



## **Attachment A15**

### **Description of area 15, being one of the areas the subject of this application**

That part of Lot 135 on DP755234 that is described in the attached letter dated 15 December 2015 from the Minister for Lands and Water to Darkinjung Local Aboriginal Land Council.



**The Hon Niall Blair MLC**  
Minister for Primary Industries  
Minister for Lands and Water

PMIN 13/1246

Mr Joshua Toomey  
Chairperson  
Darkinjung Local Aboriginal Land Council  
PO Box 401  
WYONG NSW 2259

RECEIVED  
17 DEC 2015

BY:.....AS.....  
MI-1737

Dear Mr Toomey

I refer to Aboriginal Land Claim 17403 lodged with the Aboriginal Land Rights Registrar by Darkinjung Local Aboriginal Land Council on 27 February 2009 in relation to Lot 135 DP755234, Lot 7041 DP 1030913, Lot 7040 DP 1030914 and Lot 500 DP 823145 at Kincumber (the Claim).

As the Minister administering the *Crown Lands Act 1989* for the purposes of the *Aboriginal Land Rights Act 1983*, I have responsibility for the determination of Aboriginal land claims.

Following the investigation of the Claim, I am satisfied that when the Claim was made the land was partly claimable Crown land. With reference to the enclosed diagram, in the circumstances of this case, I am required to:

- grant the relevant land shown by green shading, being about 13.3 hectares, and
- refuse the relevant land shown by pink, orange, yellow and blue shading.

The land shown by green shading was not lawfully used or occupied, not needed or likely to be needed for residential lands or an essential public purpose, and not subject to an application or determination of Native Title.

The land shown by pink shading, being about 1.5 hectares was needed for the essential public purpose of public access.

The land shown by orange shading was needed for the essential public purpose of public recreation and public access.

The land shown by yellow shading was lawfully used by the public for public recreation and lawfully occupied by Gosford City Council as the appointed manager.

The land shown by blue shading was needed for the essential public purpose of public road for the Avoca Road MR504 road widening scheme.

It should be noted that easements for sewerage, access and electricity purposes acquired under the *Public Works Act 1912* on 17 November 2000, and easements for



sewerage acquired under the *Public Works Act 1912* on 5 May 1995, are not reflected on the titles for Lot 135 DP 755234 and Lot 7040 DP 1030914. Amendment is required prior to the transfer of granted lands.

That part of the Claim shown by pink shading on the enclosed diagram can however be granted to Darkinjung Local Aboriginal Land Council under section 36 (5A) of the *Aboriginal Land Rights Act 1983* provided there is agreement to create an easement for public access. Should Darkinjung Local Aboriginal Land Council agree to the creation of the easement/s please advise:

Jason Brouff  
Manager Aboriginal Land Claim Investigation Unit  
PO Box 2215  
DANGAR NSW 2309

NSW Department of Primary Industries (DPI) – Lands has advised that before the land title can be issued and the land transferred to Darkinjung Local Aboriginal Land Council, a survey will be necessary and it may be some time before such a survey can be undertaken.

Darkinjung Local Aboriginal Land Council can assist in expediting a survey of the granted land by engaging its own registered surveyor. If this course is adopted, it will be the Land Council's responsibility to pay that surveyor's immediate charges. Other additional costs associated with survey plan registration and conveyancing will be paid by the Department.

Should Darkinjung Local Aboriginal Land Council intend to engage its own surveyor, early contact should be made with the Aboriginal Land Claim Investigations Unit by telephone on (02) 6883 5414 so that instructions for survey can be issued.

Pursuant to sections 36(9) and (9A) of the *Aboriginal Land Rights Act 1983*, the grant and transfer of the land does not affect any existing native title interest therein. It might also be noted that any proven native title interest in the land will restrict disposal in accordance with section 42 of the Act.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Niall Blair', written over the words 'Yours sincerely'.

**The Hon Niall Blair MLC**  
**Minister for Primary Industries**  
**Minister for Lands and Water**

Encl.

15 DEC 2015

