

## Extract from the National Native Title Register

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### Determination Information:

**Determination Reference:** Federal Court Number(s): QUD147/2006  
NNTT Number: QCD2014/007

**Determination Name:** Elizabeth Dodd & Ors on behalf of the Gudjala People Core Country Claim #2 v State of Queensland & Ors

**Date(s) of Effect:** 18/03/2014

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

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

**Determination Date:** 18/03/2014

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

Not Applicable

### REGISTERED NATIVE TITLE BODY CORPORATE:

Ngrragoonda Aboriginal Corporation RNTBC  
Agent Body Corporate  
1/38 York Street  
Charters Towers Queensland 4820

### COMMON LAW HOLDER(S) OF NATIVE TITLE:

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

The native title holders are the Gudjala People. The Gudjala People are the descendants of one or more of the following people:

- (a) Alice Anning (also known as Alice White) of Bluff Downs station;
- (b) Cissy McGregor;
- (c) Maggie "Ton Ton" Thompson;
- (d) Topsy Hann; or
- (e) Zoe (mother of Hoya Siemon / Bowman).

### 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 in 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 that part of the Determination Area described in Part 1 and Part 2 of Schedule 1.

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

6. Subject to paragraphs 8, 9 and 10 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;
- (c) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (d) take and use 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) 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;
- (i) teach on the area the physical and spiritual attributes of the area; and
- (j) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.

7. Subject to paragraphs 8, 9 and 10 below the nature and extent of the native title rights and interests in relation to the land and waters described in Part 2 of Schedule 1 is the non-exclusive right to access, be present on, move about on and travel over the area.

8. The native title rights and interests are subject to and exercisable in accordance with:

- (a) the Laws of the State and the Commonwealth;
- (b) the traditional laws acknowledged and traditional customs observed by the native title holders; and
- (c) the terms and conditions of the agreements referred to in paragraph 1 of Schedule 4.

9. The native title rights and interests referred to in paragraphs 6 and 7 do not confer possession, occupation, use or enjoyment to the exclusion of all others.

10. 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).

11. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 4.

12. The relationship between the native title rights and interests described in paragraphs 6 and 7 and the other interests described in Schedule 4 (the "other interests") 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; and
- (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.

## DEFINITIONS AND INTERPRETATION

13. 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;

"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 or rock 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 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);

"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;
- (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:

14. The native title is not held in trust.

15. The Ngragoonda Aboriginal Corporation ICN 7982, incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:

- (a) be the prescribed body corporate for the purpose of s 57(2) of the *Native Title Act 1993* (Cth); and
- (b) perform the functions mentioned in s 57(3) 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 Parts 1 and 2 below, to the extent that they are within the external boundary described in Part 3 below, and depicted on the determination map,

excluding the areas described in Schedule 2.

### Part 1 - Non-Exclusive Rural Areas

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

#### Area description (as at date of determination) Determination map sheet number

That part of Lot 551 on Plan CP843339 that is within the external boundary	1
That part of Lot 3 on Plan CP898336 that is within the external boundary	2
Lot 11 on Plan NPW348	4
That part of Lot 602 on Plan PH1444 that is within the external boundary	1
That part of Lot 5039 on Plan PH245 that is within the external boundary	1
That part of Lot 3880 on Plan PH29 that is within the external boundary	4
That part of Lot 3578 on Plan PH30 that is within the external boundary	3
That part of Lot 3683 on Plan PH368 that is within the external boundary	3
Lot 4067 on Plan PH98	3
That part of Lot 3 on Plan PP17 that is within the external boundary	3
That part of Lot 4 on Plan PP23 that is within the external boundary	3
That part of Lot 6 on Plan SP146633 that is within the external boundary	3
That part of Lot 8 on Plan SP248068 that is within the external boundary	3
That part of Lot 9 on Plan SP248068 that is within the external boundary	3
That part of Lot 1 on Plan WG193 that is within the external boundary	2
That part of Lot 3 on Plan WNG3 that is within the external boundary	3

Save for any waters forming part of a lot on plan, all waterways, natural lakes, creeks and rivers within the external boundary including but not limited to: Porcupine Creek, the Clarke River, Glenmiddle Creek, the Burdekin River and the Star River

### Part 2 - Non-Exclusive Urban Areas

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

#### Area description (as at date of determination) Determination map sheet number

Lot 74 on Plan AP15758	5
That part of Lot 4 on Plan CP901158 that is within the external boundary	6
That part of Lot 46 on Plan CP901158 that is within the external boundary	6
Lot 4 on Plan CP906665	5
Lot 11 on Plan CT182114	5
Lot 1 on Plan CT182119	5
Lot 2 on Plan CT182119	5
Lot 2 on Plan CT18239	5
Lot 150 on Plan DV459	5

Lot 226 on Plan DV510	5
Lot 186 on Plan DV540	5
Lot 190 on Plan DV546	5
Lot 195 on Plan DV552	5
That part of Lot 210 on Plan DV610 that is within the external boundary	5
Lot 1 on Plan DV840972	5
Lot 1 on Plan MPH32388	5
Lot 67 on Plan MPH40006	5
Lot 68 on Plan MPH40006	5
Lot 69 on Plan MPH40006	5
Lot 70 on Plan MPH40006	5
Lot 71 on Plan MPH40006	5
Lot 72 on Plan MPH40006	5
Lot 73 on Plan MPH40006	5
Lot 90 on Plan MPH40554	5
Lot 91 on Plan MPH40554	5
Lot 1 on Plan MPH590	5
Lot 151 on Plan SP112339	5
That part of Lot 255 on Plan SP142524 that is within the external boundary	5
That part of Lot 152 on Plan SP143440 that is within the external boundary	5
That part of Lot 17 on Plan SP144896 that is within the external boundary	5
That part of Lot 256 on Plan SP238149 that is within the external boundary	5
Lot 61 on Plan SP250466	5
Lot 62 on Plan SP250466	5
The area of road shown on Plan SP250466 between stations 3-4-13-11-3 and 11-13-14-10-11 *	5
Lot 111 on Plan USL46780	5
That part of Lot 65 on Plan USL46782 that is within the external boundary	6
Lot 33 on Plan USL46783	5
That part of Lot 54 on Plan USL46783 that is within the external boundary	5
That part of Lot 1 on Plan USL46784 that is within the external boundary	6
That part of Lot 186 on Plan USL46786 that is within the external bound	5
That part of Lot 25 on Plan USL46786 that is within the external boundary	5
Lot 4 on Plan USL46787	5

Lot 5 on Plan USL46787	5
Lot 22 on Plan USL46787	5
Lot 118 on Plan USL46787	5
That part of Lot 1 on Plan USL46787 that is within the external boundary	5
That part of Lot 58 on Plan USL46787 that is within the external boundary	5
That part of Lot 6 on Plan USL46787 that is within the external boundary	5
Lot 173 on Plan USL46788	5
Lot 39 on Plan USL46795	5
Lot 141 on Plan USL46795	5

Save for any waters forming part of a lot on plan, all waterways, natural lakes, creeks and rivers within the external boundary including but not limited to: Mossman Creek

\* denotes an area to which s 24KA of the *Native Title Act 1993* (Cth) applies

### Part 3 - External Boundary Description

The external boundary encompasses land and waters within the following areas, which are further described as:

Lot 11 on Plan NPW348;

Exploration Permit for Minerals No. 13653 (as at 11 April 2002);

that part of Exploration Permit for Minerals No. 13650 (as at 11 April 2002) that is south of the centreline of the Clarke River;

Exploration Permit for Minerals No. 13462 (as at 11 April 2002);

Exploration Permit for Minerals No. 13655 (as at 11 April 2002);

that part of Exploration Permit for Minerals No. 13676 (as at 11 April 2002) that is north of a line extending between coordinate points located at Longitude 145.031824° East, Latitude 20.245570° South and Longitude 144.920962° East, Latitude 20.207523° South;

that part of Exploration Permit for Minerals No. 13700 (as at 12 July 2002) that is north of a line defined by the following coordinate points:

Longitude° (East)	Latitude° (South)
144.704129	20.103708
144.594686	20.046709
144.462298	20.006961

Mining Lease No. 10281;

Mining Lease No. 10282;

Mining Lease No. 10283;

Mining Lease No. 10284; and

Mining Lease No. 10285.

### Data reference and source

Mining tenement data sourced from the Department of Natural Resources and Mines (October 2013), unless otherwise indicated.

Cadastral data sourced from Department of Natural Resources and Mines (August 2013).

## 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.

Prepared by Geospatial Services, National Native Title Tribunal (24 October 2013).

## B. Map of Determination Area

[See NNTR attachment 1: "Schedule 1 - Map of Determination Area"]

### Schedule 2 – AREAS NOT FORMING PART OF THE DETERMINATION AREA

The areas described below do not form part of the Determination Area.

#### Part A

1. Land and waters within the external boundary, as described in Part 3 of Schedule 1, that at the time at which the native title determination application was made:

(a) were the subject of one or more previous exclusive possession acts, as defined in s 23B of the *Native Title Act 1993* (Cth) (despite the fact that the areas, or parts of them, may have been subject to earlier acts that extinguished native title); and

(b) to which none of ss 47, 47A or 47B of the *Native Title Act 1993* (Cth) applied,

do not form part of the Determination Area on the basis that 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 referred to in Part A (1) above include the acts described in ss 23B(2) and 23B(3) of the *Native Title Act 1993* (Cth) to which s 20 of the *Native Title (Queensland) Act 1993* (Qld) applies and include, but are not limited to, the whole of the land and waters described as Lot 174 on Plan SP252359.

3. Specifically, and to avoid any doubt, the land and waters described in Part A (1) above include the land or waters upon 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 / or 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).

#### Part B

On the basis that native title has been extinguished and is not claimed, the parties have agreed that the Determination Area does not include any land or waters on which any permanent improvement consisting of:

(a) a homestead, house, shed or other building;

(b) an airstrip;

(c) a constructed dam or any other constructed stock watering point, bore, turkey nest, squatters' tank or other water storage facility; or

(d) stock yards and trap yards,

has, at the date of the determination, been constructed (including any adjacent land the exclusive use of which is

reasonably necessary for the enjoyment of the improvement) in accordance with the rights of the lessee under, and within the boundaries of the following pastoral leases:

1. Pastoral Holding No. 11/551 comprising Lot 551 on Plan CP843339 and commonly known as Maryvale;
2. Term Lease No. 231119 comprising Lot 3 on Plan CP898336 and commonly known as Mileslake;
3. Pastoral Holding No. 11/3880 comprising Lot 3880 on Plan PH29 and commonly known as Lolworth;
4. Pastoral Holding No. 11/3578 comprising Lot 3578 on Plan PH30 and commonly known as Turrets;
5. Pastoral Holding No. 23/4067 comprising Lot 4067 on Plan PH98 and commonly known as Upland;
6. Preferential Pastoral Holding No. 18/5039 comprising Lot 5039 on Plan PH245 and commonly known as Barker;
7. Preferential Pastoral Holding No. 23/3683 comprising Lot 3683 on Plan PH368 and commonly known as Porcupine;
8. Pastoral Holding No. 11/602 comprising Lot 602 on Plan PH1444 and commonly known as Wando Vale;
9. Pastoral Holding No. 11/498 B comprising Lot 3 on Plan PP17 and commonly known as Cargoan;
10. Preferential Pastoral Holding No. 23/3576 comprising Lot 4 on Plan PP23 and commonly known as Reedy Springs;
11. Pastoral Holding No. 23/5523 comprising Lot 6 on Plan SP146633 and commonly known as Mount Sturgeon Holding;
12. Term Lease No. 233527 comprising Lot 8 on Plan SP248068 and commonly known as Pretty Plains Holding;
13. Term Lease No. 233528 comprising Lot 9 on Plan SP248068 and commonly known as The Twins;
14. Preferential Pastoral Holding No. 11/3933 comprising Lot 1 on Plan WG193 and commonly known as Starbright; and
15. Term Lease No. 233526 comprising Lot 3 on Plan WNG3 and commonly known as Mount King Holding.

### **Schedule 3 – NATIVE TITLE HOLDERS**

The native title holders are the Gudjala People. The Gudjala People are the descendants of one or more of the following people:

- (a) Alice Anning (also known as Alice White) of Bluff Downs station;
- (b) Cissy McGregor;
- (c) Maggie "Ton Ton" Thompson;
- (d) Topsy Hann; or
- (e) Zoe (mother of Hoya Siemon / Bowman).

### **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) Elizabeth Dodd, Andrew (Smokey) Anderson, Gloria Santo, Christine Hero and Priscilla Michelle Huen on their own behalf and on behalf of the Gudjala People, the Ngrragoonda Aboriginal Corporation ICN 7982, the State of Queensland, and the Ngrragoonda Aboriginal Corporation RNTBC ICN 7982 as parties to the Gudjala protected areas indigenous land use agreement (body corporate agreement), which was authorised by the native title claim group on 5 September 2013 and executed by Elizabeth Dodd on 24 January 2014, Andrew (Smokey) Anderson on 23 January 2014, Gloria Santo on 21 January 2014, Christine Hero on 17 January 2014, Priscilla



Michelle Huen on 21 January 2014, the Ngrragoonda Aboriginal Corporation ICN 7982 on 17 January 2014, and the State of Queensland on 3 and 5 February 2014, and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the registered native title body corporate;

(b) Elizabeth Dodd, Andrew (Smokey) Anderson, Gloria Santo, Christine Hero and Priscilla Michelle Huen on their own behalf and on behalf of the Gudjala People, the Ngrragoonda Aboriginal Corporation ICN 7982, Flinders Shire Council, and Charters Towers Regional Council as parties to the local government indigenous land use agreement (area agreement), which was authorised by the native title claim group on 8 November 2013 and executed by Elizabeth Dodd on 24 January 2014, Andrew (Smokey) Anderson on 23 January 2014, Gloria Santo on 21 January 2014, Christine Hero on 17 January 2014, Priscilla Michelle Huen on 21 January 2014, the Ngrragoonda Aboriginal Corporation ICN 7982 on 17 January 2014, Flinders Shire Council on 20 January 2014, and Charters Towers Regional Council on 28 January 2014, and that agreement once it becomes registered as an area ILUA following execution of the agreement by the registered native title body corporate;

(c) Elizabeth Dodd, Andrew (Smokey) Anderson, Gloria Santo, Christine Hero and Priscilla Michelle Huen on their own behalf and on behalf of the Gudjala People and Ergon Energy Corporation Limited ACN 087 646 062 as parties to the indigenous land use agreement executed on 1 November 2013.

2. The rights and interests of Ergon Energy Corporation 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 agreement relating to the Determination Area existing or entered into before the date on which these orders are 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.

3. The rights and interests of the State of Queensland and the Charters Towers Regional Council and Flinders Shire 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 the roads.

4. The rights and interests of Charters Towers Regional Council and Flinders Shire Council:

(a) under their local government jurisdiction and functions under the *Local Government Act 2009* (Qld), under the *Land Protection (Pest and Stock Route Management) Act 2002* (Qld) and under any other legislation, for that part of the Determination Area within the area declared to be their respective local government areas;

(b) as the:

(i) lessor under any leases which were validly entered into before the date on which these orders are made and whether separately particularised in these orders or not;

(ii) grantor of any licences or other rights and interests which were validly granted before the date on which these orders were made and whether separately particularised in these orders or not;

(iii) holder of any estate or interest in land, as trustee of any reserves, that exist in the Determination Area;

(c) as the owner and operator of infrastructure, and those facilities and other improvements located in the Determination Area validly constructed or established on or before the date on which these orders are made, including but not limited to:

(i) undedicated but constructed roads except for those not operated by Council;

(ii) water pipelines and water supply infrastructure;

(iii) drainage facilities;

- (iv) watering point facilities;
  - (d) to enter the land for the purposes described in paragraphs (a), (b) and (c) above by their employees, agents or contractors to:
    - (i) exercise any of the rights and interests referred to in paragraph 4 above;
    - (ii) inspect, maintain and repair the infrastructure, facilities and other improvements referred to in paragraph (c) above;
    - (iii) undertake operational activities in its capacity as a local government such as feral animal control, weed control, erosion control, waste management and fire management.
5. The rights and interests of the holders of any leases, licences, reservations, permits, easements or authorities granted under the *Land Act 1994* (Qld), and any relevant regulations or subordinate legislation made under that Act.
6. The rights and interests of the holders of any permits, claims, licences or leases granted under the *Mineral Resources Act 1989* (Qld), including (but not limited to) those held by Citigold Corporation Limited ACN 060 397 177 and its related bodies corporate.
7. 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.
8. 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 or the Commonwealth.

#### **REGISTER ATTACHMENTS:**

1. Schedule 1 - Map of Determination Area, 7 pages - A4, 18/03/2014

*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.*