

Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): QUD6014/2001
NNTT Number: QCD2013/005

Determination Name: Stephen Brooks & Ors on behalf of the Mamu People v State of Queensland & Ors

Date(s) of Effect: 23/04/2014

Determination Outcome: Native title exists in parts of the determination area

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

Determination Date: 01/11/2013

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

This determination was handed down by the Federal Court on 1 November 2013 and was conditional on the registration of five Indigenous Land Use Agreements:

QI2012/044 Cairns Regional Council - Mamu People ILUA
QI2010/019 Ma:Mu Cassowary Coast Regional Council Area ILUA
QI2010/020 Ma:Mu Tablelands Regional Council Area ILUA
QI2011/067 Mamu People and Ergon Energy ILUA
QI2013/084 Mamu Protected Areas ILUA

All of the ILUAs were registered on the Register of Indigenous Land Use Agreements as at 23 April 2014.

The conditions attached to the determination have therefore now been met and the determination came into effect on 23 April 2014.

REGISTERED NATIVE TITLE BODY CORPORATE:

Mamu Aboriginal Corporation RNTBC
Agent Body Corporate
PO Box 50
Innisfail Queensland 4860

COMMON LAW HOLDER(S) OF NATIVE TITLE:

The native title holders are those Aboriginal People who are Mamu People on the basis of descent from:-

(a) one of the following persons:

1. Bambun; or
2. Paddy Brooks (Dungginyu) (including descendants of his relationship with Maggie); or
3. Bombetta Wa-Way (aka Bombita, Bumbida, Betsy, Betty); or
4. Emily Purcell/Deagon; or
5. Nellie Deagon; or
6. Polly Watson; or
7. Kitty Christmas; or
8. Annie Innisfail; or
9. Polly Armie (Armi); or
10. Lizzie Romelo; or
11. William Weare; or
12. Sandy Millay Millay; or

(b) a relationship between the following persons:

1. Charlie Deagon and Kitty; or
2. Charlie Deagon and Jinny (aka Jenny, Jeanie).

**MATTERS DETERMINED:
BY CONSENT THE COURT DETERMINES THAT:**

5. The determination area is the land and waters described in Schedule 1, and shown on the plans attached to Schedule 1 (the "Determination Area").
6. Native title exists in relation to that part of the Determination Area described in Part 1 and Part 2 of Schedule 1.
7. The native title is held by the Mamu People described in Schedule 2 (the "native title holders").
8. Subject to paragraphs 10, 11 and 12 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 rights to possession, occupation, use and enjoyment of the area to the exclusion of all others;
 - (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 of the area; and
 - (iii) take and use the Water of the area,for personal, domestic and non-commercial communal purposes.
9. Subject to paragraphs 10, 11 and 12 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) to camp on the area and, for that purpose, erect temporary shelters on the area;
 - (c) hunt, fish and gather on the land and waters of the area for personal, domestic, and non-commercial communal purposes;
 - (d) take and use 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) 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;
 - (h) teach on the area the physical and spiritual attributes of the area;
 - (i) light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation; and
 - (j) be buried and bury native title holders within the area.
10. 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.
11. The native title rights and interests referred to in paragraphs 8(b) and 9 do not confer possession, occupation, use or enjoyment to the exclusion of all others.
12. There are no native title rights and interests 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).
13. The nature and extent of any other interests in relation to the Determination Area (or respective parts thereof) are set out in Schedule 3.
14. The relationship between the native title rights and interests described in paragraphs 8 and 9 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.
15. 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 Acts**” has the meaning given in the *Local Government Act 2009* (Qld);

“**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 Determination Area; and
- (b) any clays, soil, sand, gravel or rock 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:

- i. animals that are the private personal property of another;
- ii. crops that are the private personal property of another;
- iii. 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;
- (b) any natural collection of water, whether permanent or intermittent;
- (c) water from an underground water source; and
- (d) tidal water.

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 FURTHER DETERMINES THAT:

16. Upon paragraphs 5-15 taking effect:

- (a) The native title is not held in trust; and
- (b) The Mamu Aboriginal Corporation, ICN 3789, incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:
 - i. be the prescribed body corporate for the purpose of s 57(2) of the *Native Title Act 1993* (Cth); and
 - ii. perform the functions mentioned in s 57(3) 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, to the extent that they are within the External Boundary Description as described in Part 3 below, excluding any area of land and waters on which any public work as defined in s 253 of the *Native Title Act 1993* (Cth) (the “NTA”) is constructed, established or situated, and to which ss 23B(7) and 23C(2) of the NTA and/or s 23B(7) of the NTA 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 NTA.

Part 1 Exclusive Areas

[See NNTR attachment 1: “Schedule 1 - Determination Area - Part 1 - Exclusive Areas”]

Part 2 Non-Exclusive Areas

[See NNTR attachment 2: “Schedule 1 - Determination Area - Part 2 - Non-Exclusive Areas”]

Part 3 External Boundary Description

Commencing at the centreline of the mouth of Maria Creek, and extending generally north westerly and generally south westerly along the centreline of that creek and North Maria Creek to its source at approximately Longitude 145.970665° East; then north westerly to the intersection of the centreline of South Liverpool Creek and an eastern boundary of Japoon National Park (Lot 55 NPW896); then northerly and generally north westerly along

the boundaries of that National Park to the northernmost corner of former Lot 196 NR1114; then generally south easterly, generally westerly and generally north easterly along the eastern, southern and western boundaries of that Lot to again a point on a northern boundary of Japoon National Park (Lot 55 NPW896), being the southernmost corner of Lot 36 NR1578; then generally westerly and generally northerly along the northern and eastern boundaries of that National Park to the centreline of Liverpool Creek; then generally westerly and generally southerly along the centreline of that creek to the eastern boundary of Lot 66 on NPW890; then generally north westerly along the boundaries of that Lot to approximately Longitude 145.771231° East, being the mountain peak shown as elevation 705 on 1:100,000 topographic map 8062 "Tully"; then north westerly to the peak of Mount Father Clancy; then continuing north westerly to the intersection of the Milla Milla Malanda Road and the centreline of a tributary of Dirran Creek at approximately Longitude 145.578118° East, Latitude 17.483773° South; then generally north easterly along the centreline of that tributary and the centreline of Dirran Creek to the prolongation of the southern bank of the Johnstone River; then generally south easterly along that bank to its intersection with the north eastern corner of Lot 425 on NR1349; then easterly along the prolongation of the northern boundary of that lot to the northern bank of the Johnstone River; then north westerly to the southernmost corner of Lot 4 on Native Title Determination Plan AP14230 (native title determination QC6027/99 Ngadjon Jii People 2 (QC99/030)); then easterly along the southern boundary of that determination to the south west corner of Lot 335 on NR1424; then easterly to the south western corner of Lot 1 on Native Title Determination Plan AP14230 (native title determination QC6027/99 Ngadjon Jii People 2 (QC99/030)); then generally easterly along the southern boundary of that determination and the centrelines of Kiandra Creek and Russell River to the western boundary of the Cairns Regional Council Local Government Area; then generally southerly along that regional council boundary to the watershed of a range at approximately Latitude 17.466809° South; then generally south westerly along that watershed to a point easterly of Twin Pinnacles at Longitude 145.809977° East, Latitude 17.484304° South; then south easterly along the watershed of the Francis Range (Ridgeline) to the intersection of the western boundaries of the Cassowary Coast Regional Council and Cairns Regional Council Local Government Areas; then generally easterly, generally north easterly and generally south easterly along the boundaries of those regional councils to the peak of Mount Chalmynia; then north easterly to the centre of the head waters of a tributary of Canal Creek at approximately Longitude 145.922756° East, Latitude 17.481827° South; then generally north easterly along the centreline of that tributary and the centreline of Canal Creek to the prolongation westerly of the northern most boundary of Lot 3 SP109846; then easterly along that prolongation to a southern boundary of Eubenangee Swamp National Park (Lot 157 NPW880); then generally easterly along the southern boundaries of that National Park to the south western corner of Lot 83 NR4378; then north easterly to the north eastern corner of Lot 91 NR16, being also the boundary of Ella Bay National Park (Lot 1024 NPW151); then generally westerly, generally north westerly and generally north easterly along the western boundaries of that National Park to the eastern most corner of Lot 49 USL21851; then generally north easterly along the watershed (Ridgeline) of the Seymour Range to the High Water Mark on the Australian coastline at Latitude 17.387991° South; then generally southerly along that High Water Mark of the coastline back to the commencement point.

B. Map of Determination Area

[See NNTR attachment 3: "Schedule 1 - Map of Determination Area"]

SCHEDULE 2 - NATIVE TITLE HOLDERS

The native title holders are those Aboriginal People who are Mamu People on the basis of descent from:-

- (a) one of the following persons:
1. Bambun; or
 2. Paddy Brooks (Dungginyu) (including descendants of his relationship with Maggie); or
 3. Bombetta Wa-Way (aka Bombita, Bumbida, Betsy, Betty); or
 4. Emily Purcell/Deagon; or
 5. Nellie Deagon; or
 6. Polly Watson; or
 7. Kitty Christmas; or
 8. Annie Innisfail; or
 9. Polly Armie (Armi); or

10. Lizzie Romelo; or
 11. William Weare; or
 12. Sandy Millay Millay; or
- (b) a relationship between the following persons:
1. Charlie Deagon and Kitty; or
 2. Charlie Deagon and Jinny (aka Jenny, Jeanie).

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 parties under the following indigenous land use agreements:
 - (a) Niree Appo, Stephen Brooks, John Edwards, Alfred Joyce, Robert Major, Victor Maund, Dean Purcell and Billy Tinkum on their own behalf and on behalf of the Mamu People (QUD6014/2001) and on behalf of the Mamu Aboriginal Corporation ICN 3789 and the Cairns Regional Council as parties to the Cairns Regional Council ILUA dated 9 March 2012; and
 - (b) Niree Appo, Stephen Brooks, John Edwards, Alfred Joyce, Robert Major, Victor Maund, Dean Purcell and Billy Tinkum on their own behalf and on behalf of the Mamu People (QUD6014/2001) and the Cassowary Coast Regional Council as parties to the Cassowary Coast Regional Council ILUA registered on 15 November 2010; and
 - (c) Niree Appo, Stephen Brooks, John Edwards, Alfred Joyce, Robert Major, Victor Maund, Dean Purcell and Billy Tinkum on their own behalf and on behalf of the Mamu People (QUD6014/2001) and the Tablelands Regional Council as parties to the Tablelands Regional Council ILUA registered on 15 November 2012; and
 - (d) Niree Appo, Stephen Brooks, John Edwards, Alfred Joyce, Robert Major, Victor Maund, Dean Purcell and Billy Tinkum on their own behalf and on behalf of the Mamu People (QUD6014/2001) and the Mamu Aboriginal Corporation ICN 3789 and Ergon Energy Corporation Limited (ABN 50 087 646 062) as parties to the Ergon Energy ILUA registered on 16 May 2012.
 - (e) Stephen Brooks, Anthony Edwards, Henry Epong, Brenda Matheson, Alfred Joyce, Victor Maund and Dean Purcell on their own behalf and on behalf of the Mamu People (QUD6014/2001) and the Mamu Aboriginal Corporation ICN 3789 and the State of Queensland as parties to the Mamu Protected Areas ILUA.
2. The rights and interests of the Cairns Regional Council ("Council") under "Local Government Acts" as defined in the *Local Government Act 2009* (Qld) which apply to the Determination Area including any right the Council or its employees or agents have:
 - (a) as owner and operator of infrastructure, facilities and other improvements which are in the Determination Area as at the date of this determination; and
 - (b) to enter and exercise rights within the Determination Area in accordance with the *Local Government Act 2009* (Qld).
3. The rights and interests of the Cassowary Coast Regional Council for that part of the Determination Area within its Local Government Area, including:
 - (i) as the owner and operator of infrastructure, facilities and other improvements which are in the Determination Area as at the date of this Determination;
 - (ii) the right to enter the Determination Area and exercise its powers and responsibilities under Local Government Acts; and
 - (iii) under any lease, licence, access agreement, easement, Reserve or other interest in the Determination Area.

4. The rights and interests of the Tablelands Regional Council for that part of the Determination Area within its Local Government Area, including:
 - (i) as the owner and operator of infrastructure, facilities and other improvements which are in the Determination Area as at the date of this Determination;
 - (ii) the right to enter the Determination Area and exercise its powers and responsibilities under Local Government Acts; and
 - (iii) under any lease, licence, access agreement, easement, Reserve or other interest in the Determination Area.
5. The rights and interests of Ergon Energy Corporation Limited (ABN 50 087 646 062):
 - (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.
6. The rights and interests of Telstra Corporation Limited:
 - (a) as the owner or operator of telecommunications facilities within the Determination Area;
 - (b) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act 1975* (Cth), the *Australian Telecommunications Corporation Act 1989* (Cth), the *Telecommunications Act 1991* (Cth) and the *Telecommunications Act 1997* (Cth), including rights:
 - i) to inspect land;
 - ii) to install and operate telecommunications facilities; and
 - iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities;
 - (c) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Determination Area in performance of their duties; and
 - (d) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Determination Area.
7. The rights and interests of the State of Queensland in Reserves, the rights and interests of the persons in whom the Reserves are vested, including the Cassowary Coast Regional Council and the Tablelands Regional Council, and the rights and interests of members of the public and other persons entitled to access and use those Reserves for the respective purpose for which they are reserved.
8. The rights and interests of the State of Queensland and the Cassowary Coast Regional Council and the Tablelands Regional Council as the local government for the Local Government Area in which any dedicated road is situated, to access, use, operate, maintain and control the dedicated roads in the Determination Area and the rights and interests of the public to use and access the dedicated roads.
9. 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 the 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;
 - (da) stock routes;
 - (e) areas that were public places as at the end of 31 December 1993.
10. The rights and interests of the holder of any authority, licence, permit or permission granted under the *Fisheries Act 1994* (Qld) or any Fisheries Regulation made under that Act that authorises a commercial fishing operation in the waters of the Determination Area.
 11. The rights and interests of the holders of any leases, licences, reservations, permits, easements or authorities or other instruments granted or issued pursuant to the *Land Act 1994* (Qld) and subordinate legislation as may be current at the date of this determination.
 12. The rights and interests of holders of any permits, claims, licenses or leases under the *Mineral Resources Act 1989* (Qld) and any subordinate legislation, declarations or management plans made under that Act.
 13. The rights and interests of the holders of any licences, permits or allocations, under the *Water Act 2000* (Qld) and any relevant regulations or subordinate legislation made under that Act.
 14. The rights and interests of the State of Queensland pursuant to the *Nature Conservation Act 1992* (Qld) and any subordinate legislation relating to the use and management of the Determination Area.
 15. The rights and interests of the holders of any leases, agreements, licenses, permits or authorities granted under the *Nature Conservation Act 1992* (Qld).
 16. Any other rights and interests held by the State of Queensland or Commonwealth, or by reason of the force and operation of the Laws of the State and the Commonwealth, as may be current at the date of this determination.

REGISTER ATTACHMENTS:

1. Schedule 1 - Determination Area - Part 1 - Exclusive Areas, 5 pages - A4, 01/11/2013
2. Schedule 1 - Determination Area - Part 2 - Non-Exclusive Areas, 5 pages - A4, 01/11/2013
3. Schedule 1 - Map of Determination Area, 10 pages - A4, 01/11/2013

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.