

SURVEYING CHALLENGES TO DELIVER TENURE FOR THE EASTERN KUKU YALANJI PEOPLE'S NATIVE TITLE DETERMINATION IN THE WET TROPICS OF FAR NORTH QUEENSLAND

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FIG Sydney 2010 Commission 7
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First Settlers – North Queensland Wet Tropics

- Gregory M McLennan in 1883 was sent by the Surveyor General to survey settlers farms in the Daintree Area. At the time these settlers were considered to be the first land owners in this hostile but beautiful area.
- On 3 June, 1992, the High Court of Australia (*Mabo v Queensland (No.2)* 1992) delivered its landmark Mabo decision which rewrote the Australian common law. Put simply, the decision said that **under Australian law, Indigenous people have rights to land** - rights that existed before colonisation and which still exist. This right is called Native Title.
- The *Aboriginal Land Act 1991 (Qld)* (ALA) recognise the spiritual, social, cultural and economic importance of land to Aboriginal and Torres Strait Islander people of Queensland and to rectify past injustices.
- The *Native Title Act 1993 (Cwlth)* was enacted as a result of the decision made by the High Court of Australia in *Mabo v Queensland (No.2)* 1992.

Eastern Kuku Yalanji Native Title Claim

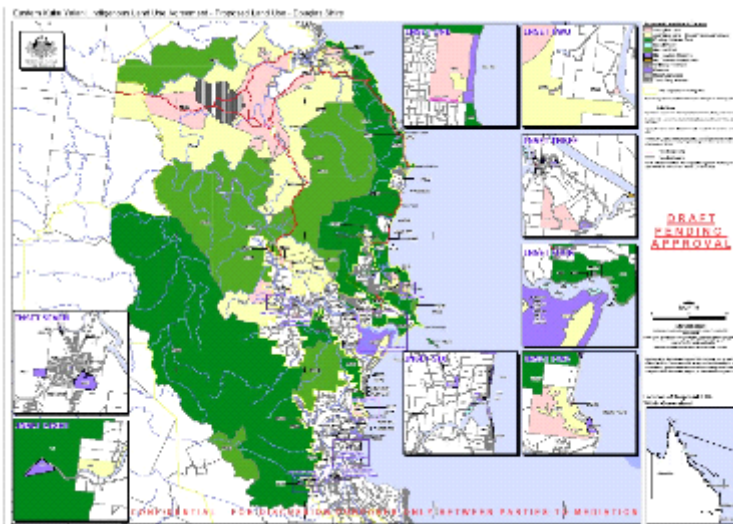
- In late 1994, the Eastern Kuku Yalanji People lodged a native title application over approximately 144,000 hectares (ha) of land within their traditional country in Far North Queensland.
- In April 2007 after ten years of negotiation, the Queensland Government concluded a package of ILUAs with the Eastern Kuku Yalanji People and other stakeholders over approximately 230,000 ha. The National Native Title Tribunal registered all fifteen (15) ILUAs in October 2007.

Eastern Kuku Yalanji ILUA Implementation Project

- High Priority of the Queensland State Government
- Yalanji consists of 10 separate ILUA's personally delivered by the Premier & covers parts of 2 local authority shires - Cairns and Cook
- Culmination of 10 years of Negotiations
- First Native Title Claim after the Mabo High Court Decision
- Covers one of the most sensitive environmental areas (the Wet Tropics) of Queensland
- Many areas of high tourist visitations
- Implementation over 3 years 2007 -2010

Eastern Kuku Yalanji Tenure Actions and objectives

- 72 Aboriginal Land Act Freehold Deeds
- 20 Land Act Freehold Grants
- 2 additions to existing freehold
- 1 Lease Amendment
- 5 Easements
- 1 Term Perpetual Lease
- 74 road closure or opening actions
- 1 OL & 1 P/O Amendment Amend
- 30 New and 5 Reserve amendments
- 2 Trustee Leases
- Security
- Economic Prosperity
- Opportunity
- Land Management (Nat Parks)
- Future Development
- More Secure Tenure
- Public Assess
- Conservation both Env and cultural
- Traditional Rights
- Surrender of Native Title



Adopting Suitable Boundary Definitions and Methodologies

- Queensland Surveying Standards
 - Freehold parcels generally required to be fully surveyed for grant
- Variations under the Standards
 - Policy for Surveys in remote difficult Areas and ALA boundaries
- Low Risk inaccessible boundaries
 - Common Boundaries with National Park areas and freehold areas that are encumbered with conservation areas considered low risk.
- Public Reserves in high visitation areas require on ground definition.
- Survey methods a combination of standard traverse and GNSS techniques

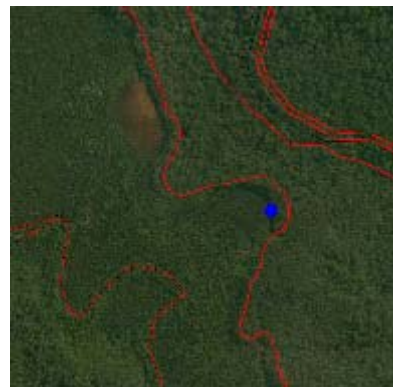
Eastern Kuku Yalanji Survey Challenges

- Private Sector surveyors and Queensland Departmental surveyors from around the state involved in field activities including our young surveyors who have gained valuable experience.
- Surveys were in extremely difficult terrain mostly in heavily vegetated areas and reinstatement over pre 1900 cadastre.
- Original pre 1900 surveys methods included chain and theodolite, circumferenter and perambulator, and compass and tape or pace.
- Other impediments included: crocodiles in many areas, deadly snakes and spiders, a charging cassowary, stinging trees, wait-a-while vine, marine and freshwater swamps, leeches, wasps, steep precipitous slopes etc. (A uniquely beautiful and challenging environment.)
- All survey plans to be completed by end of May 2010
- Poor boundary definition from the negotiation processes.

Original Reference Tree placed 1932 - Cow Bay April 2009



Corner on edge of Cow Bay Swamp April 2009



Stretching GNSS to limits to close traverse in the Weary Bay
Swamp: beware of crocs. May 2009



Orig Rreference Tree (1887 – Coban) BK157101 lying out Mt
Amos 2009



Using GNSS to close traverse on Wallaby Creek Public Reserve and Ridge line run at Daintree near Daintree River



Geoff Pickford's first OSP 1890's Wujul Wujul 2009



Conclusion

- The biggest impediment in the surveying component in this project was the problems caused by insufficient negotiated boundary delimitations.
- These problems were a result of:
 - Poor base cadastral spatial accuracy
 - Insufficient boundary feature identification
 - Unsuitable boundary features being adopted e.g. contours
 - In appropriate land allocation. E.g. Marine swamps to be freehold.
- Some of the longest delays arose from reinstatement of original cadastre in very old degraded difficult areas.
- I believe some of the above problems could have been avoided with more surveyor input in the negotiation phase.

Refer to paper for specific case examples.

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