



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD174/1997
NNTT Number: QCD1997/001

Determination Name: [Erica Deeral \(On behalf of herself & the Gamaay Peoples\) & Ors v Gordon Charlie & Ors](#)

Date(s) of Effect: 8/12/1997

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

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

Determination Date: 08/12/1997

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Hopevale Congress Aboriginal Corporation RNTBC
Agent Body Corporate
PO Box 1021
COOKTOWN Queensland 4895

Walmbaar Aboriginal Corporation RNTBC
Agent Body Corporate
PO Box 1021
COOKTOWN Queensland 4895

Dhubbi Warra Aboriginal Corporation RNTBC
Agent Body Corporate
PO Box 1021
COOKTOWN Queensland 4895

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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

Gamaay clan; Dingaal clan; Nugal clan; Thuubi clan; Nguurruumungu clan; Dharrpa clan; Binhthi clan; Thiithaarr clan; Thanil clan; Nguymbaarr Nguymbaarr clan; Ngaatha clan; Buurnga clan; and Gulaal clan.

MATTERS DETERMINED:

The Court notes:

A. That the Applicants and the Respondents have reached an agreement in accordance with the terms contained in the Deed of Agreement between the Applicants and the Respondents dated 17 November 1997 ("the Deed"), and the Deed of Agreement between the Applicants, the State of Queensland, and the Queensland Commercial Fishermens Organisation ("the QCFO Deed") dated 17 November 1997 (copies of which are annexed to this determination), in relation to these proceedings and all matters arising out of these proceedings.

B. That in clause 1 of the Deed, the parties agreed "..... to make application to the Federal Court of Australia for a consent order for a determination of native title rights and interests of the Applicants in the DOGIT land in the terms of the Schedule....."

C. That pursuant to sub-section 87(l)(a)(i) of the Native Title Act 1993 (Cth), the parties have reached agreement that the Court make determinations in relation to the proceedings in the terms of the Deed and the QCFO Deed, and that those deeds form part of the determination.

D. That pursuant to sub-section 87(l)(b) of the Native Title Act 1993 (Cth), the Deed and the QCFO Deed, in writing signed by or on behalf of the parties, have been lodged with the Court.

E. The parties have requested pursuant to Order 10 sub-rule 3(l) of the Federal Court Rules, that the Court hear and determine the proceeding at this directions hearing today.

F. The terms of the proposed determinations involve the making of a determination that native title exists in relation to certain land and waters.

G. That the Applicants, as representatives of the common law holders of the respective clans which they represent, have not made a nomination pursuant to sub-section 56(2) of the Native Title Act 1993 (Cth) in regard to the holding of native title on trust.

H. The parties have requested that the Court, pursuant to sub-section 56(2)(c) of the Native Title Act 1993 (Cth), make a determination that the native title rights and interests are held by the common law holders.

I. That Herman Bambie, as a representative of the common law holders of the Thuubi clan, has made a nomination pursuant to sub-section 57(2)(a) of the Native Title Act 1993 (Cth) that the Dhubbiwarra Aboriginal Corporation, a prescribed body corporate, perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth).

J. That the common law holders of the Gamaay, Nugal, Nguurruumungu, Dharrpa, Binhthi, Thiithaarr, Thanil, Nguymbaarr Nguymbaarr, Ngaatha, Gulaal and Buurnga clans are in the process of seeking to incorporate pursuant to the Aboriginal Councils and Associations Act 1976 (Cth), the Hopevale Congress Aboriginal Corporation to be a prescribed body corporate and perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth).

K. That the common law holders of the Dingaal clan are in the process of seeking to incorporate pursuant to the Aboriginal Councils and Associations Act 1976 (Cth), the Walmbaar Aboriginal Corporation to be a prescribed body corporate and perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth).

L. That pursuant to clause 17 and 18 of the Schedule to the Deed, upon the making of this determination and the registration of the Hopevale Congress Aboriginal Corporation, the Dhubbwarra Aboriginal Corporation and the Walmbaar Aboriginal Corporation (or such other corporations as prescribed bodies corporate) on the National Native Title Register, pursuant to sub-section 193(2)(d) of the Native Title Act 1993 (Cth), the Applicants will direct their respective registered native title bodies corporate to enter into the section 21 agreements contained in Annexures 4, 5, 6 and 7 of the Schedule to the Deed.

The Court, being satisfied that a determination in the terms sought by the parties would be within the power of the Court and, it appearing to the Court appropriate to do so, the Court, pursuant to sub-section 87(2) of the Native Title Act 1993 (Cth), and by the consent of the parties, makes the following determination, namely:-

1. That the native title rights and interests exist in relation to the land and waters of the Hopevale Deed of Grant in Trust to the high water mark, being the land described in clause 1 of the Schedule to the Deed, in accordance with and subject to the terms of the Schedule to the Deed (which is Annexure 1 to this determination), and the QCFO Deed (which is Annexure 2 to this determination).

2. That in accordance with Annexure 2 of the Schedule to the Deed:

2.1 native title rights and interests have been extinguished on the areas of land listed in Table A; and

2.2 native title rights and interests may have been affected by a lawful physical activity carried out pursuant to granted interests on the land or waters listed in Table B, and

2.3 the determination does not apply to historical portions 2v, 6v, 16v and 18v, being historical tenures formerly contained in part of the land described in clause 1 of the Schedule to the Deed, and graphically displayed on the map included as Annexure 3 to this determination.

3. The native title rights and interests which exist in accordance with the Deed and the QCFO Deed are held by the common law holders of the following clan groups for their respective clan estates:-

Gamaay clan; Dinggaal clan; Nugal clan; Thuubi clan; Nguurruumungu clan; Dharrpa clan; Binhthi clan; Thiithaarr clan; Thanil clan; Nguymbaarr Nguymbaarr clan; Ngaatha clan; Buurnga clan; and Gulaal clan,

4. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Erica Deeral, a representative of the common law holders of the Gamaay clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

5. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Phillip Baru, a representative of the common law holders of the Dinggaal clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

6. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Bertie Gordon, a representative of the common law holders of the Nugal clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

7. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Brian Cobus, a representative of the common law holders of the Nguurruumungu clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native

Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

8. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Wayne Coats, a representative of the common law holders of the Dharrpa clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

9. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Pat Wallace, a representative of the common law holders of the Binthi clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

10. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Eddie Deemal, a representative of the common law holders of the Thiithaarr clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

11. That, pursuant to subsection 57(2) of the Native Title Act 1993 (Cth), Hector Michael, a representative of the common law holders of the Thanil clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

12. That, pursuant to subsection 57(2) of the Native Title Act 1993 (Cth), George Rosendale, a representative of the common law holders of the Nguymbaarr Nguymbaarr clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

13. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Terrence Jacko, a representative of the common law holders of the Ngaatha clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in subsection 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

14. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Martin James, a representative of the common law holders of the Gulaal clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in Bisection 57(3) of the Native Title Act 1993 (Cth) after that prescribed body corporate becomes a registered native title body corporate.

15. That, pursuant to sub-section 57(2) of the Native Title Act 1993 (Cth), Bertie Gordon, Herman Bambie, Pat Wallace, Eddie Deemal and Terrence Jacko, representatives of the common law holders jointly on behalf of the Buurnga clan, must nominate in writing to the Court within 6 months of the date of this determination, a prescribed body corporate to perform the functions mentioned in sub-section 57(3) of the Native Title Act 1993 (Cth) after that prescribed body- corporate becomes a registered native title body corporate.

16. That where any party named in determinations 4 to 15 inclusive is unable, by reason of death, infirmity or incapacity, to make the nomination within the time set out in that determination, another representative of the common law holders of the clan of which that person was a representative, may be substituted as a representative for the purposes of making the nomination in writing on behalf of the common law holders who are members of that clan. Liberty to apply in this connection.

17. That the Dhubbiwarra Aboriginal Corporation, a prescribed body corporate for the purposes of sub-section 57(2) of the Native Title Act 1993 (Cth), be the agent for the common law holders of the Thuubi clan.

The Court further notes that where words are used in this determination that are defined in the Deed or the QCFO

Deed, those definitions apply.

Dated: 12 December 1997

The Federal Court Order can be found in Attachment D.

The Federal Court Reasons for Judgement can be found in Attachment E.

REGISTER ATTACHMENTS:

1. Attachment A - Map of native title determination area with respect to clan boundaries, 1 page - A4, 08/12/1997
2. Attachment B - Deed of Agreement (dated 17/11/1997), 96 pages - A4, 08/12/1997
3. Attachment C - Deed of Agreement - QFCO (dated 17/11/97), 7 pages - A4, 08/12/1997
4. Attachment D - Federal Court Order, Justice Beaumont (8/12/97), 3 pages - A4, 08/12/1997
5. Attachment E - Federal Court Reasons for Judgement, Justice Beaumont (8/12/97), 4 pages - A4, 08/12/1997

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.