



Extract from the Register of Native Title Claims

Application Information

Application Reference: Federal Court number: QUD27/2019
NNTT number: QC2001/042

Application name: Lui Ned David & Ors on behalf of the Torres Strait Regional Sea Claim v State of Queensland & Ors (Torres Strait Regional Sea Claim)

Registration History: Registered from 5/07/2002

Register Extract (pursuant to section 186 of the *Native Title Act 1993* (Cth))

Application filed with: Federal Court of Australia

Date application filed: 23/11/2001

Date claim entered on Register: 05/07/2002

Additional Information:

On 23 September 2008, Justice Finn split the original Torres Strait Regional Sea Claim application claim area into Part A and Part B.

PART A - APPROVED DETERMINATION

On 2 July 2010, the existence of native title was recognised in relation to part of the Part A determination area and the parties were directed to file an agreed draft determination: [Akiba on behalf of the Torres Strait Islanders of the Regional Sea Claim Group v Queensland \(No 2\) \[2010\] FCA 643](#). On 23 August 2010, Finn J made orders in terms of the agreed draft determination. These orders are attached to this Extract. The determination of native title was registered on the National Native Title Register on 27 August 2010. On 26 June 2014 the Federal Court ordered that the native title recognised by Orders made on 23 August 2010 is to be held in trust and that the Malu Lamar (Torres Strait Islander) Corporation (ICN 8051), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to be the prescribed body corporate for the purpose of ss 56(2)(b) and 56(3) of the *Native Title Act 1993* (Cth) and the National Native Title Register was updated on 30 June 2014 to reflect those orders.

Those areas of the Part A claim area where native title has been determined not to exist (described in Order 2 and Schedule 3 of the determination) were removed from this Register pursuant to s 190(4)(e) as and from 30 August 2010.

Those areas in the Part A claim area where native title has been determined to exist (described in Order 3 and Schedule 4 of the determination) were removed from this Register pursuant to s 190(4)(e) as and from 30 June 2014.

PART B

On 30 November 2022, the Federal Court determined that native title exists in parts of the Part B area: [David on behalf of the Torres Strait Regional Seas Claim v State of Queensland \[2022\] FCA 1430](#). That determination was registered on the National Native Title Register on 5 December 2022.

Pursuant to s 190(4)(e) the application remains on this Register only to the extent that it relates to the undetermined Part B area.

A map and technical description showing the area of the application that remains to be determined, as interpreted by the National Native Title Tribunal, are attached for information only. These attachments do not form part of the application.

On 14 September 2023, the Federal Court ordered by consent that the determination made on 30 November 2022 be varied. Please refer to the NNTR extract - QCD2022/013 for further details.

APPLICANT:

Person/s authorised as applicant:

Lui Ned David, Kabay Tamu, Frank Faud, Ted Mosby, Iona Manas, David Bosun, Alick Tipoti, Troy Laza, Kapua Gutchen, Brian Williams, Sabu Wailu, John Zaro

Condition/s on authority:

163A. The conditions on the authority of the applicant to make the application and to deal with matters arising in relation to it are contained in a document titled "Torres Strait Regional Seas Claim Part B Applicants' Protocol" at Attachment IA. [A copy of Attachment IA is attached to this Extract.]

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DESCRIPTION OF THE AREA COVERED BY THE CLAIM:

Part A. External Boundaries and Description

18. The external geographical boundaries of the area covered by this application (**application area**) are described in **Attachment B**.

19. The external geographical boundaries of the area covered by this application are delineated and marked on the map at **Attachment C**.

20. In the event of any inconsistency between the description and the delineation of the boundaries in Attachment B and Attachment C, the description in Attachment B shall prevail, but subject to the exclusion from that description of the area referred to in [21](aa) below.

Part B. Areas within the external boundaries that are not covered by the application

21. Areas within the external geographic boundaries that are not covered by the application are the following areas, if any, except where any extinguishment by the acts mentioned is required by s47A or 47B of the *Native Title Act 1993* to be disregarded:

(a) any area that, when this sixth amended application is made, is subject to any of the following kinds of acts as they are defined in either the *Native Title Act 1993*, as amended (where the act in question is attributable to the Commonwealth), or *Native Title (Queensland) Act 1993* (QLD), as amended, (where the act in question is attributable to the State of Queensland):

- (i) Category A past acts;
- (ii) Category A intermediate period acts;
- (iii) Category B past acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;
- (iv) Category B intermediate period acts that are wholly inconsistent with the continued existence, enjoyment or exercise of any native title rights or interests;
- (b) any area in relation to which a previous exclusive possession act under section 20 or 21 of the *Native Title (Queensland) Act 1993* (QLD) was done and that act is attributable to the State of Queensland;
- (c) any area in relation to which a previous exclusive possession act as defined by section 23B (including section 23B (7)) of the *Native Title Act 1993* was done in relation to the area and the act was attributable to the Commonwealth;
- (d) any area where native title rights and interests have otherwise been wholly extinguished; and
- (e) specifically, any area where there has been:
 - (i) an unqualified grant of an estate in fee simple;
 - (ii) a public work as defined in section 253 of the *Native Title Act 1993*.

21A. For the avoidance of any doubt, the area excludes:

- (a) any area subject to:

- (i) Native Title Determination QUD6073/1998 Warraber People (QCD2000/004) as determined by the Federal Court of Australia on 7 July 2000; and
- (ii) Native Title Determination QUD6040/2001 Torres Strait Regional Sea Claim (QCD2010/003) as determined by the Federal Court of Australia on 23 August 2010; and
- (b) any area above the high water mark of the areas identified as:
 - (iii) Awai, located at approximate Longitude 143.019640° East, Latitude 10.638838° South;
 - (iv) Tiwalag, located at approximate Longitude 143.070823° East, Latitude 10.591019° South; and
 - (v) Big Boiag, located at approximate Longitude 143.198644° East, Latitude 10.632882° South.

[A copy of Attachment B and Attachment C is attached to this Extract.]

PERSONS CLAIMING TO HOLD NATIVE TITLE:

- 13. The native title claim group (**sea claim group**) comprises members of the island communities listed in Attachment A, each of whom is a Torres Strait Islander.
- 14. The members of the sea claim group are the biological and socially recognised members of their respective island communities.
- 14A. The membership of the island communities comprising the sea claim group was determined by Finn J in Orders 4(1)(a) to (i) and Schedule 5, clauses 2(a) to (i) of the Part A determination.
- 15. Generally, the members of the sea claim group, the ancestors and deceased descendants of the ancestors are shown in the genealogies.
- 16. Because of the nature and extent of adoptions within the sea claim group it is impracticable to identify and show in the genealogies all relevant biological and adoptive connections of each member of the sea claim group.
- 17. The genealogies show many but not all socially relevant connections between the persons shown in the genealogies.

[A copy of Attachment A is attached to this Extract.]

REGISTERED NATIVE TITLE RIGHTS AND INTERESTS:

The following Native Title Rights & Interests were entered on the Register on 22/12/2022

- 16. The rights claimed as native title or native title rights and interests in relation to the application area (**claimed rights and interests**) are set out at [18].
- 18. The claimed rights and interests are the rights to:
 - (a) to access, to remain in and to use the area;
 - (b) to access resources and to take for any purpose resources in the area;
 - (c) to maintain places and/or areas of importance, or significance, to the members of the sea claim group under their traditional laws and customs on the area and protect those places and/or areas from harm;

Area covered by the native title and who holds the rights

- 19. Each of the claimed rights and interests exists in relation to the whole of the application area.
- 20. Members of the sea claim group:
 - (a) hold the claimed rights and interests for their respective communal, group and individual entitlements in relation to the application area in accordance with the traditional laws acknowledged and traditional customs observed by them;
 - (b) do not all hold all the claimed rights equally in all areas; and
 - (c) do not each hold rights in all areas.

REGISTER ATTACHMENTS:

- 1. Native Title Claim Group, Attachment A of the application , 1 page - A4, 10/08/2009
- 2. QC2001/042 External boundary description, Attachment B of the application, 3 pages - A4, 03/11/2022
- 3. QC2001/042 Map, Attachment C of the application, 1 page - A4, 03/11/2022
- 4. Conditions under section 251BA - Schedule IA of the application, 4 pages - A4, 25/08/2022
- 5. Determination - Torres Strait Islanders Regional Sea Claim, 42 pages - A4, 10/02/2011
- 6. QC2001/042 Description of Undetermined Area, 2 pages - A4, 30/11/2022
- 7. QC2001/042 Map of Undetermined Area, 1 page - A4, 30/11/2022

Note: The Register of Native Title Claims may, in accordance with section 188 of the Native Title Act 1993 (Cth), contain confidential information that will not appear on the Extract.