xxv)	9° 25' 52"	142° 41' 59"
(xxvi)	9° 25' 51"	142° 41' 51"
(xxvii)	9° 25' 48"	142° 41' 15"
(xxviii)	9° 25' 47"	142° 41' 04"
(xxix)	9° 25' 46"	142° 40' 55"
(xxx)	9° 25' 43"	142° 40' 20"
(xxxi)	9° 25' 44"	142° 40' 04"
(xxxii)	9° 25' 50"	142° 39' 30"
(xxxiii)	9° 25' 51"	142° 39' 22"
(xxxiv)	9° 25' 50"	142° 39' 13"
(xxxv)	9° 25' 48"	142° 39' 03"

(xxxvi)	9° 25' 35"	142° 38' 05"
(xxxvii)	9° 25' 31"	142° 37' 46"
(xxxviii)	9° 25' 28"	142° 37' 36"
(xxxix)	9° 25' 23"	142° 37' 22"
(xl)	9° 25' 22"	142° 37' 19"
(xli)	9° 25' 04"	142° 36' 35"
(xlii)	9° 24' 50"	142° 36' 03"
(xliii)	9° 25' 25"	142° 33' 03"
(xliv)	9° 25' 27"	142° 32' 58"
(xlv)	9° 25' 54"	142° 32' 17"
(xlvi)	9° 26' 11"	142° 33' 00"
(xlvii)	9° 26' 15"	142° 31' 55"
(xlviii)	9° 26' 17"	142° 31' 52"
(xlix)	9° 26' 17"	142° 31' 48"
(l)	9° 26' 15"	142° 31' 46"
(li)	9° 26' 06"	142° 31' 47"
(lii)	9° 25' 38"	142° 31' 35"
(liii)	9° 25' 28"	142° 31' 34"
(liv)	9° 25' 24"	142° 31' 33"
(lv)	9° 25' 05"	142° 31' 27"
(lvi)	9° 24' 39"	142° 31' 18"
(lvii)	9° 24' 37"	142° 31' 17"
(lviii)	9° 24' 32"	142° 31' 24"

to the point of commencement.

(4) TERRITORIAL SEA OF ANCHOR CAY AND EAST CAY

The outer limit of the territorial sea of Anchor Cay and East Cay, being a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points described at Annex 3 to the Treaty—

	<u>Latitude</u> (South)	<u>Longitude</u> (East)
(i)	9° 21' 27"	144° 07' 30"
(ii)	9° 21' 25"	144° 07' 28"
(iii)	9° 21' 25"	144° 07' 38"
(iv)	9° 21' 26"	144° 07' 44"
(v)	9° 21' 29"	144° 07' 50"
(vi)	9° 21' 31"	144° 07' 55"
(vii)	9° 21' 44"	144° 08' 24"
(viii)	9° 21' 45"	144° 08' 27"
(ix)	9° 21' 49"	144° 08' 33"
(x)	9° 21' 54"	144° 08' 37"
(xi)	9° 23' 09"	144° 12' 43"
(xii)	9° 23' 02"	144° 12' 55"
(xiii)	9° 23' 02"	144° 13' 23"
(xiv)	9° 23' 04"	144° 13' 29"
(xv)	9° 23' 06"	144° 13' 33"
(xvi)	9° 23' 09"	144° 13' 40"
(xvii)	9° 23' 13"	144° 13' 44"
(xviii)	9° 23' 30"	144° 13' 59"
(xix)	9° 23' 40"	144° 14' 11"
(xx)	9° 23' 44"	144° 14' 18"
(xxi)	9° 23' 50"	144° 14' 25"
(xxii)	9° 23' 59"	144° 14' 30"
(xxiii)	9° 24' 05"	144° 14' 31"
(xxiv)	9° 24' 19"	144° 14' 33"
(xxv)	9° 24' 29"	144° 14' 37"
(xxvi)	9° 24' 40"	144° 14' 40"
(xxvii)	9° 24' 44"	144° 14' 40"
(xxviii)	9° 24' 49"	144° 14' 35"
(xxix)	9° 24' 53"	144° 14' 33"
(xxx)	9° 24' 57"	144° 14' 27"
(xxxi)	9° 24' 57"	144° 14' 20"

(xxxii)	9° 24' 56"	144° 14' 14"
(xxxiii)	9° 24' 44"	144° 13' 19"
(xxxiv)	9° 24' 40"	144° 13' 02"
(xxxv)	9° 24' 36"	144° 12' 58"
(xxxvi)	9° 24' 31"	144° 12' 56"
(xxxvii)	9° 23' 47"	144° 12' 34"
(xxxviii)	9° 22' 06"	144° 08' 38"
(xxxix)	9° 22' 07"	144° 08' 31"
(xl)	9° 21' 59"	144° 07' 57"
(xli)	9° 21' 47"	144° 07' 32"
(xlii)	9° 21' 44"	144° 07' 29"
(xliii)	9° 21' 40"	144° 07' 26"
(xliv)	9° 21' 35"	144° 07' 24"

(5) TERRITORIAL SEA OF BLACK ROCKS AND BRAMBLE CAY

The outer limit of the territorial sea of Black Rocks and Bramble Cay, being a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points described at Annex 3 to the Treaty—

	<u>Latitude</u> (South)	<u>Longitude</u> (East)
(i)	9° 10' 28"	143° 49' 59"
(ii)	9° 08' 40"	143° 52' 19"
(iii)	9° 08' 33"	143° 52' 22"
(iv)	9° 08' 26"	143° 52' 32"
(v)	9° 08' 24"	143° 52' 41"
(vi)	9° 08' 23"	143° 52' 48"
(vii)	9° 08' 24"	143° 53' 54"
(viii)	9° 08' 27"	143° 53' 06"
(ix)	9° 08' 32"	143° 53' 12"
(x)	9° 08' 43"	143° 53' 19"
(xi)	9° 08' 48"	143° 53' 19"

(xii)	9° 08' 52"	143° 53' 17"
(xiii)	9° 09' 00"	143° 53' 13"
(xiv)	9° 09' 04"	143° 53' 07"
(xv)	9° 09' 08"	143° 53' 00"
(xvi)	9° 09' 07"	143° 52' 49"

(6) TERRITORIAL SEA OF DELIVERANCE ISLAND AND KERR ISLET

The outer limit of the territorial sea of Deliverance Island and Kerr Islet, being a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points described at Annex 3 to the Treaty—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 32' 39"	141° 32' 15"
(ii)	9° 32' 35"	141° 32' 11"
(iii)	9° 32' 07"	141° 31' 50"
(iv)	9° 32' 02"	141° 31' 54"
(v)	9° 31' 56"	141° 31' 58"
(vi)	9° 31' 51"	141° 32' 02"
(vii)	9° 31' 29"	141° 32' 17"
(viii)	9° 31' 27"	141° 32' 19"
(ix)	9° 31' 24"	141° 32' 21"
(x)	9° 30' 40"	141° 33' 32"
(xi)	9° 30' 08"	141° 34' 01"
(xii)	9° 30' 01"	141° 34' 05"
(xiii)	9° 29' 57"	141° 34' 08"
(xiv)	9° 29' 51"	141° 34' 14"
(xv)	9° 29' 51"	141° 34' 19"
(xvi)	9° 29' 58"	141° 36' 13"
(xvii)	9° 30' 04"	141° 36' 16"
(xviii)	9° 30' 12"	141° 36' 16"
(xix)	9° 30' 28"	141° 36' 18"

(xx)	9° 30' 47"	141° 36' 18"
(xxi)	9° 31' 00"	141° 36' 15"
(xxii)	9° 31' 11"	141° 36' 10"
(xxiii)	9° 31' 29"	141° 36' 02"
(xxiv)	9° 31' 38"	141° 35' 55"
(xxv)	9° 31' 47"	141° 35' 46"
(xxvi)	9° 31' 50"	141° 35' 42"
(xxvii)	9° 32' 02"	141° 35' 21"
(xxviii)	9° 36' 21"	141° 34' 33"
(xxix)	9° 36' 24"	141° 34' 34"
(xxx)	9° 36' 35"	141° 34' 33"
(xxxi)	9° 36' 49"	141° 34' 26"
(xxxii)	9° 36' 56"	141° 34' 21"
(xxxiii)	9° 37' 05"	141° 34' 02"
(xxxiv)	9° 37' 14"	141° 33' 47"
(xxxv)	9° 37' 15"	141° 33' 28"
(xxxvi)	9° 37' 13"	141° 33' 25"
(xxxvii)	9° 37' 09"	141° 33' 22"
(xxxviii)	9° 37' 03"	141° 33' 21"
(xxxix)	9° 36' 58"	141° 33' 22"
(xl)	9° 36' 52"	141° 33' 27"

(7) TERRITORIAL SEA OF PEARCE CAY

The outer limit of that part of the territorial sea of Pearce Cay which lies north of the line referred to in paragraph 1 of Article 4 of this Treaty, being a continuous line as described at Annex 3 to the Treaty—

- (a) commencing at the point of Latitude 9°33'00" South, Longitude 143°14'51" East;
- (b) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 30' 56"	143° 17' 03"
(ii)	9° 30' 53"	143° 17' 03"
(iii)	9° 30' 50"	143° 17' 08"
(iv)	9° 30' 46"	143° 17' 19"
(v)	9° 30' 43"	143° 17' 26"
(vi)	9° 30' 42"	143° 17' 34"
(vii)	9° 30' 41"	143° 17' 43"
(viii)	9° 30' 48"	143° 17' 42"
(ix)	9° 30' 50"	143° 17' 40"

to the point of Latitude 9° 33' 00" South, Longitude 143° 19' 46" East; and

- (c) thence along the parallel of Latitude 9° 33' 00" South to the point of commencement.

(8) TERRITORIAL SEA OF TURNAGAIN ISLAND

The outer limit of the territorial sea of Turnagain Island, being a continuous line formed by a series of intersecting arcs of circles having a radius of three miles, and drawn successively, so as to enclose the island, from the following points described at Annex 3 to the Treaty—

	<u>Latitude</u>	<u>Longitude</u>
	(South)	(East)
(i)	9° 32' 54"	142° 10' 47"
(ii)	9° 32' 54"	142° 10' 44"
(iii)	9° 32' 54"	142° 10' 40"
(iv)	9° 32' 52"	142° 10' 36"
(v)	9° 32' 49"	142° 10' 35"
(vi)	9° 32' 44"	142° 10' 36"
(vii)	9° 32' 23"	142° 10' 54"
(viii)	9° 32' 11"	142° 11' 39"

(ix)	9° 32' 10"	142° 11' 45"
(x)	9° 32' 15"	142° 11' 54"
(xi)	9° 32' 37"	142° 14' 59"
(xii)	9° 32' 36"	142° 15' 08"
(xiii)	9° 32' 37"	142° 15' 14"
(xiv)	9° 32' 40"	142° 15' 24"
(xv)	9° 32' 44"	142° 15' 40"
(xvi)	9° 32' 44"	142° 15' 47"
(xvii)	9° 32' 45"	142° 15' 53"
(xviii)	9° 32' 48"	142° 16' 04"
(xix)	9° 32' 51"	142° 16' 16"
(xx)	9° 32' 53"	142° 16' 28"
(xxi)	9° 32' 54"	142° 16' 34"
(xxii)	9° 32' 56"	142° 16' 39"
(xxiii)	9° 32' 58"	142° 16' 49"
(xxiv)	9° 33' 02"	142° 17' 01"
(xxv)	9° 33' 03"	142° 17' 12"
(xxvi)	9° 33' 05"	142° 17' 18"
(xxvii)	9° 33' 11"	142° 17' 30"
(xxviii)	9° 33' 14"	142° 17' 40"
(xxix)	9° 33' 16"	142° 17' 50"
(xxx)	9° 33' 18"	142° 18' 00"
(xxxi)	9° 33' 21"	142° 18' 09"
(xxxii)	9° 33' 23"	142° 18' 16"
(xxxiii)	9° 33' 28"	142° 18' 27"
(xxxiv)	9° 33' 33"	142° 18' 42"
(xxxv)	9° 33' 35"	142° 18' 51"
(xxxvi)	9° 33' 38"	142° 19' 03"
(xxxvii)	9° 33' 41"	142° 19' 12"
(xxxviii)	9° 33' 42"	142° 19' 19"
(xxxix)	9° 33' 44"	142° 19' 25"
(xl)	9° 33' 47"	142° 19' 38"
(xli)	9° 33' 49"	142° 19' 40"
(xlii)	9° 34' 15"	142° 20' 11"

(xliii)	9° 34' 19"	142° 20' 16"
(xliv)	9° 34' 23"	142° 20' 17"
(xlv)	9° 34' 29"	142° 20' 14"
(xlvi)	9° 34' 34"	142° 20' 10"
(xlvii)	9° 34' 42"	142° 20' 03"
(xlviii)	9° 34' 46"	142° 19' 58"
(xlix)	9° 34' 49"	142° 19' 52"
(l)	9° 34' 52"	142° 19' 32"
(li)	9° 34' 52"	142° 19' 24"
(lii)	9° 34' 52"	142° 19' 15"
(liii)	9° 34' 50"	142° 19' 05"
(liv)	9° 34' 48"	142° 18' 54"
(lv)	9° 34' 46"	142° 18' 39"
(lvi)	9° 34' 43"	142° 18' 28"
(lvii)	9° 34' 40"	142° 18' 11"
(lviii)	9° 34' 38"	142° 18' 05"
(lix)	9° 34' 35"	142° 17' 56"
(lx)	9° 34' 30"	142° 17' 39"
(lxi)	9° 34' 23"	142° 17' 09"
(lxii)	9° 34' 21"	142° 16' 55"
(lxiii)	9° 34' 19"	142° 16' 39"
(lxiv)	9° 34' 16"	142° 16' 29"
(lxv)	9° 34' 07"	142° 15' 58"
(lxvi)	9° 34' 05"	142° 15' 49"
(lxvii)	9° 34' 01"	142° 15' 41"
(lxviii)	9° 33' 50"	142° 15' 17"
(lxix)	9° 33' 48"	142° 15' 10"
(lxx)	9° 33' 44"	142° 15' 00"
(lxxi)	9° 33' 35"	142° 14' 48"
(lxxii)	9° 33' 24"	142° 14' 31"
(lxxiii)	9° 33' 09"	142° 13' 59"
(lxxiv)	9° 33' 08"	142° 13' 53"

(9) TERRITORIAL SEA OF TURU CAY

The outer limit of the territorial sea of Turu Cay, being a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the island, from the following points as described at Annex 3 to the Treaty—

	<u>Latitude</u> (South)	<u>Longitude</u> (East)
(i)	9° 49' 53"	141° 24' 42"
(ii)	9° 49' 39"	141° 24' 44"
(iii)	9° 49' 31"	141° 24' 52"
(iv)	9° 49' 25"	141° 25' 02"
(v)	9° 49' 23"	141° 25' 13"
(vi)	9° 49' 20"	141° 25' 25"
(vii)	9° 49' 19"	141° 25' 36"
(viii)	9° 49' 18"	141° 25' 43"
(ix)	9° 49' 18"	141° 25' 53"
(x)	9° 49' 17"	141° 26' 07"
(xi)	9° 49' 23"	141° 26' 09"
(xii)	9° 49' 26"	141° 26' 06"
(xiii)	9° 49' 32"	141° 25' 58"
(xiv)	9° 49' 38"	141° 25' 49"
(xv)	9° 49' 44"	141° 25' 38"
(xvi)	9° 49' 47"	141° 25' 31"
(xvii)	9° 49' 53"	141° 25' 19"
(xviii)	9° 49' 56"	141° 25' 09"
(xix)	9° 49' 57"	141° 24' 54"
(xx)	9° 49' 56"	141° 24' 45"

Part 2

Commencing at the point of Latitude 9°45'24" South, Longitude 142°03'30" East [point (e) at Annex 8 of the Treaty]; thence along the Fisheries Jurisdiction Line as follows: north along the meridian of Longitude 142°03'30" East to its intersection by the parallel of Latitude

9°15'43" South [point (f) at Annex 8]; then north-easterly along the geodesic to the point of Latitude 9°12'50" South, Longitude 142°06'25" [point (g) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°11'51" South, Longitude 142°08'33" East [point (h) at Annex 8]; thence south-easterly along the geodesic to the point of Latitude 9°11'58" South, Longitude 142°10'18" East [point (i) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°11'22" South, Longitude 142°12'54" East [point (j) at Annex 8]; thence south-easterly along the geodesic to the point of Latitude 9°11'34" South, Longitude 142°14'08" East [point (k) at Annex 8]; thence south-easterly along the geodesic to the point of Latitude 9°13'53" South, Longitude 142°16'26" East [point (l) at Annex 8]; thence south-easterly along the geodesic to the point of Latitude 9°16'04" South, Longitude 142°20'41" East [point (m) at Annex 8]; thence south-easterly along the geodesic to the point of Latitude 9°22'04" South, Longitude 142°29'41" East [point (n) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°21'48" South, Longitude 142°31'29" East [point (o) at Annex 8]; thence south-easterly along the geodesic to the point of Latitude 9°22'33" South, Longitude 142°33'28" East [point (p) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°21'25" South, Longitude 142°35'29" East [point (q) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°20'21" South, Longitude 142°41'43" East [point (r) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°20'16" South, Longitude 142°43'53" [point (s) at Annex 8]; thence north-easterly along the geodesic to the point of Latitude 9°19'26" South, Longitude 142°48'18" East where it joins the outer limit of the three mile territorial sea of Saibai Island [point (t) at Annex 8]; thence along that outer limit so as to pass to the east of Saibai Island to the point of Latitude 9°23'40" South, Longitude 142°51'00" East [point (u) at Annex 8]; thence south along the meridian of Longitude 142°51'00" East to its intersection by the parallel of Latitude 9°40'30" South [point (v) at Annex 8]; thence south-westerly along the Seabed Jurisdiction Line as described at Annex 5 of the Treaty to the point of Latitude 9°42'00" South, 142°23'00" East [point (f) at Annex 5]; thence south-westerly along the Seabed Jurisdiction Line to its intersection with the point of commencement.

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*¹:
 - (a) Arden Island (Garboi);
 - (b) Bramble Cay (Maizab Kaur);
 - (c) Dalrymple Islet (Darmut); and
 - (d) Harvey Rocks (Yurin Kula).

¹ Note: Order 19(b) provides for liberty to apply for the purposes of establishing the boundaries of these adjacent areas.

SCHEDULE 3 – WHERE NATIVE TITLE DOES NOT EXIST

[See Order 2]

The parts of the determination area where the native title does not exist are those parts shown hatched in red on the map in Schedule 7, being the following areas:

Note: In the descriptions that follow, Latitudes and Longitudes are given in degrees, minutes and seconds and are based on the AUSTRALIAN GEODETIC DATUM 1966.

(1) WEST AND SOUTH OF COOK REEF

Commencing at a point on the line described in Part 1(1) of Schedule 1, at the point of Latitude 10° 33' 30" South, at its intersection with the western boundary of the area the subject of proceeding QUD 266 of 2008 [a point west of the western entrance of Prince of Wales Channel], thence in a westerly direction along the parallel of Latitude 10° 33' 30" to its intersection with the meridian of Longitude 141° 00' 00", thence in a northerly direction to its intersection with the Fisheries Jurisdiction Line as described at Annex 8 to the Treaty, and thence north-easterly along that Fisheries Jurisdiction Line to its intersection with the point of Latitude 10° 05' 41" South, thence in a south-easterly direction along the geodesic to the point of Latitude 10° 23' 06" South, Longitude 141° 31' 00" East, thence in a easterly direction along the parallel of Latitude 10° 23' 06" to its intersection with the western boundary of the area the subject of proceeding QUD 266 of 2008 [a point west of the western entrance of Prince of Wales Channel], thence generally south westerly through Bramble Channel following the northern boundary of the area the subject of proceeding QUD 266 of 2008 to the point of commencement.

(2) NORTH OF PEARCE CAY (GUCHEN SANDBANK)

Commencing at a point on the line described in Part 1(7) of Schedule 1, at approximately:

<u>Latitude (South)</u>	<u>Longitude (East)</u>
9° 30' 45.7524"	143° 14' 0.9168"

Then following a continuous line, formed by joining the following points:

	<u>Latitude (South)</u>	<u>Longitude (East)</u>
(i)	9° 30' 37.6956"	143° 14' 11.7204"
(ii)	9° 30' 31.3992"	143° 14' 20.7708"
(iii)	9° 30' 24.5808"	143° 14' 31.1316"
(iv)	9° 30' 19.6164"	143° 14' 39.3108"
(v)	9° 30' 14.8752"	143° 14' 47.6592"
(vi)	9° 30' 10.2852"	143° 14' 55.9212"
(vii)	9° 30' 05.5620"	143° 15' 05.7600"
(viii)	9° 30' 00.8388"	143° 15' 15.4656"
(ix)	9° 29' 57.0372"	143° 15' 24.2532"
(x)	9° 29' 52.5768"	143° 15' 35.7948"
(xi)	9° 29' 47.9868"	143° 15' 48.2544"
(xii)	9° 29' 43.9188"	143° 16' 01.2396"
(xiii)	9° 29' 40.5384"	143° 16' 13.4616"
(xiv)	9° 29' 37.8852"	143° 16' 24.4560"
(xv)	9° 29' 35.5848"	143° 16' 34.6260"
(xvi)	9° 29' 33.5580"	143° 16' 46.3584"
(xvii)	9° 29' 31.8516"	143° 16' 56.5896"
(xviii)	9° 29' 30.5412"	143° 17' 07.8684"
(xix)	9° 29' 29.8860"	143° 17' 17.5740"
(xx)	9° 29' 29.0976"	143° 17' 29.3352"
(xxi)	9° 29' 28.7052"	143° 17' 40.3944"
(xxii)	9° 29' 28.5720"	143° 17' 50.3628"
(xxiii)	9° 29' 28.8348"	143° 17' 59.8092"
(xxiv)	9° 29' 29.3604"	143° 18' 11.2176"
(xxv)	9° 29' 30.1488"	143° 18' 20.9268"
(xxvi)	9° 29' 31.3296"	143° 18' 31.5504"
(xxvii)	9° 29' 33.1656"	143° 18' 44.2728"
(xxviii)	9° 29' 35.1312"	143° 18' 56.4696"
(xxix)	9° 29' 37.1328"	143° 19' 05.6388"
(xxx)	9° 29' 39.8544"	143° 19' 17.9796"
(xxxi)	9° 29' 42.4752"	143° 19' 27.5556"
(xxxii)	9° 29' 46.0176"	143° 19' 39.2304"
(xxxiii)	9° 29' 49.1676"	143° 19' 48.4104"

(xxxiv)	9° 29' 52.9152"	143° 19' 59.0520"
(xxxv)	9° 29' 57.4188"	143° 20' 09.7620"
(xxxvi)	9° 30' 02.9880"	143° 20' 21.3360"
(xxxvii)	9° 30' 09.0900"	143° 20' 32.8884"

Then continuing to a point on the line described in Part 1(7) of Schedule 1, at approximately:

<u>Latitude (South)</u>	<u>Longitude (East)</u>
9° 30' 15.1020"	143° 20' 43.3392"

Then following the line described in Part 1(7) of Schedule 1, to the point of commencement.

(3) NORTH OF STEPHEN ISLAND (UGAR)

Commencing at a point described in Part 1(1) of Schedule 1, at the point of Latitude 9° 24' 00" South, Longitude 143° 30' 00" East [point (z) at Annex 8]; thence north-easterly, along the Fisheries Jurisdiction Line as described at Annex 8 to the Treaty, to its intersection with the point of Longitude 143° 40' 28.9" East, thence in a south-westerly direction along the geodesic to the point of Latitude 9° 28' 25.25" South, Longitude 143° 36' 53" East, thence in a westerly direction along the geodesic to the point of intersection with Fisheries Jurisdiction Line as described at Annex 8 to the Treaty, to the point of Latitude 9° 25' 25" South, thence north-easterly, along the Fisheries Jurisdiction Line as described at Annex 8 to the Treaty, to the point of commencement.

(4) NORTH OF BLACK ROCKS (REBES) AND BRAMBLE CAY (MAIZAB KAUR)

Commencing at a point on the line described in Part 1(5) of Schedule 1, at approximately:

<u>Latitude (South)</u>	<u>Longitude (East)</u>
09° 10' 27.7392"	143° 46' 56.406"

Then following a continuous line, formed by joining the following points:

<u>Latitude (South)</u>	<u>Longitude (East)</u>
-------------------------	-------------------------

(i)	09° 10' 14.0016"	143° 47' 04.1028"
(ii)	09° 10' 02.2008"	143° 47' 11.2596"
(iii)	09° 09' 49.2372"	143° 47' 19.3848"
(iv)	09° 09' 38.2104"	143° 47' 27.3192"
(v)	09° 09' 27.3744"	143° 47' 35.4444"
(vi)	09° 09' 16.5420"	143° 47' 43.9548"
(vii)	09° 09' 08.2224"	143° 47' 51.5004"
(viii)	09° 08' 58.9380"	143° 48' 00.2088"
(ix)	09° 08' 51.7776"	143° 48' 07.3656"
(x)	09° 08' 44.0412"	143° 48' 15.8796"
(xi)	09° 08' 35.1384"	143° 48' 25.3584"
(xii)	09° 08' 28.3704"	143° 48' 33.6780"
(xiii)	09° 08' 20.8248"	143° 48' 43.5420"
(xiv)	09° 08' 14.4384"	143° 48' 52.0560"
(xv)	09° 08' 07.8612"	143° 49' 01.7292"
(xvi)	09° 07' 58.8108"	143° 49' 16.1328"
(xvii)	09° 07' 51.4164"	143° 49' 29.2008"
(xviii)	09° 07' 44.8392"	143° 49' 42.3552"
(xix)	09° 07' 38.6472"	143° 49' 55.7040"
(xx)	09° 07' 33.8124"	143° 50' 06.9252"
(xxi)	09° 07' 29.5572"	143° 50' 18.5352"
(xxii)	09° 07' 25.2984"	143° 50' 30.3360"
(xxiii)	09° 07' 21.2376"	143° 50' 44.2644"
(xxiv)	09° 07' 16.5936"	143° 51' 02.2572"
(xxv)	09° 07' 13.8864"	143° 51' 15.6060"
(xxvi)	09° 07' 10.7904"	143° 51' 35.7264"
(xxvii)	09° 07' 08.8536"	143° 51' 53.5248"
(xxviii)	09° 07' 07.8888"	143° 52' 09.9696"
(xxix)	09° 07' 07.7304"	143° 52' 28.3476"
(xxx)	09° 07' 08.5512"	143° 52' 46.5168"
(xxxi)	09° 07' 10.4952"	143° 53' 07.5444"
(xxxii)	09° 07' 13.2312"	143° 53' 28.0824"
(xxxiii)	09° 07' 16.6368"	143° 53' 45.8268"
(xxxiv)	09° 07' 20.6544"	143° 54' 01.4004"

(xxxv)	09° 07' 26.7528"	143° 54' 20.8296"
(xxxvi)	09° 07' 33.4992"	143° 54' 38.9412"
(xxxvii)	09° 07' 40.9404"	143° 54' 56.5056"
(xxxviii)	09° 07' 48.4788"	143° 55' 11.8776"
(xxxix)	09° 07' 57.4104"	143° 55' 27.9840"
(xl)	09° 08' 06.5868"	143° 55' 42.6900"
(xli)	09° 08' 13.4520"	143° 55' 53.0760"
(xlii)	09° 08' 20.4432"	143° 56' 03.6528"
(xliii)	09° 08' 27.0060"	143° 56' 13.3764"

Then continuing to a point on the described in Part 1(5) of Schedule 1, at approximately:

<u>Latitude (South)</u>	<u>Longitude (East)</u>
09° 08' 32.3952"	143° 56' 20.8788"

Then following the line described in Part 1(5) of Schedule 1, to the point of commencement.

(5) NORTH OF ANCHOR CAY (GARBOI) AND EAST CAY (MISNARE)

Commencing at a point on the line described in Part 1(4) of Schedule 1, at approximately:

<u>Latitude (South)</u>	<u>Longitude (East)</u>
09° 20' 32.7444"	144° 04' 33.0852"

Then following a continuous line, formed by joining the following points:

	<u>Latitude (South)</u>	<u>Longitude (East)</u>
(i)	09° 20' 28.5576"	144° 04' 48.3708"
(ii)	09° 20' 24.6120"	144° 05' 04.7328"
(iii)	09° 20' 20.4180"	144° 05' 24.0684"
(iv)	09° 20' 16.8792"	144° 05' 41.7192"
(v)	09° 20' 14.4348"	144° 05' 56.2344"
(vi)	09° 20' 12.2388"	144° 06' 10.9836"
(vii)	09° 20' 10.7520"	144° 06' 22.7484"
(viii)	09° 20' 08.9304"	144° 06' 38.0304"

(xix)	09° 20' 07.5732"	144° 06' 52.1892"
(x)	09° 20' 06.5472"	144° 07' 07.6440"
(xi)	09° 20' 05.7552"	144° 07' 23.2500"
(xii)	09° 20' 05.3304"	144° 07' 38.8704"
(xiii)	09° 20' 05.0964"	144° 07' 55.5492"
(xiv)	09° 20' 05.3196"	144° 08' 08.2896"
(xv)	09° 20' 05.7912"	144° 08' 19.3740"
(xvi)	09° 20' 06.3780"	144° 08' 33.2952"
(xvii)	09° 20' 07.1772"	144° 08' 46.5684"
(xviii)	09° 20' 08.2140"	144° 08' 59.2080"
(xix)	09° 20' 09.6036"	144° 09' 12.7476"
(xx)	09° 20' 11.2272"	144° 09' 26.5788"
(xxi)	09° 20' 12.7500"	144° 09' 37.7424"
(xxii)	09° 20' 14.1432"	144° 09' 46.6056"
(xxiii)	09° 20' 15.7272"	144° 09' 56.6388"
(xxiv)	09° 20' 17.8656"	144° 10' 08.4252"
(xxv)	09° 20' 20.0868"	144° 10' 19.9272"
(xxvi)	09° 20' 22.3044"	144° 10' 30.4572"
(xxvii)	09° 20' 24.9504"	144° 10' 41.8116"
(xxviii)	09° 20' 27.8196"	144° 10' 53.8176"
(xxix)	09° 20' 30.3648"	144° 11' 03.8328"
(xxx)	09° 20' 32.9460"	144° 11' 13.0704"
(xxxi)	09° 20' 35.4768"	144° 11' 21.2424"
(xxxii)	09° 20' 37.9932"	144° 11' 29.7780"
(xxxiii)	09° 20' 42.2772"	144° 11' 43.4112"
(xxxiv)	09° 20' 45.4272"	144° 11' 53.1096"
(xxxv)	09° 20' 50.7228"	144° 12' 07.3764"
(xxxvi)	09° 20' 54.7368"	144° 12' 18.2808"
(xxxvii)	09° 20' 58.3980"	144° 12' 27.8640"
(xxxviii)	09° 21' 02.8512"	144° 12' 38.4264"
(xxxix)	09° 21' 07.0632"	144° 12' 47.9664"
(xl)	09° 21' 12.3840"	144° 13' 00.1452"
(xli)	09° 21' 17.8812"	144° 13' 11.6256"
(xlii)	09° 21' 24.7932"	144° 13' 25.3812"

(xliii)	09° 21' 31.8708"	144° 13' 39.0216"
(xliv)	09° 21' 38.6172"	144° 13' 51.3480"
(xlv)	09° 21' 47.7612"	144° 14' 07.4688"
(xlvi)	09° 21' 54.9072"	144° 14' 19.4640"
(xlvii)	09° 22' 04.0008"	144° 14' 33.8244"
(xlviii)	09° 22' 11.8416"	144° 14' 45.8916"
(xlix)	09° 22' 19.4520"	144° 14' 56.6628"
(l)	09° 22' 29.1252"	144° 15' 10.1484"
(li)	09° 22' 39.5040"	144° 15' 23.6124"
(lii)	09° 22' 52.0176"	144° 15' 39.2832"
(liii)	09° 23' 03.7644"	144° 15' 53.2260"
(liv)	09° 23' 14.0028"	144° 16' 04.7748"
(lv)	09° 23' 22.6536"	144° 16' 14.3004"
(lvi)	09° 23' 32.6580"	144° 16' 24.6180"
(lvii)	09° 23' 42.4752"	144° 16' 34.4352"
(lviii)	09° 23' 54.5424"	144° 16' 46.1424"
(lvix)	09° 24' 05.5764"	144° 16' 56.4600"
(lx)	09° 24' 17.0316"	144° 17' 06.5652"
(lxi)	09° 24' 28.6272"	144° 17' 16.4184"
(lxii)	09° 24' 40.8564"	144° 17' 26.5092"
(lxiii)	09° 24' 51.6168"	144° 17' 34.9980"

Then continuing to a point on the described in Part 1(4) of Schedule 1, at approximately:

<u>Latitude (South)</u>	<u>Longitude (East)</u>
09° 25' 00.3648"	144° 17' 41.5284"

Then following the line described in Part 1(4) of Schedule 1, to the point of commencement.

(6) EAST AND SOUTH OF MURRAY ISLAND (MER)

Commencing at a point described in Part 1(1) of Schedule 1, at meridian of Longitude 144° 15' 00" East at its intersection with the parallel of Latitude 10° 30' 06" South; thence west

along the parallel of Latitude 10° 30' 06'' to its intersection with meridian of Longitude 143° 40' 49.3500'' East

Then following a continuous line, formed by joining the following points:

	<u>Latitude (South)</u>	<u>Longitude (East)</u>
(i)	10° 11' 16.4220''	143° 49' 54.9840''
(ii)	10° 09' 21.3912''	144° 01' 15.6648''
(iii)	10° 09' 14.5332''	144° 01' 19.5492''
(iv)	10° 08' 51.7200''	144° 01' 27.5340''
(v)	10° 08' 14.8848''	144° 01' 41.0304''
(vi)	10° 07' 41.2824''	144° 01' 53.2344''
(vii)	10° 07' 09.2172''	144° 02' 05.7192''
(viii)	10° 06' 38.0376''	144° 02' 19.5396''
(ix)	10° 06' 11.0952''	144° 02' 33.8640''
(x)	10° 05' 38.5620''	144° 02' 50.8704''
(xi)	10° 05' 05.8380''	144° 03' 13.4208''
(xii)	10° 04' 41.7360''	144° 03' 37.8108''
(xiii)	10° 04' 20.3736''	144° 04' 03.5472''
(xiv)	10° 03' 52.1856''	144° 04' 25.6296''
(xv)	10° 03' 25.9668''	144° 04' 45.0516''
(xvi)	10° 02' 56.5008''	144° 05' 01.0104''
(xvii)	10° 02' 31.9452''	144° 05' 10.8348''
(xviii)	10° 02' 11.0184''	144° 05' 21.9840''
(xix)	10° 01' 55.0812''	144° 05' 38.3532''
(xx)	10° 01' 44.6412''	144° 05' 54.7080''
(xxi)	10° 01' 33.3984''	144° 06' 12.8160''
(xxii)	10° 01' 13.3680''	144° 06' 30.6360''
(xxiii)	10° 00' 46.3572''	144° 06' 50.2812''
(xxiv)	10° 00' 16.1172''	144° 07' 15.0528''
(xxv)	9° 59' 53.4660''	144° 07' 36.8652''
(xxvi)	9° 59' 28.9788''	144° 07' 58.5048''
(xxvii)	9° 59' 00.4056''	144° 08' 23.8776''
(xxviii)	9° 58' 45.0192''	144° 08' 43.8216''

(xxix)	9° 58' 36.5196"	144° 09' 06.6888"
(xxx)	9° 58' 32.2680"	144° 09' 25.3080"
(xxxi)	9° 58' 26.6016"	144° 09' 33.1992"
(xxxii)	9° 58' 17.7996"	144° 09' 38.4804"
(xxxiii)	9° 57' 50.7888"	144° 09' 40.9356"
(xxxiv)	9° 57' 23.2596"	144° 09' 41.9040"
(xxxv)	9° 56' 53.9160"	144° 09' 49.7952"
(xxxvi)	9° 56' 29.7564"	144° 10' 03.0324"
(xxxvii)	9° 55' 57.8352"	144° 10' 14.0844"
(xxxviii)	9° 55' 12.1188"	144° 10' 21.3672"
(xxxix)	9° 54' 24.5628"	144° 10' 34.6728"
(xl)	9° 53' 49.7364"	144° 10' 47.7012"
(xli)	9° 53' 17.9448"	144° 11' 04.7256"
(xlii)	9° 53' 06.9504"	144° 11' 13.6824"
(xliii)	9° 52' 57.9216"	144° 11' 24.1908"
(xliv)	9° 52' 51.0384"	144° 11' 37.0716"
(xlv)	9° 52' 48.0036"	144° 11' 52.8396"
(xlvi)	9° 52' 46.3044"	144° 12' 09.4896"
(xlvii)	9° 52' 42.5604"	144° 12' 32.7060"
(xlviii)	9° 52' 32.5920"	144° 12' 51.8472"
(xlix)	9° 52' 21.7164"	144° 13' 05.4912"
(l)	9° 52' 04.1088"	144° 13' 24.7188"
(li)	9° 51' 51.0552"	144° 13' 47.7084"

thence north-easterly along the geodesic to the point of Latitude 9° 51' 24.9552" South,
 Longitude 144° 15' 00" East, thence south along the meridian of Longitude 144° 15' 00"
 East to the point of commencement.

(7) SOUTH OF MOUNT ERNEST ISLAND (NAGHIR)

Commencing at a point on the line described in Part 1(1) of Schedule 1, at the point
 of Latitude 10° 30' 06" South, at its intersection with the eastern boundary of the
 area the subject of proceeding QUD 266 of 2008 (a point east south east of the

eastern entrance of Bramble Channel), thence generally northwesterly, through Bramble Channel following the north eastern boundary of the area the subject of proceeding QUD 266 of 2008 to a point of Latitude 10° 22' 09" South,

Then following a continuous line, formed by joining the following points:

	<u>Latitude (South)</u>	<u>Longitude (East)</u>
(i)	10° 21' 47.6208"	142° 25' 25.3524"
(ii)	10° 21' 26.9172"	142° 25' 57.5616"
(iii)	10° 21' 03.8088"	142° 26' 29.4468"
(iv)	10° 20' 39.2784"	142° 26' 58.7400"
(v)	10° 20' 14.9856"	142° 27' 23.7456"
(vi)	10° 19' 47.5968"	142° 27' 48.5136"
(vii)	10° 19' 16.8852"	142° 28' 12.7776"
(viii)	10° 18' 47.4084"	142° 28' 33.1536"
(ix)	10° 18' 15.7608"	142° 28' 51.6252"

thence south-easterly along the geodesic to the point of Longitude 142° 43' 48" East, Latitude 10° 30' 06" South; thence west along the parallel of Latitude 10° 30' 06" to its intersection with the point of commencement.

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, Balози, 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, Koio, Koit, Komagaigai, Konai, Kopam, Kopam, Koreg, Kudin, Kuniyam, 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, Wimmet, 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, Oodoro, 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, Gekar, 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, Wimmet, 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.

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 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

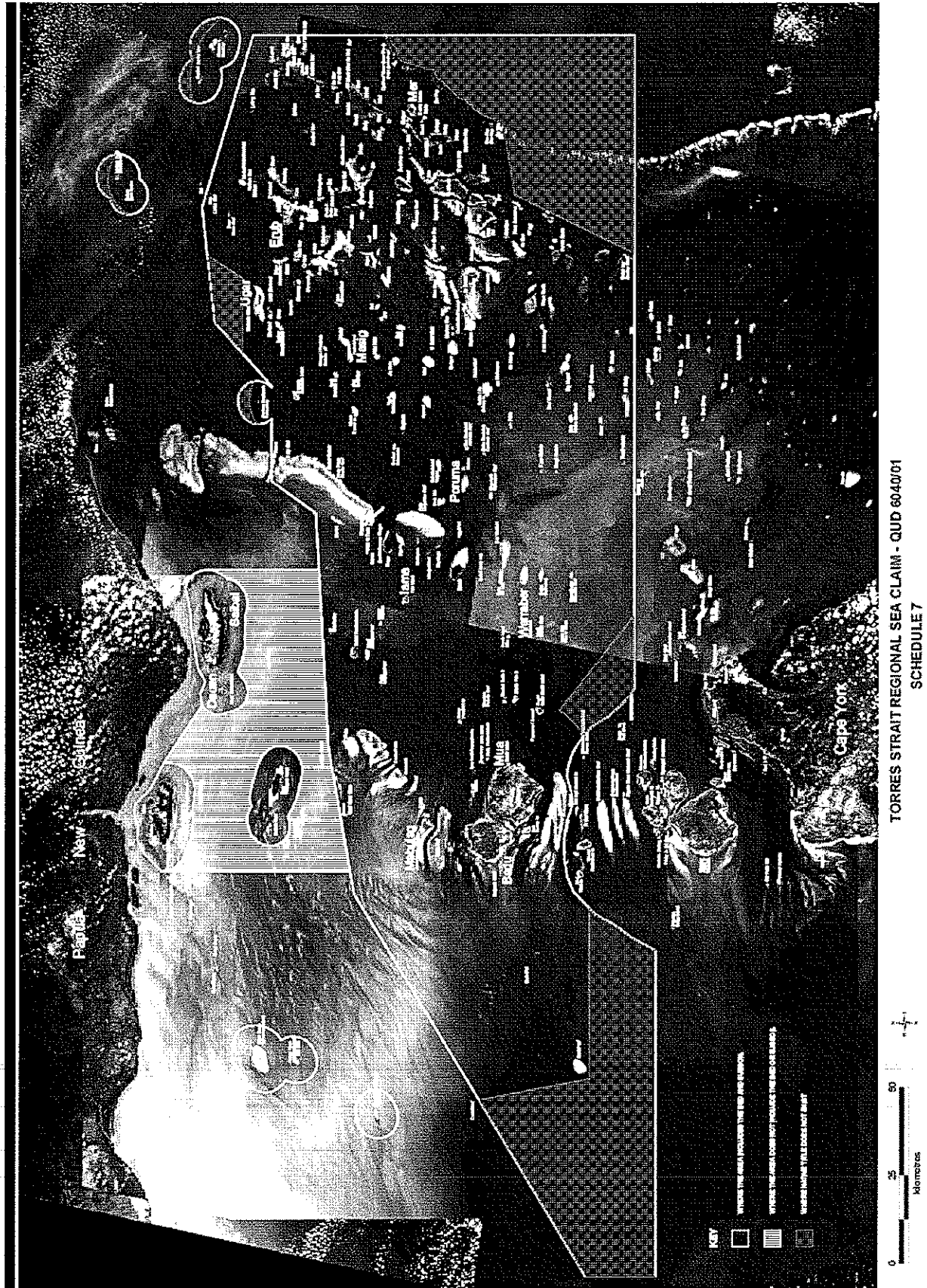
water mark; and (b) rights of access to and from Lot 1 on TS840868 over the inter-tidal zone of the said island insofar as such rights of access are expressly provided for in the said sub-lease or exist by implication;

- (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]



Date that entry is stamped:

Deputy District Registrar