

**Quandamooka Yoolooburrabee  
Aboriginal Corporation**

## **Information Sheet 2**

# **Quandamooka**

## ***Don't Undermine our Rights* campaign 2014**

### **Timeline**

#### **About 20,000 years BCE**

##### **1. Quandamooka people arrive at North Stradbroke Island**

About 20,000 years Before the Common/Christian Era people settle in what is now the Moreton Bay region of Queensland and on North Stradbroke Island. The descendants of those people – the Quandamooka people - have maintained a continuous presence in the area ever since.

#### **18th century**

##### **1. British colonisation starts**

In 1770 Captain James Cook claims possession of the east coast of Australia for Great Britain.

On 26 January 1788 the British colony of New South Wales was established and effected the purported annexation of the east coast of Australia and adjacent waters including North Stradbroke Island or Minjerribah as it was then known.





## 19th century

### 1. Europeans settle at Moreton Bay or Quandamooka.

In 1824 a permanent European presence is established in the Moreton Bay-Brisbane region in the form of a penal colony for secondary punishment for convicts transported to New South Wales from Great Britain who had again offended in the colony.

That year a pilot station was established at Pulan (Amity Point), North Stradbroke Island effecting the first substantial contact between the British and the Quandamooka people.

In 1842 “free” European settlement is authorised for the Moreton Bay-Brisbane River area.

In December 1859 the colony of Queensland comes into being as a separate entity from New South Wales, giving effect to the 6 June 1859 Letters Patent authorised by Queen Victoria.

## 20th century

### 1. Federation and Queensland becomes a State within the national constitution

In January 1901 the Australian colonies federate as the Commonwealth of Australia and Queensland becomes a State of the federation, bound by the new national constitution.

## 1950s

### 1. Sand mining begins on North Stradbroke Island

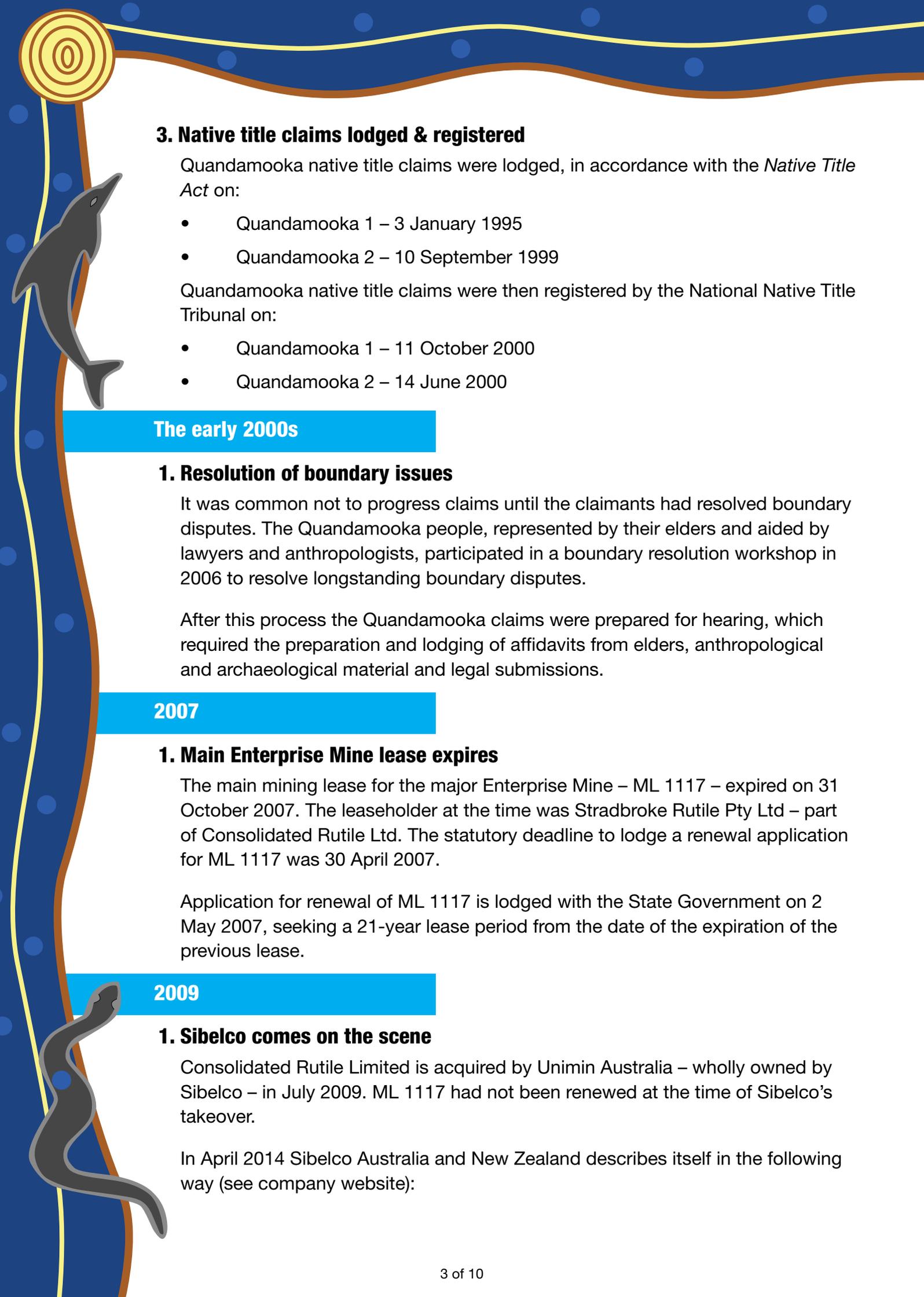
## 1990s

### 1. Mabo decision from the High Court

*Mabo v Queensland (No 2)* (commonly known as *Mabo*) was a landmark High Court of Australia decision recognising native title in Australia, as a common law right for those people who traditionally occupied areas of land prior to colonisation and who have continued their connection to the said land, for the first time. The High Court rejected the doctrine of *terra nullius*, in favour of the common law right of aboriginal title.

### 2. Native Title Act 1993 (Cth)

The *Native Title Act 1993* (NTA) is a federal law passed by the Australian Parliament in response to the High Court’s “*Mabo*” decision. The purpose of the Act is “to provide a national system for the recognition and protection of native title and for its co-existence with the national land management system”. The *Native Title Act 1993* commenced operation on 1 January 1994.



### 3. Native title claims lodged & registered

Quandamooka native title claims were lodged, in accordance with the *Native Title Act* on:

- Quandamooka 1 – 3 January 1995
- Quandamooka 2 – 10 September 1999

Quandamooka native title claims were then registered by the National Native Title Tribunal on:

- Quandamooka 1 – 11 October 2000
- Quandamooka 2 – 14 June 2000

## The early 2000s

### 1. Resolution of boundary issues

It was common not to progress claims until the claimants had resolved boundary disputes. The Quandamooka people, represented by their elders and aided by lawyers and anthropologists, participated in a boundary resolution workshop in 2006 to resolve longstanding boundary disputes.

After this process the Quandamooka claims were prepared for hearing, which required the preparation and lodging of affidavits from elders, anthropological and archaeological material and legal submissions.

## 2007

### 1. Main Enterprise Mine lease expires

The main mining lease for the major Enterprise Mine – ML 1117 – expired on 31 October 2007. The leaseholder at the time was Stradbroke Rutile Pty Ltd – part of Consolidated Rutile Ltd. The statutory deadline to lodge a renewal application for ML 1117 was 30 April 2007.

Application for renewal of ML 1117 is lodged with the State Government on 2 May 2007, seeking a 21-year lease period from the date of the expiration of the previous lease.

## 2009

### 1. Sibelco comes on the scene

Consolidated Rutile Limited is acquired by Unimin Australia – wholly owned by Sibelco – in July 2009. ML 1117 had not been renewed at the time of Sibelco's takeover.

In April 2014 Sibelco Australia and New Zealand describes itself in the following way (see company website):



## **Sibelco Australia and New Zealand**

*Sibelco Australia and New Zealand, processes and supplies raw materials for the Australian, New Zealand and Asian manufacturing and primary industries and is part of the Sibelco Group. Founded in 1872 Sibelco began in Belgium and has grown into a truly multinational business with more than 245 mining and production facilities worldwide and is one of the largest industrial minerals companies in the world.*

*Sibelco began operations in Australia and New Zealand in 2000, and has expanded the business now to employ more than 1,300 people operating a network of over 45 mines, plants, sales offices and distribution warehouses. We have inherited a long operating history in this region with the longest running site, at Lilydale in Victoria, operating continuously for over 130 years. We supply products to Glass, Mining, Agriculture, Construction and Industrial Manufacturing industries.*

**2010**

### **1. Stradbroke Island-Moreton Bay native title claim negotiations intensify**

In January 2010 the Federal Court asks the National Native Title Tribunal to facilitate negotiations between the parties – the Queensland Government, various local governments and other interested organisations and individuals - with a view to reaching a consent determination on the native title rights of the Quandamooka people. Negotiations between the Quandamooka people, Queensland Government and other interested parties get underway in earnest, with a view to finalising Indigenous Land Use Agreements (ILUAs).

### **2. Meeting with Unimin (subsidiary of Sibelco)**

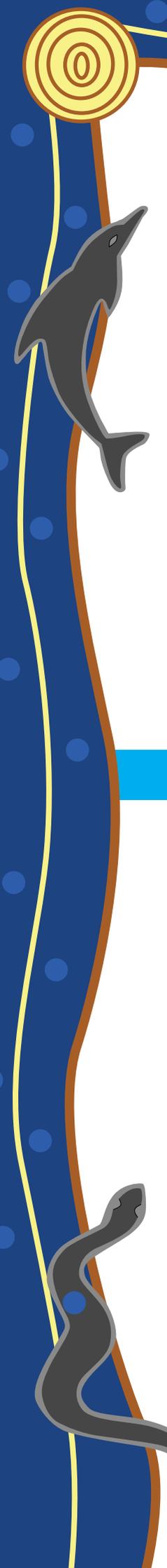
On May 21 Quandamooka family representatives meet with Unimin representatives to start discussions for an ILUA with Unimin.

### **3. Unimin makes ILUA offer to Quandamooka People**

On May 28 Unimin makes a written offer for an ILUA with the Quandamooka people, which outlines Unimin's "vision" for its future operations on Stradbroke Island and the commitments it seeks from the Quandamooka people.

Amongst other things the offer seeks to secure the long-term operation of Enterprise Mine, which includes ML 1117, until 2035, with a view to lease relinquishment after 2050.

Unimin also tries to lock the Quandamooka people into supporting their mining "vision" position to the State Government.



#### 4. Splitting of ILUA negotiations with Unimin/Sibelco

In July a decision is taken to split the ILUA negotiations with Unimin/Sibelco in two, with one proposed ILUA dealing with issues such as future mining activity – the Future Acts ILUA – and a second simpler ILUA, to be negotiated and entered into between Unimin and the Quandamooka people, setting out how their interests will operate “on the ground” post the Federal Court’s native title determination - the Determination ILUA.

In terms of future mining activity, the Quandamooka people basically advise Unimin/Sibelco to sort it out with the State Government and come back to them with a proposal for their consent as the agreed native title holders. They were not going to be the “meat in the sandwich” on this issue and they would not be used to support Sibelco’s mining activity position in negotiations with the State Government.

#### 5. ILUAs with other stakeholders

Meanwhile, throughout 2010, negotiations continued between the Quandamooka people and other stakeholders, such as the Queensland Government, for their ILUAs.

### 2011

#### 1. The first NSIPSA Act is passed by the Bligh Government - April 2011

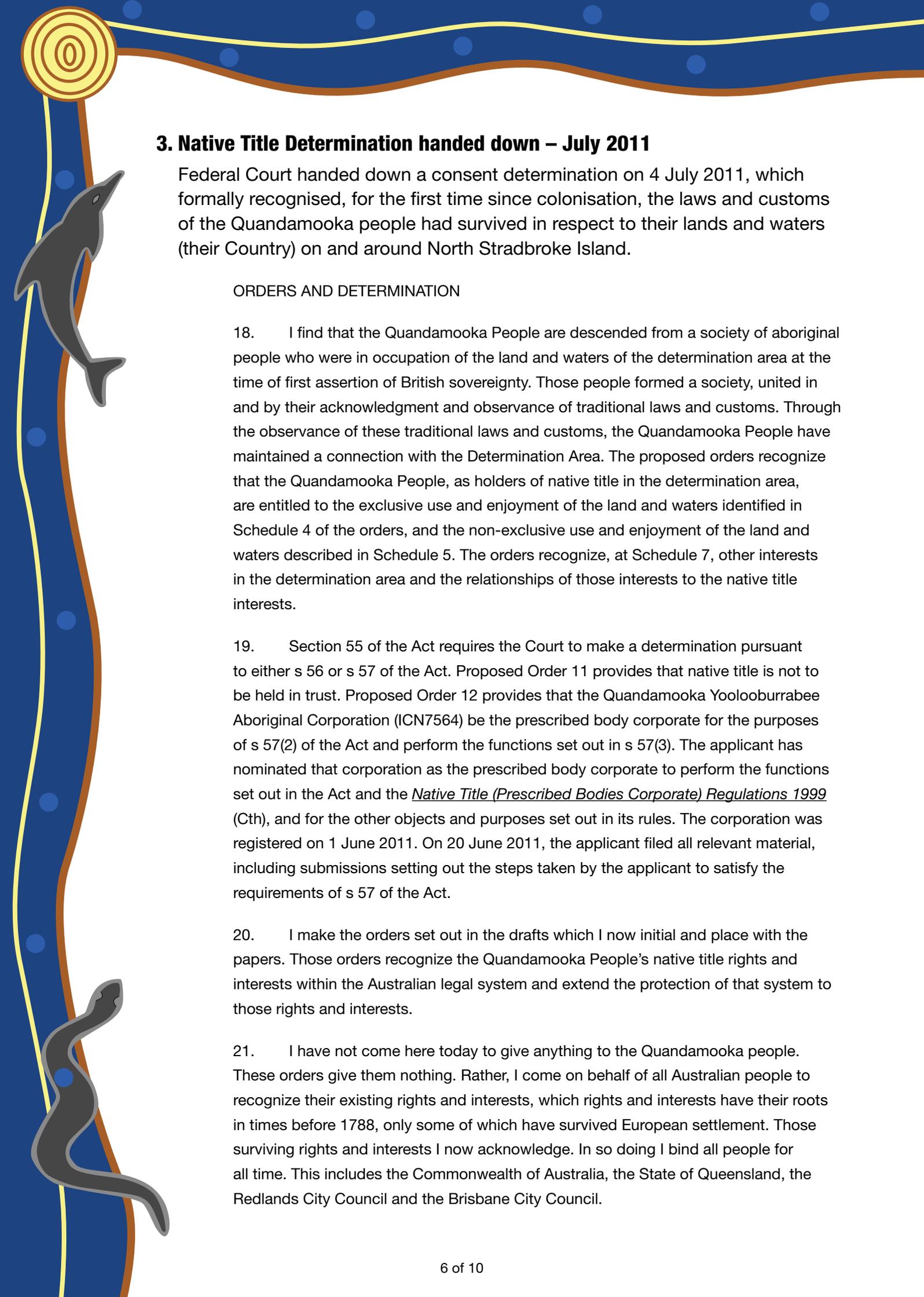
The first *North Stradbroke Island Protection and Sustainability Act* (NSIPSA Act) is passed by the Bligh Government in April 2011.

This first Act gave effect to key elements of the ILUA, which was then being finalised between the State of Queensland and the Quandamooka people. This Act facilitated the ending of mining at Yarraman Mine, as planned by Sibelco, in 2015 and the extension of mining, within a clearly defined mining path, at Enterprise Mine until 20 December 2019. In fact, this Act renewed Sibelco’s expired ML 1117, which makes up the bulk of the Enterprise Mine without the company having to meet the normal requirements of the Queensland *Mineral Resources Act*.

At the conclusion of mining at each site full native title rights, as spelt out by the Federal Court Determination, would revert to the Quandamooka people.

#### 2. The State Government ILUA is signed – 15 June 2011

The Quandamooka Indigenous Land Use Agreement State of Queensland (the ILUA) is signed by Quandamooka elders and the Queensland State Government on 15 June 2011.



### 3. Native Title Determination handed down – July 2011

Federal Court handed down a consent determination on 4 July 2011, which formally recognised, for the first time since colonisation, the laws and customs of the Quandamooka people had survived in respect to their lands and waters (their Country) on and around North Stradbroke Island.

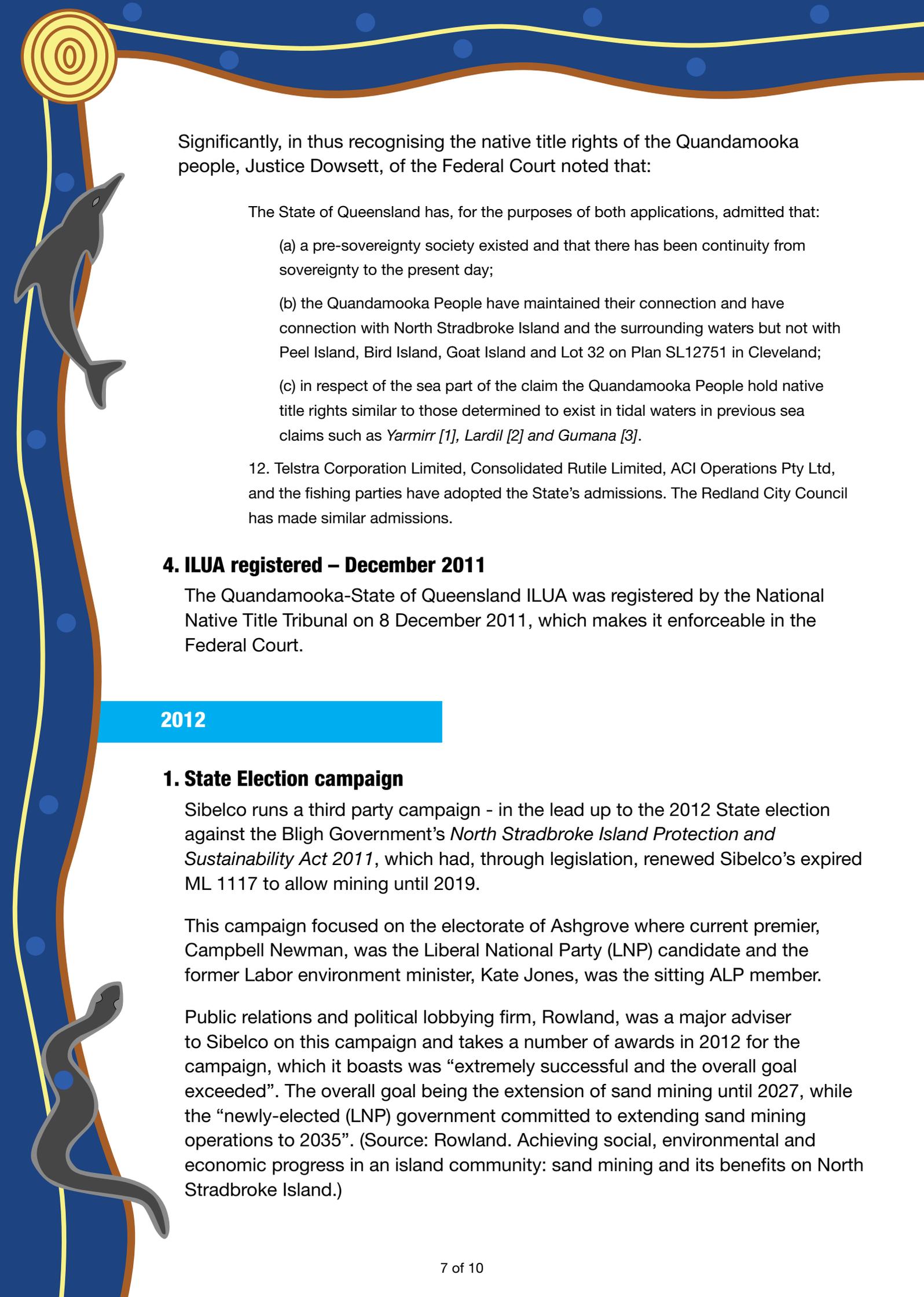
#### ORDERS AND DETERMINATION

18. I find that the Quandamooka People are descended from a society of aboriginal people who were in occupation of the land and waters of the determination area at the time of first assertion of British sovereignty. Those people formed a society, united in and by their acknowledgment and observance of traditional laws and customs. Through the observance of these traditional laws and customs, the Quandamooka People have maintained a connection with the Determination Area. The proposed orders recognize that the Quandamooka People, as holders of native title in the determination area, are entitled to the exclusive use and enjoyment of the land and waters identified in Schedule 4 of the orders, and the non-exclusive use and enjoyment of the land and waters described in Schedule 5. The orders recognize, at Schedule 7, other interests in the determination area and the relationships of those interests to the native title interests.

19. Section 55 of the Act requires the Court to make a determination pursuant to either s 56 or s 57 of the Act. Proposed Order 11 provides that native title is not to be held in trust. Proposed Order 12 provides that the Quandamooka Yoolooburrabee Aboriginal Corporation (ICN7564) be the prescribed body corporate for the purposes of s 57(2) of the Act and perform the functions set out in s 57(3). The applicant has nominated that corporation as the prescribed body corporate to perform the functions set out in the Act and the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth), and for the other objects and purposes set out in its rules. The corporation was registered on 1 June 2011. On 20 June 2011, the applicant filed all relevant material, including submissions setting out the steps taken by the applicant to satisfy the requirements of s 57 of the Act.

20. I make the orders set out in the drafts which I now initial and place with the papers. Those orders recognize the Quandamooka People's native title rights and interests within the Australian legal system and extend the protection of that system to those rights and interests.

21. I have not come here today to give anything to the Quandamooka people. These orders give them nothing. Rather, I come on behalf of all Australian people to recognize their existing rights and interests, which rights and interests have their roots in times before 1788, only some of which have survived European settlement. Those surviving rights and interests I now acknowledge. In so doing I bind all people for all time. This includes the Commonwealth of Australia, the State of Queensland, the Redlands City Council and the Brisbane City Council.



Significantly, in thus recognising the native title rights of the Quandamooka people, Justice Dowsett, of the Federal Court noted that:

The State of Queensland has, for the purposes of both applications, admitted that:

- (a) a pre-sovereignty society existed and that there has been continuity from sovereignty to the present day;
- (b) the Quandamooka People have maintained their connection and have connection with North Stradbroke Island and the surrounding waters but not with Peel Island, Bird Island, Goat Island and Lot 32 on Plan SL12751 in Cleveland;
- (c) in respect of the sea part of the claim the Quandamooka People hold native title rights similar to those determined to exist in tidal waters in previous sea claims such as *Yarmirr* [1], *Lardil* [2] and *Gumana* [3].

12. Telstra Corporation Limited, Consolidated Rutile Limited, ACI Operations Pty Ltd, and the fishing parties have adopted the State's admissions. The Redland City Council has made similar admissions.

#### **4. ILUA registered – December 2011**

The Quandamooka-State of Queensland ILUA was registered by the National Native Title Tribunal on 8 December 2011, which makes it enforceable in the Federal Court.

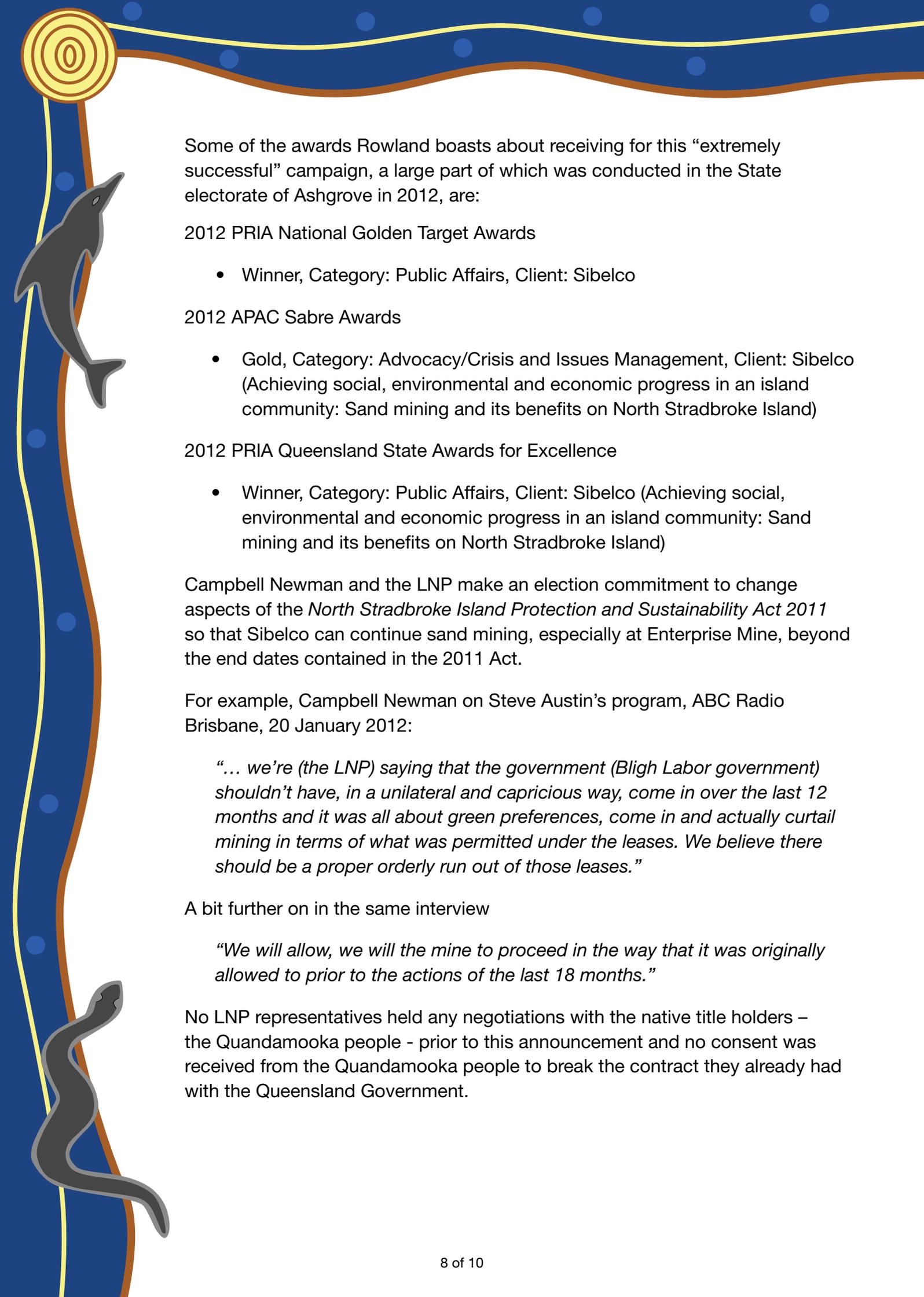
### **2012**

#### **1. State Election campaign**

Sibelco runs a third party campaign - in the lead up to the 2012 State election against the Bligh Government's *North Stradbroke Island Protection and Sustainability Act 2011*, which had, through legislation, renewed Sibelco's expired ML 1117 to allow mining until 2019.

This campaign focused on the electorate of Ashgrove where current premier, Campbell Newman, was the Liberal National Party (LNP) candidate and the former Labor environment minister, Kate Jones, was the sitting ALP member.

Public relations and political lobbying firm, Rowland, was a major adviser to Sibelco on this campaign and takes a number of awards in 2012 for the campaign, which it boasts was "extremely successful and the overall goal exceeded". The overall goal being the extension of sand mining until 2027, while the "newly-elected (LNP) government committed to extending sand mining operations to 2035". (Source: Rowland. Achieving social, environmental and economic progress in an island community: sand mining and its benefits on North Stradbroke Island.)



Some of the awards Rowland boasts about receiving for this “extremely successful” campaign, a large part of which was conducted in the State electorate of Ashgrove in 2012, are:

#### 2012 PRIA National Golden Target Awards

- Winner, Category: Public Affairs, Client: Sibelco

#### 2012 APAC Sabre Awards

- Gold, Category: Advocacy/Crisis and Issues Management, Client: Sibelco (Achieving social, environmental and economic progress in an island community: Sand mining and its benefits on North Stradbroke Island)

#### 2012 PRIA Queensland State Awards for Excellence

- Winner, Category: Public Affairs, Client: Sibelco (Achieving social, environmental and economic progress in an island community: Sand mining and its benefits on North Stradbroke Island)

Campbell Newman and the LNP make an election commitment to change aspects of the *North Stradbroke Island Protection and Sustainability Act 2011* so that Sibelco can continue sand mining, especially at Enterprise Mine, beyond the end dates contained in the 2011 Act.

For example, Campbell Newman on Steve Austin’s program, ABC Radio Brisbane, 20 January 2012:

*“... we’re (the LNP) saying that the government (Bligh Labor government) shouldn’t have, in a unilateral and capricious way, come in over the last 12 months and it was all about green preferences, come in and actually curtail mining in terms of what was permitted under the leases. We believe there should be a proper orderly run out of those leases.”*

A bit further on in the same interview

*“We will allow, we will the mine to proceed in the way that it was originally allowed to prior to the actions of the last 18 months.”*

No LNP representatives held any negotiations with the native title holders – the Quandamooka people - prior to this announcement and no consent was received from the Quandamooka people to break the contract they already had with the Queensland Government.

A decorative header at the top of the page features a gold coin with the number '0' on it, positioned in the upper left corner. A blue dolphin is depicted leaping upwards from the left side of the page. The background consists of a dark blue wavy line with a gold border, set against a white background with scattered blue dots.

## 2. Post-election negotiations and discussions

### a) Sibelco and the State Government

According to Sibelco's campaign consultants, Rowland, there was considerable interaction between, Sibelco, its agents and the new LNP State Government:

Post-election engagement with key ministers, and the government's establishment of a working group to develop new policy and legislation followed this early endorsement. Following the election, the new Minister for Mines and Natural Resources announced an extension to operations until 2035. (Source: Rowland. Achieving social, environmental and economic progress in an island community: sand mining and its benefits on North Stradbroke Island.)

### b) Quandamooka people seek involvement, but are constantly rebuffed

In the post-election period the Quandamooka people regularly sought to hold discussions with the State Government about its policy on North Stradbroke Island and was regularly rebuffed.

The State Government continues to aggressively pursue its sand-mining extension policy, without the consent of the Quandamooka people. For example, Campbell Newman again makes his position clear in November 2012 (Hansard 20 November 2012):

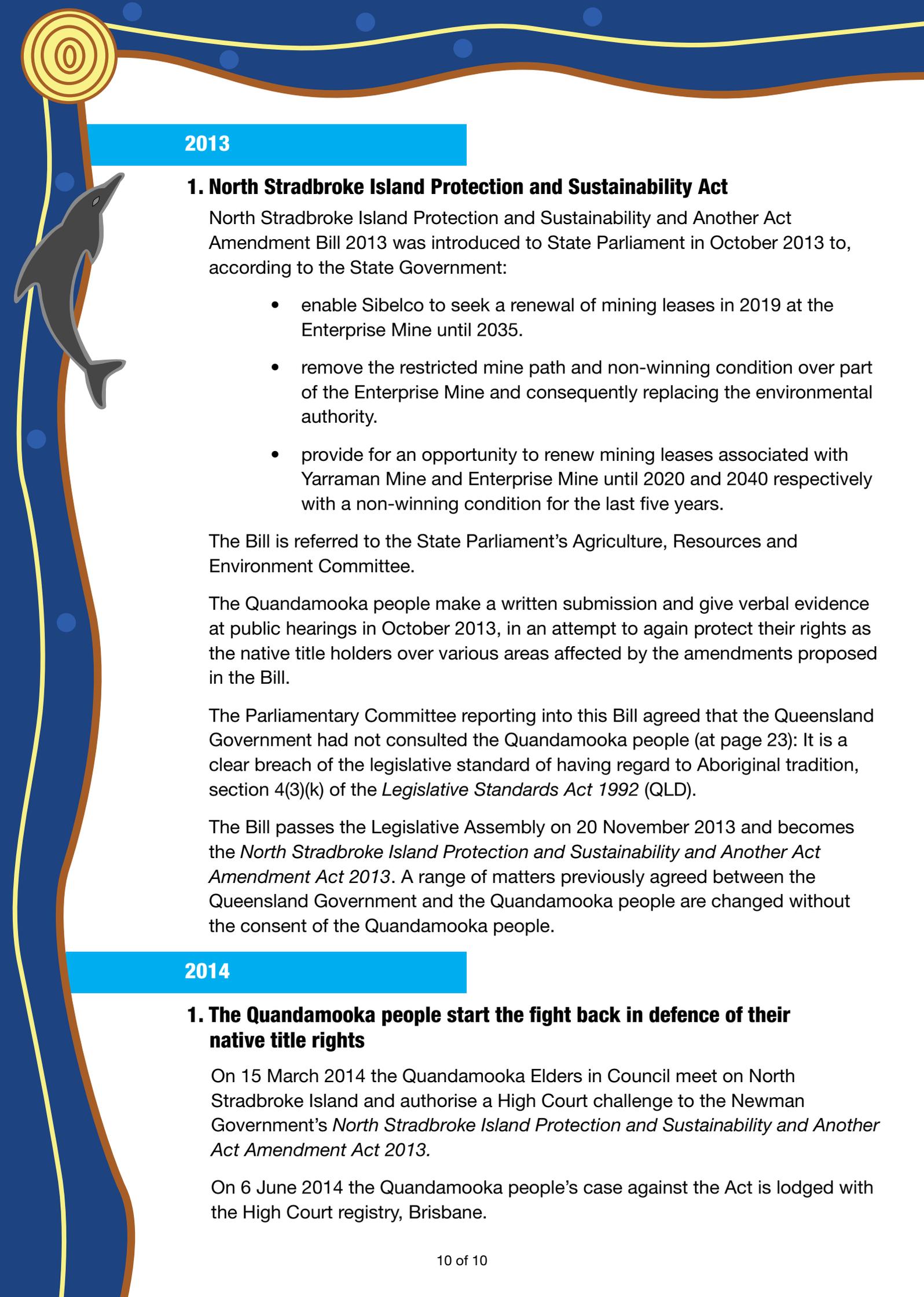
*All we are saying here is that the mining will continue in accordance with the original leases that were granted to the mining company. That is all that we are doing.*

*That led to very clear statements prior to the election that we would, if we were elected, allow mining to continue in accordance with the original mining leases. We said that prior to the election. It was very clearly stated. That is what we campaigned on.*

*Despite the campaign where very clearly everyone knew I was saying that it would continue in accordance with the original leases till 2035 and the Labor Party and the Greens were saying it was going to continue forever, what was the decision of the people of Ashgrove?*

*So, again, in summary, for those opposite who are hard of hearing, the people of Queensland voted knowing what we stood for in relation to Stradbroke Island, the people of Ashgrove knew what we stood for in relation to Stradbroke Island and the people of Stradbroke Island voted for what we stood for-which was mining continuing in accordance with original mining leases on Stradbroke Island.*

*I am not suggesting that it would be done differently, but I am suggesting in the case of Stradbroke Island, where mining has occurred for 64 years, simply going forward to 2035 in accordance with the mining leases as originally handed down is an appropriate and prudent thing to do.*



2013

## 1. North Stradbroke Island Protection and Sustainability Act

North Stradbroke Island Protection and Sustainability and Another Act Amendment Bill 2013 was introduced to State Parliament in October 2013 to, according to the State Government:

- enable Sibelco to seek a renewal of mining leases in 2019 at the Enterprise Mine until 2035.
- remove the restricted mine path and non-winning condition over part of the Enterprise Mine and consequently replacing the environmental authority.
- provide for an opportunity to renew mining leases associated with Yarraman Mine and Enterprise Mine until 2020 and 2040 respectively with a non-winning condition for the last five years.

The Bill is referred to the State Parliament's Agriculture, Resources and Environment Committee.

The Quandamooka people make a written submission and give verbal evidence at public hearings in October 2013, in an attempt to again protect their rights as the native title holders over various areas affected by the amendments proposed in the Bill.

The Parliamentary Committee reporting into this Bill agreed that the Queensland Government had not consulted the Quandamooka people (at page 23): It is a clear breach of the legislative standard of having regard to Aboriginal tradition, section 4(3)(k) of the *Legislative Standards Act 1992* (QLD).

The Bill passes the Legislative Assembly on 20 November 2013 and becomes the *North Stradbroke Island Protection and Sustainability and Another Act Amendment Act 2013*. A range of matters previously agreed between the Queensland Government and the Quandamooka people are changed without the consent of the Quandamooka people.

2014

## 1. The Quandamooka people start the fight back in defence of their native title rights

On 15 March 2014 the Quandamooka Elders in Council meet on North Stradbroke Island and authorise a High Court challenge to the Newman Government's *North Stradbroke Island Protection and Sustainability and Another Act Amendment Act 2013*.

On 6 June 2014 the Quandamooka people's case against the Act is lodged with the High Court registry, Brisbane.