



# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): QUD460/2018  
NNTT Number: QCD2019/008

**Determination Name:** [Cronin on behalf of the Butchulla People \(land & sea claim #2\) v State of Queensland](#)

**Date(s) of Effect:** 13/12/2019, 11/12/2020

**Determination Outcome:** Native title exists in the entire determination area

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

**Determination Date:** 13/12/2019

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

Not Applicable

### REGISTERED NATIVE TITLE BODY CORPORATE:

Butchulla Native Title Aboriginal Corporation  
Agent Body Corporate  
C/-QSNTS  
PO Box 10832, Adelaide Street  
Brisbane Queensland 4000

*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](http://www.oric.gov.au)*

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

7. The native title is held by the Butchulla People described in Schedule 1 (the "Native Title Holders").

#### Schedule 1 – Native Title Holders

1. The Native Title Holders for the Determination Area are the Butchulla People who are the biological descendants of the following people:

- (a) Father / Mother of Gracie and Maudie Daramboi;
- (b) Mother of Jessie Aldridge's mother and Lappy;

- (c) Mother of Charles Richards;
- (d) Garry Owens;
- (e) Annie Morris / Anna Gala *nee* Morris;
- (f) Granny Polcus / Jenny Brown;
- (g) Willy Brown / Mamboo / Namboo;
- (h) George Gundy;
- (i) Willy Wondunna;
- (j) Jack Morris;
- (k) Mary Ann (mother of Susan Rooney);
- (l) Roger Bennett;
- (m) Percy Coulson;
- (n) Mother of John and Rosie Broome;
- (o) Mother of Clara, Henry, Percy and Lucy Wheeler.

**MATTERS DETERMINED:**

**THE COURT ORDERS THAT:**

1. There be a determination of native title (the "Determination") in the terms set out below for the Determination Area other than for Lot 2 on Plan AP6551 and Lot 3 on Plan AP6551.
2. Subject to paragraph 3 of this Order, on 11 December 2020, there be a determination of native title (also, the "Determination") in the terms set out below for Lot 2 on Plan AP6551 and Lot 3 on Plan AP6551.
3. The Applicant and the State of Queensland have liberty to apply to the Court on or before 13 November 2020 in relation to paragraph 2 of this Order.

**THE COURT DETERMINES THAT:**

5. The determination area is the land and waters described in Schedule 4 and depicted in the maps attached to Schedule 6 to the extent those areas are within the External Boundary and not otherwise excluded by the terms of Schedule 5 (the "Determination Area"). To the extent of any inconsistency between the written description and the maps, the written description prevails.
6. Native title exists in the Determination Area.
7. The native title is held by the Butchulla People described in Schedule 1 (the "Native Title Holders").
8. Subject to paragraphs 12, 13 and 14 of this Order the nature and extent of the native title rights and interests in relation to that part of the Determination Area described in Part 1 of Schedule 4 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.
9. Subject to paragraphs 12, 13 and 14 of this Order, the nature and extent of the native title rights and interests in relation to that part of the Determination Area described in Part 2 of Schedule 4 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, and participate in, rituals and ceremonies on the area, including those relating to initiation, birth and death;
- (g) be buried on 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, cultural, and spiritual attributes of the area;
- (j) hold meetings on the area; and
- (k) light fires on the area for personal and domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.

10. Subject to paragraphs 12, 13 and 14 of this Order, the nature and extent of the native title rights and interests in relation to that part of the Determination Area described in Part 3 of Schedule 4 are the non-exclusive rights to:

- (a) access, be present on, move about on and travel over the area;
- (b) hunt, fish and gather on the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (c) take, use, share and exchange Natural Resources from the land and waters of the area for personal, domestic and non-commercial communal purposes;
- (d) take and use the Water of the area for personal, domestic and non-commercial communal purposes;
- (e) conduct, and participate in, rituals and ceremonies on the area, including those relating to initiation, birth and death;
- (f) 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; and
- (g) teach on the area the physical, cultural, and spiritual attributes of the area.

11. Subject to paragraphs 12, 13 and 14 of this Order, the nature and extent of the native title rights and interests in relation to that part of the Determination Area described in Part 4 of Schedule 4 is the non-exclusive right to protect the area from physical harm.

12. 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.

13. The native title rights and interests referred to in paragraphs 8(b), 9, 10 and 11 of this Order do not confer possession, occupation, use or enjoyment to the exclusion of all others.

14. 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).

15. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) as they exist at the date of this Determination are set out in Schedule 2 (the "Other Interests").

16. The relationship between the native title rights and interests described in paragraphs 8, 9, 10 and 11 of this Order

and 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.

17. The native title is not held in trust.

18. The Butchulla Native Title Aboriginal Corporation ICN 9145, 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.

## DEFINITIONS AND INTERPRETATION

19. In this Determination, unless the contrary intention appears:

"External Boundary" means the area described in Schedule 3;

"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;

"Local Government Area" has the meaning given 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:

(c) minerals as defined in the *Mineral Resources Act 1989* (Qld); or

(d) 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; and

(d) tidal water;

"Wolf Rock Area" means the area described in Part 4 of Schedule 4.

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).

**REGISTER ATTACHMENTS:**

1. Schedule 2 – Other Interests in the Determination Area, 4 pages - A4, 13/12/2019
2. Schedule 3 – External Boundary, 3 pages - A4, 13/12/2019
3. Schedule 4 – Description of Determination Area, 38 pages - A4, 13/12/2019
4. Schedule 5 – Areas Not Forming Part of the Determination Area, 3 pages - A4, 13/12/2019
5. Schedule 6 – Maps of Determination Area, 62 pages - A4, 13/12/2019

*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.*