

### **Schedule 5 – Areas Not Forming Part of the Determination Area**

The following areas of land and waters are excluded from the Determination Area as described in Part 1 of Schedule 4 and Part 2 of Schedule 4:

1. Those land and waters within the External Boundary which at the time the native title determination application was made were the subject of one or more Previous Exclusive Possession Acts, within the meaning of s 23B of the *Native Title Act 1993* (Cth), as 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 described in (1) above include:
  - (a) the Previous Exclusive Possession 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 to which none of ss 47, 47A or 47B of the *Native Title Act 1993* (Cth) applied; and
  - (b) the land and waters on 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 to which 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).
3. Those land and waters within the External Boundary on which, at the time the native title determination application was made, public works were validly constructed, established or situated after 23 December 1996, where s 24JA of the *Native Title Act 1993* (Cth) applies, and which wholly extinguished native title.
4. Those land and waters within the External Boundary which, at the time the native title determination application was made, were the subject of one or more Pre-existing Rights Based Acts, within the meaning of s 24IB of the *Native Title Act 1993* (Cth), which wholly extinguished native title.
5. Land and waters specifically excluded from QUD308/2014 Gulngay People native title determination application (QC2014/002) filed on 27 June 2014, being land and waters subject to the following determinations of native title:
  - QUD42/2004 Jirrbal People #3 (QCD2010/006), made on 8 October 2010;
  - QUD6003/2003 Djiru People #2 (QCD2011/005) made on 1 September 2011;
  - QUD6014/2001 Mamu People (QCD2013/005) made on 1 November 2013;and

- QUD741/2015 Girramay People #2 (QCD2018/003) made on 1 August 2018.