



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD392/2014
NNTT Number: QCD2017/007

Determination Name: [Woosup on behalf of the Ankamuthi People #2 v State of Queensland](#)

Date(s) of Effect: 26/07/2017

Determination Outcome: Native title exists in the entire determination area

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

Determination Date: 26/07/2017

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Seven Rivers Aboriginal Corporation RNTBC
Trustee Body Corporate
PO Box 2496
Cairns Queensland 4870

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 Ankamuthi People #2 Native Title Claim Group being the persons descended from the apical ancestors described in Schedule 3 ("the native title holders").

A. The native title holders are the Ankamuthi People #2 Native Title Claim Group, being the persons descended by birth or adoption from the following apical ancestors:

- (a) Woobumu and Inmare;
- (b) Bullock (father of Mamoose Pitt, husband of Rosie/Lena Braidley);

- (c) Charlie Mamoose (father of Silas, Larry, Johnny and Harry Mamoose);
- (d) Charlie Seven River;
- (e) Toby Seven River (father of Jack Toby);
- (f) Asai Charlie;
- (g) Sam and Nellie (parents of George Stephen);
- (h) Mammus/Mamoos/Mark/Mamoose and his siblings Peter and Elizabeth;
- (i) Charlie Maganu (husband of Sarah McDonnell);
- (j) Polly (wife of Wautaba Charlie Ropeyarn).

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 determination map attached to Schedule 1.
4. Native title exists in relation to that part of the Determination Area described in Part 1 of Schedule 1.
5. The native title is held by the Ankamuthi People #2 Native Title Claim Group being the persons descended from the apical ancestors described in Schedule 3 ("the native title holders").
6. Subject to paragraphs 7, 8 and 9 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) 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 cultural, personal, domestic and communal purposes.
7. 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 agreement referred to in paragraph 1 of Schedule 4.
8. The native title rights and interests referred to in paragraph 6 do not confer possession, occupation, use or enjoyment to the exclusion of all others.
9. 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).
10. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 4.
11. The relationship between the native title rights and interests described in paragraph 6 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.

12. For the avoidance of doubt, the relationship between the native title rights and interests described in paragraph 6 and the other interests of RTA Weipa Pty Ltd and Rio Tinto Aluminium Limited in paragraph B of Schedule 4 is that on the enactment of the *Comalco Act* in 1957, the making of the Comalco Agreement, the grant of Special Bauxite Mining Lease 1 or the registration of the WCCCA, the Comalco Act, the Comalco Agreement, the conferral of the Comalco Interests, the performance of the Comalco Activities or the WCCCA, whether done before or after the date of this determination, prevail over the native title rights and interests to the extent of any inconsistency.

13. For the avoidance of doubt, the relationship between the native title rights and interests described in paragraph 6 and the other interests of Rio Tinto Aluminium Limited in paragraph B of Schedule 4 is that the other interests continue to have effect and the rights conferred by or held under those other interests (including new rights and interests conferred pursuant to those other interests after the date of this determination) may be exercised notwithstanding the existence of the native title rights and interests, and any activity that is required or permitted by or held under, and done in accordance with, the other interests (including new rights and interests conferred pursuant to the rights and interests after the date of this determination) or any activity that is associated with or incidental to, such an activity, prevails over the native title rights and interests and any exercise of the native title rights and interests, but, subject to any application of s 24JA of the *Native Title Act 1993* (Cth), does not extinguish them.

14. For the avoidance of doubt, the relationship between the native title rights and interests described in paragraph 6 and the other interests of Alcan South Pacific Pty Ltd in paragraph (1)(a) of Schedule 4 is that the other interests continue to have effect and the rights conferred by or held under those other interests (including new rights and interests conferred pursuant to those other interests after the date of this determination) may be exercised notwithstanding the existence of the native title rights and interests, and any activity that is required or permitted by or held under, and done in accordance with, the other interests (including new rights and interests conferred pursuant to the rights and interests after the date of this determination) or any activity that is associated with or incidental to, such an activity, prevails over the native title rights and interests and any exercise of the native title rights and interests, but, subject to any application of s 24JA of the *Native Title Act 1993* (Cth), does not extinguish them.

DEFINITIONS AND INTERPRETATION

15. In this determination, unless the contrary intention appears:

“Alcan Act” has the meaning given in paragraph (1)(a) of Schedule 4;

“Alcan Agreement” has the meaning given in paragraph (1)(a) of Schedule 4;

“Comalco Act” has the meaning given in paragraph B of Schedule 4;

“Comalco Activities” has the meaning given in the WCCCA;

“Comalco Agreement” has the meaning given in paragraph B of Schedule 4;

“Comalco Interests” has the meaning given in the WCCCA;

“External Boundary” means the boundary described in Part 2 of Schedule 1;

“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;

“Natural Resources” means:

- (a) animals;
- (b) plants; and
- (c) charcoal, wax, resin, clay, soil, sand, shell, gravel, rock or other such material naturally occurring in the land and waters of the Determination Area,

but does not include:

- (d) animals that are the private personal property of another;
- (e) crops that are the private personal property of another; and
- (f) 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) tidal water.

“WCCCA” has the meaning given in Note F.

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:

16. Upon the determination taking effect:

- (a) The native title is held in trust;
- (b) The Seven Rivers Aboriginal Corporation (ICN: 8522), incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:
 - (i) be the prescribed body corporate for the purpose of ss 56(2)(b) and 56(3) of the *Native Title Act 1993* (Cth); and
 - (ii) 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

Description of Determination Area

Part 1 - Non-Exclusive Areas

All of the land and waters within the External Boundary, and depicted in light blue on the determination map, excluding the areas described in Schedule 2.

Part 2 - External Boundary

The External Boundary is described below and is depicted in black on the determination map:

Commencing at the intersection of the centreline of the Ducie River and the eastern boundary of Lot 8 on MP14466 and extending generally north westerly along the centreline of that river to its mouth at Port Musgrave;

then north westerly to the southernmost point of Lot 9 on SP204113, being a point on the northern bank of the Ducie River; then generally north easterly and generally south easterly along the northern bank of that River to the eastern boundary of Lot 8 on MP14466; then southerly along the boundary of that lot back to the point of commencement.

Note

Data Reference and source

Application boundary data compiled by National Native Title Tribunal

Cadastre data sourced from Department of Natural Resources and Mines, Qld (November, 2016).

Rivers / Creeks / Ports based on cadastral data (November 2016) - else Topographic vector data is © Commonwealth of Australia (Geoscience Australia) 2008.

A. Map of Determination Area

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

SCHEDULE 2

AREAS NOT FORMING PART OF THE DETERMINATION AREA

For the avoidance of doubt, the areas described below are excluded from the Determination Area as they could not be claimed in accordance with s 61A of the *Native Title Act 1993* (Cth):

The land or 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/or s 23B(7) 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

A. The native title holders are the Ankamuthi People #2 Native Title Claim Group, being the persons descended by birth or adoption from the following apical ancestors:

- (a) Woobumu and Inmare;
- (b) Bullock (father of Mamoose Pitt, husband of Rosie/Lena Braidley);
- (c) Charlie Mamoose (father of Silas, Larry, Johnny and Harry Mamoose);
- (d) Charlie Seven River;
- (e) Toby Seven River (father of Jack Toby);
- (f) Asai Charlie;
- (g) Sam and Nellie (parents of George Stephen);
- (h) Mammus/Mamoos/Mark/Mamoose and his siblings Peter and Elizabeth;
- (i) Charlie Maganu (husband of Sarah McDonnell);
- (j) Polly (wife of Wautaba Charlie Ropeyarn).

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:

- A. The rights and interests of the parties under the WCCCA.

B. The rights and interests of RTA Weipa Pty Ltd and Rio Tinto Aluminium Limited (and any successors in title) under:

(a) the *Commonwealth Aluminium Corporation Pty Limited Agreement Act 1957* (Qld) (“Comalco Act”) and the Commonwealth Aluminium Corporation Pty Limited Agreement (which is given statutory force by the Comalco Act) (“Comalco Agreement”) to utilise, be present on, mine and/or perform other activities on the Determination Area, including:

- (i) the Comalco Interests and the rights to perform the Comalco Activities; and
- (ii) the rights in the Comalco Agreement with respect to:
 - (A) access;
 - (B) areas within the “bauxite field” (as defined in the Comalco Agreement) or the “western bauxite field” (as defined in the Comalco Agreement);
 - (C) areas adjacent to, in the vicinity of or outside the bauxite field or the western bauxite field, being any part of the Determination Area;
 - (D) land outside Mining Lease No. 7024; and
 - (E) foreshores, tidal land and tidal water;
- (b) the WCCCA; and
- (c) Mining Lease No. 7024.

C. The rights and interests of Alcan South Pacific Pty Ltd (and any successors in title) under:

(a) the *Alcan Queensland Pty Limited Agreement Act 1965* (Qld) (“Alcan Act”) and the agreement made and varied pursuant to the Alcan Act (which is given statutory force by the Alcan Act) (“Alcan Agreement”) to utilise, be present on, mine and/or perform other activities on, and to obtain other rights and interests with respect to, the Determination Area, including the rights in the Alcan Agreement with respect to:

- (i) access;
- (ii) areas within the “bauxite field” (as defined in the Alcan Agreement);
- (iii) areas adjacent to, in the vicinity of or outside the bauxite field, being any part of the Determination Area;
- (iv) areas on or in the vicinity of the Ducie River and its catchment area;
- (v) areas adjacent to Mining Lease No. 7031; and
- (vi) a site on Port Musgrave; and
- (b) Mining Lease No. 7031.

D. The rights and interests of members of the public arising under the common law, including but not limited to the following:

- (a) any subsisting public right to fish; and
- (b) the public right to navigate.

E. So far as confirmed pursuant to s 212(2) of the *Native Title Act 1993* (Cth) and s 18 of the *Native Title (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) coastal waters;

- (d) beaches;
 - (e) stock routes; and
 - (f) areas that were public places at the end of 31 December 1993.
- F. 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.

SCHEDULE 5

EXTRACTS OF THE WESTERN CAPE COMMUNITIES CO-EXISTENCE AGREEMENT DATED 14 MARCH 2001

[See NNTR attachment 2: "Schedule 5 - Extracts of the Western Cape Communities Co-existence Agreement dated 14 March 2001"]

REGISTER ATTACHMENTS:

1. Schedule 1 A - Map of Determination Area, 1 page - A4, 26/07/2017
2. Schedule 5 - Extracts of the Western Cape Communities Co-existence Agreement dated 14 March 2001, 30 pages - A4, 26/07/2017

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.