

## Extract from the National Native Title Register

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### Determination Information:

<b>Determination Reference:</b>	Federal Court Number(s): QUD6023/2002 NNTT Number: QCD2015/004
<b>Determination Name:</b>	Phillip Wallis & Ors On Behalf Of The Wuthathi, Kuuku Ya'u & Northern Kaanju Peoples
<b>Date(s) of Effect:</b>	28/04/2015
<b>Determination Outcome:</b>	Native title exists in the entire determination area

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

<b>Determination Date:</b>	28/04/2015
<b>Determining Body:</b>	Federal Court of Australia

### ADDITIONAL INFORMATION:

While the determination has been entered on this Register, pursuant to s 190(4)(da) of the *Native Title Act 1993* (Cth), the application will also remain on the Register of Native Title Claims until a Prescribed Body Corporate has been nominated.

Until such time as there is a registered native title body corporate in relation to the Determination Area, any notices required under the *Native Title Act 1993* (Cth) or otherwise to be served on the native title holders or the common law holders may be served upon the Cape York Land Council Aboriginal Corporation ICN 1163, and such service shall be deemed to be sufficient. The native title holders have 12 months from the determination date, or such further time as the Court may allow to nominate a Prescribed Body Corporate.

### REGISTERED NATIVE TITLE BODY CORPORATE:

No Prescribed Body Corporate has been registered for the area.

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

The native title is held by:

- (a) the Wuthathi People described in Schedule 2 in respect of the Wuthathi country within the Determination Area;
- (b) the Kuuku Ya'u People described in Schedule 2 in respect of the Kuuku Ya'u country within the Determination Area;
- (c) the Northern Kaanju People described in Schedule 2 in respect of the Northern Kaanju country within the Determination Area; and
- (d) both the Wuthathi People described in Schedule 2 and the Kuuku Ya'u People described in Schedule 2,

jointly, in respect of that part of the Determination Area shared by them jointly (“the native title holders”).

## **NATIVE TITLE HOLDERS**

### **The Wuthathi People**

1. The descendants of:
  - (a) Pintharra;
  - (b) Johnson Moreton;
  - (c) Frank Wilson;
  - (d) Ida Temple (Waterbag);
  - (e) Moe Rie Warren;
  - (f) Innis Pascoe;
  - (g) Dinah;
  - (h) Ada Lancaster;
  - (i) Annie Punda (Athanamu);
  - (j) Nara Jira Para;
  - (k) Ela (Illa); and
  - (l) Eliza (wife of Tom Ware).
2. Those persons adopted by any Wuthathi People referred to in item 1 above in accordance with traditional laws and customs.

### **The Kuuku Ya’u People**

1. The descendants of:
  - (a) Johnny (Yarakupi) Doctor and Nancy (Tawamulu) as a result of their union;
  - (b) Charlie Kanora as a result of union with his two wives Nelly and Jean;
  - (c) Tom ‘Flathead’ Platt (father of Johnny Pascoe);
  - (d) Charlie James (brother of Tom ‘Flathead’ Platt);
  - (e) Peter (Piramu) Pascoe (including adopted son Lawrence Fruit);
  - (f) Agnes (Puruwa) (wife of Jimmy Hobo);
  - (g) Bob Pascoe (brother of Annie Anderson);
  - (h) Annie Anderson (wife of Fred Charles Lancaster);
  - (i) Topsy (wife of John George Hollingsworth);
  - (j) Toby (Tupamaynaku) Accoom and Kitty (Tunpu) as a result of their union;
  - (k) Charlie Claudie (father of Charlie (Kutini) Giblest renamed after Hugh Giblest);
  - (l) Barney Claudie and Minnie (Chinka) Doctor as a result of their union;
  - (m) Hughie (Tantuki) Temple; and

(n) Annie Butcher.

2. Those persons adopted by any Kuuku Ya'u People referred to in item 1 above in accordance with traditional laws and customs.

### **Northern Kaanju People**

1. The descendants of:

- (a) Billy Moreton and his son George Moreton Snr;
- (b) Big Johnny Nguulpam Horseboy as a result of union with his two wives Nellie and Mary Anne;
- (c) Tom 'Flathead' Platt;
- (d) Old Lady Rosie (wife of Ambrose Butt and Old Paddy);
- (e) Annie Small as a result of union with her husband Ambrose Butt;
- (f) Billy Boyd as a result of union with his wife Kathy Robertson;
- (g) 'King' Bob Robertson;
- (h) George Mamoose (also known as George Mamus);
- (i) Victoria John;
- (j) Charlie Boko;
- (k) Billy Chungo;
- (l) Annie Mullet, and of her parents Mickey and Nellie;
- (m) Jim Copo (Cooper) as a result of union with his wife Elsie;
- (n) Charlie James, brother of Tommy 'Flathead' Platt;
- (o) Nancy Boyd as a result of union with her husband Mickey (Monkey) Boyd (also known as Monkey Gordon);
- (p) Toby Horseboy;
- (q) Annie King, also known as Long Annie (wife of Paddy King), and of her brother Roy Stevens;
- (r) Old Lady Mapoon (wife of English Barkley) and of her daughter Alice Mark;
- (s) Dick York and of his brothers Larry York and Old Man Balrat;
- (t) Annie Densley, also known as Short Annie, and of her brother Joe Sullivan;
- (u) Paddy King;
- (v) Nellie Fox (also known as Nellie Greedy) and of her sister Mary Ann Johnson;
- (w) Annie Night Island (wife of Frederick Charles Mortenson), of Mary Ann and of Rosie Percy; and
- (x) Wally David.

2. Those persons adopted by any Northern Kaanju People referred to in item 1 above in accordance with traditional laws and customs.

### **MATTERS DETERMINED:**

### **THE COURT ORDERS BY CONSENT THAT:**

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

2. The Determination Area is comprised of Wuthathi country, Kuuku Ya'u country, Northern Kaanju country, and country shared jointly by the Wuthathi People and the Kuuku Ya'u People.

**THE COURT DETERMINES BY CONSENT THAT:**

4. The Determination Area is the land and waters described in Part A of Schedule 1, and depicted on the map in Part B of Schedule 1.

5. Native title exists in relation to the Determination Area described in Part A of Schedule 1.

6. The native title is held by:

(a) the Wuthathi People described in Schedule 2 in respect of the Wuthathi country within the Determination Area;

(b) the Kuuku Ya'u People described in Schedule 2 in respect of the Kuuku Ya'u country within the Determination Area;

(c) the Northern Kaanju People described in Schedule 2 in respect of the Northern Kaanju country within the Determination Area; and

(d) both the Wuthathi People described in Schedule 2 and the Kuuku Ya'u People described in Schedule 2, jointly, in respect of that part of the Determination Area shared by them jointly

("the native title holders").

7. Subject to paras 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 A of Schedule 1 are:

(a) other than in relation to Water, the rights to possession, occupation, use and enjoyment of the area to the exclusion of all others; and

(b) in relation to Water, the non-exclusive rights to:

(i) access and be present on and in the Water of the area;

(ii) hunt, fish and gather from the Water of the area; and

(iii) take and use the Water of the area,

for cultural, personal, domestic and communal purposes.

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

(a) the Laws of the State and the Commonwealth; and

(b) the traditional laws acknowledged and traditional customs observed by the native title holders.

9. The native title rights and interests referred to in para 7(b) 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 3.

12. The relationship between the native title rights and interests described in para 7 and the other interests described in Schedule 3 (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:

“High-Water Mark” means the ordinary high-water mark at spring tides;

“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; and

“Water” means:

- (a) water which flows, whether permanently or intermittently, within a river, creek or stream; and
- (b) any natural collection of water, whether permanent or intermittent.

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. Upon the determination taking effect, the native title is held by the common law holders, being the persons referred to in para 6 of the determination.

15. Within 12 months from the date of the determination, or such further time as the Court may allow, a representative of the common law holders must, by written notice to the Federal Court:

- (a) indicate whether the native title is to be held in trust; and
- (b) nominate a prescribed body corporate in accordance with s 56(2) or s 57(2) of the *Native Title Act 1993* (Cth).

16. In the event that no notice is given within the time specified in para 15, the matter is to be listed for further directions.

17. Until such time as there is a registered native title body corporate in relation to the Determination Area, any notices required under the *Native Title Act 1993* (Cth) or otherwise to be served on the native title holders or the common law holders may be served upon the Cape York Land Council Aboriginal Corporation ICN 1163, and such service shall be deemed to be sufficient.

## SCHEDULE 1

### DETERMINATION AREA

#### A. Description of Determination Area

The Determination Area comprises all of the land and waters described as Lot 152 on SP171834.

Lot 152 on SP171834 does not include any:

- (a) land and waters below the High-Water Mark; or
- (b) esplanade.

### MAP OF THE DETERMINATION AREA

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

## SCHEDULE 2

### NATIVE TITLE HOLDERS

#### The Wuthathi People

1. The descendants of:
  - (a) Pintharra;
  - (b) Johnson Moreton;
  - (c) Frank Wilson;
  - (d) Ida Temple (Waterbag);
  - (e) Moe Rie Warren;
  - (f) Innis Pascoe;
  - (g) Dinah;
  - (h) Ada Lancaster;
  - (i) Annie Punda (Athanamu);
  - (j) Nara Jira Para;
  - (k) Ela (Illa); and
  - (l) Eliza (wife of Tom Ware).
2. Those persons adopted by any Wuthathi People referred to in item 1 above in accordance with traditional laws and customs.

#### The Kuuku Ya'u People

1. The descendants of:
  - (a) Johnny (Yarakupi) Doctor and Nancy (Tawamulu) as a result of their union;
  - (b) Charlie Kanora as a result of union with his two wives Nelly and Jean;
  - (c) Tom 'Flathead' Platt (father of Johnny Pascoe);
  - (d) Charlie James (brother of Tom 'Flathead' Platt);
  - (e) Peter (Piramu) Pascoe (including adopted son Lawrence Fruit);
  - (f) Agnes (Puruwa) (wife of Jimmy Hobo);
  - (g) Bob Pascoe (brother of Annie Anderson);
  - (h) Annie Anderson (wife of Fred Charles Lancaster);
  - (i) Topsy (wife of John George Hollingsworth);
  - (j) Toby (Tupamaynaku) Accoom and Kitty (Tunpu) as a result of their union;
  - (k) Charlie Claudie (father of Charlie (Kutini) Giblet renamed after Hugh Giblet);
  - (l) Barney Claudie and Minnie (Chinka) Doctor as a result of their union;
  - (m) Hughie (Tantuki) Temple; and
  - (n) Annie Butcher.

2. Those persons adopted by any Kuuku Ya'u People referred to in item 1 above in accordance with traditional laws and customs.

### **Northern Kaanju People**

1. The descendants of:
  - (a) Billy Moreton and his son George Moreton Snr;
  - (b) Big Johnny Nguulpam Horseboy as a result of union with his two wives Nellie and Mary Anne;
  - (c) Tom 'Flathead' Platt;
  - (d) Old Lady Rosie (wife of Ambrose Butt and Old Paddy);
  - (e) Annie Small as a result of union with her husband Ambrose Butt;
  - (f) Billy Boyd as a result of union with his wife Kathy Robertson;
  - (g) 'King' Bob Robertson;
  - (h) George Mamoose (also known as George Mamus);
  - (i) Victoria John;
  - (j) Charlie Boko;
  - (k) Billy Chungo;
  - (l) Annie Mullet, and of her parents Mickey and Nellie;
  - (m) Jim Copo (Cooper) as a result of union with his wife Elsie;
  - (n) Charlie James, brother of Tommy 'Flathead' Platt;
  - (o) Nancy Boyd as a result of union with her husband Mickey (Monkey) Boyd (also known as Monkey Gordon);
  - (p) Toby Horseboy;
  - (q) Annie King, also known as Long Annie (wife of Paddy King), and of her brother Roy Stevens;
  - (r) Old Lady Mapoon (wife of English Barkley) and of her daughter Alice Mark;
  - (s) Dick York and of his brothers Larry York and Old Man Balrat;
  - (t) Annie Densley, also known as Short Annie, and of her brother Joe Sullivan;
  - (u) Paddy King;
  - (v) Nellie Fox (also known as Nellie Greedy) and of her sister Mary Ann Johnson;
  - (w) Annie Night Island (wife of Frederick Charles Mortenson), of Mary Ann and of Rosie Percy; and
  - (x) Wally David.

2. Those persons adopted by any Northern Kaanju People referred to in item 1 above in accordance with traditional laws and customs.

### **SCHEDULE 3**

#### **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 Cook Shire Council including any rights the Council, its employees, agents

and contractors have:

(a) Under its local government jurisdiction and functions contained in the *Local Government Act 2009* (Qld), under the *Land Protection (Pest and Stock Route Management) Act 2002* (Qld) and any other legislation, for that part of the Determination Area within its local government area as defined in the *Local Government Act 2009* (Qld); and

(b) To enter land described in para 1(a) in compliance with any legislative requirements regarding notice or otherwise to:

(i) exercise any of the rights and interests referred to in para 1(a);

(ii) inspect, maintain and repair any infrastructure facilities and other improvements; and

(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.

2. 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 the Determination Area, 1 page - A4, 28/04/2015

*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.*