



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6006/2000
NNTT Number: QCD2017/004

Determination Name: [Anderson on behalf of the Wullli Wullli People v State of Queensland \(No 4\)](#)

Date(s) of Effect: 18/07/2017

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 18/07/2017

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Wullli Wullli Nation Aboriginal Corporation RNTBC
Trustee Body Corporate
PO Box 120
Red Hill Queensland 4059

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:

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

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

- (a) Tommy (father of Wonga Pope);
- (b) Jessie Fuller;

- (c) Grace (mother of Fanny Joyce);
- (d) Tilly (mother of Harry Blucher);
- (e) Jack Hornet Senior (father of Jack Hornet);
- (f) Jackanapes;
- (g) Thomas Clancy;
- (h) Maria (the mother of Isabella Hooper);
- (i) The unnamed adoptive father of Maggie McLean;
- (j) Mergwin Blay;
- (k) Amy (wife of John Bond);
- (l) Rosie (mother of John Barra);
- (m) Billy and Selina (parents of Jacob);
- (n) Jinnie (wife of George Logan); or
- (o) Ginalene (mother of Ernest Pope).

MATTERS DETERMINED:

THE COURT ORDERS BY CONSENT THAT:

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

THE COURT DETERMINES BY CONSENT THAT:

3. The Determination Area is the land and waters described in Schedule 1, and depicted in the map in 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 the Determination Area described in Parts 1 and 2 of Schedule 1.
5. The native title is held by the Wullli Wullli 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:
 - (a) other than in relation to Water, the right 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) hunt, fish and gather from the Water of the area;
- (ii) take and use the Natural Resources of the Water in the area; and
- (iii) take and use the Water of the area,

for personal, domestic and non-commercial communal purposes.

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 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, use, share and exchange 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;
- (j) hold meetings on the area; and
- (k) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.

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 paragraphs 6(b) 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;

“Local Government Act” has the meaning in the *Local Government Act 2009* (Qld);

“Local Government Area” has the meaning in the *Local Government Act 2009* (Qld);

“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, sand, gravel 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) 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);

“Reserve” means a reserve dedicated or taken to be a reserve under the *Land Act 1994* (Qld);

“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. The native title is held in trust.

15. The Wulli Wulli Nation Aboriginal Corporation (ICN: 8263), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:

- (a) be the prescribed body corporate for the purpose of ss 56(2)(b) and 56(3) of the *Native Title Act 1993* (Cth); and
- (b) perform the functions mentioned in s 57(1) of the *Native Title Act 1993* (Cth) after becoming a registered native title body corporate.

Schedule 1 - DETERMINATION AREA

A. Description of Determination Area

The Determination Area comprises all of the land and waters described in Parts 1 and 2 below, and depicted in the map, excluding the areas described in Schedule 2.

Part 1 - Exclusive Native Title Areas:

- (a) All of the land and waters described in the following table and depicted in dark blue on the determination map:

Area Description (at date of determination)	Determination map reference
Lot 32 on MPH22181*	Sheet 2
Lot 106 on MPH14020*	Sheet 2
Lot 211 on MPH14019*	Sheet 2

Lot 212 on MPH14019*	Sheet 2
Lot 224 on MPH14019*	Sheet 2
Lot 242 on MPH14019*	Sheet 2
Lot 49 on MPH14019*	Sheet 2
Lot 3 on DW542*	Sheet 2
Lot 4 on DW542*	Sheet 2
Lot 5 on DW542*	Sheet 2
Lot 6 on DW542*	Sheet 2
Lot 7 on DW542*	Sheet 2
Lot 158 on MPH14019*	Sheet 2
Lot 336 on MPH117*	Sheet 2
Lot 124 on MPH14020*	Sheet 2
Lot 43 on MPH22181*	Sheet 2
Lot 45 on MPH22181*	Sheet 2
Lot 46 on MPH22181*	Sheet 2
Lot 47 on MPH22181*	Sheet 2
Lot 326 on MPH115*	Sheet 2
Lot 38 on MPH14020*	Sheet 2
Lot 279 on SP104416*	Sheet 1
Lot 11 on USL36832*	Sheet 1
Lot 493 on DW218*	Sheet 1
Lot 497 on AP15544*	Sheet 1
Lot 542 on DW549*	Sheet 1

*denotes areas to which s 47B of the *Native Title Act 1993* (Cth) applies

Part 2 - Non-Exclusive Native Title Areas:

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

Area Description (at date of determination)	Determination map reference
Lot 1 on SP179686*	Sheet 1

*denotes an area to which s 47B of the *Native Title Act 1993* (Cth) applies

B. Map of Determination Area

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

Schedule 2 - AREAS NOT FORMING PART OF THE DETERMINATION AREA

The following areas of land and waters are excluded from the Determination Area.

1. 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 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).

Schedule 3 - NATIVE TITLE HOLDERS

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

- (a) Tommy (father of Wonga Pope);
- (b) Jessie Fuller;
- (c) Grace (mother of Fanny Joyce);
- (d) Tilly (mother of Harry Blucher);
- (e) Jack Hornet Senior (father of Jack Hornet);
- (f) Jackanapes;
- (g) Thomas Clancy;
- (h) Maria (the mother of Isabella Hooper);
- (i) The unnamed adoptive father of Maggie McLean;
- (j) Mergwin Blay;
- (k) Amy (wife of John Bond);
- (l) Rosie (mother of John Barra);
- (m) Billy and Selina (parents of Jacob);
- (n) Jinnie (wife of George Logan); or
- (o) Ginalene (mother of Ernest Pope).

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) the agreement between the Banana Shire Council and Desmond Dodd, Robert Bond, Robert Clancy, Drew Millar, Neil Saltner, Marjorie Reid, Elizabeth Law, Elizabeth Blucher, Annette Fuller, Celeste Williams, Ivan Saltner, Jeffrey Williams, Brian Clancy, Jill Wilson and Elliot Anderson on their own behalf and on behalf of the Wulli Wulli People QUD6006/00, registered on 29 January 2016; and
 - (b) the agreement between Ergon Energy Corporation Limited and Desmond Dodd, Robert Bond, Robert Clancy, Drew Millar, Neil Saltner, Marjorie Reid, Elizabeth Law, Elizabeth Blucher, Annette Fuller, Celeste Williams, Ivan Saltner, Jeffrey Williams, Brian Clancy, Jill Wilson and Elliot Anderson on their own behalf and on behalf of the Wulli Wulli People QUD6006/00, registered on 29 January 2016.

2. The rights and interests of Ergon Energy Corporation Limited 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); and
 - (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 Banana Shire Council as the local government for the Determination Area within its Local Government Area, including:
 - (a) its powers, functions, responsibilities and jurisdiction under a Local Government Act;
 - (b) its rights and interests under any interest in land or waters within the Determination Area including under any lease, license, access agreement, easement or reserve in the Determination Area;
 - (c) its rights to use, operate, maintain, replace, restore, remediate, repair and otherwise exercise all other rights as the owners and operators of infrastructure, structures, earthworks, access works, facilities and other improvements within the Determination Area;
 - (d) its rights under any agreements between the local governments and third parties which relate to land or water in the Determination Area; and

(e) the rights of its employees, agents and contractors to enter upon the Determination Area for the purpose of performing their powers and responsibilities under paragraphs (a) to (d).

4. The rights and interests of members of the public arising under the common law, including but not limited to any subsisting public right to fish.

5. 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.

6. 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 and the Commonwealth.

7. To avoid any doubt paragraphs 6(a) and 6(b) include the rights and interests of the State of Queensland in Reserves, the rights and interests of the trustees of those Reserves and of the persons entitled to access and use those Reserves for the respective purpose for which they are reserved.

REGISTER ATTACHMENTS:

1. Schedule 1 - B Map of Determination Area, 3 pages - A4, 18/07/2017

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.