



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NSD6034/1998
NNTT Number: NCD2013/001

Determination Name: [Bandjalang People #1 v Attorney General of New South Wales](#)

Date(s) of Effect: 2/12/2013

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: 02/12/2013

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Bandjalang Aboriginal Corporation Prescribed Body Corporate
RNTBC
Trustee Body Corporate
PO Box 2105
Strawberry Hills New South Wales 2012

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

COMMON LAW HOLDER(S) OF NATIVE TITLE:

2. Native title is held by the Bandjalang People who are Aboriginal persons who are:
- (a) the biological descendants of:
 - (i) King Harry, Jack Wilson, Susannah mother of Frank Jock Jnr, Michael "Mundoon" Wilson, George James, Eliza Breckenridge, Jack Breckenridge, Frank Jock Jnr, Ada Jock, Gibson Robinson, Grace Bond; and
 - (b) persons adopted or incorporated into the families of those persons (and the biological descendants of any such adopted or incorporated persons) and who identify as and are accepted as Bandjalang People in accordance with Bandjalang traditional laws and customs.

**MATTERS DETERMINED:
THE COURT ORDERS THAT:**

1. There be a determination of native title in the terms set out below (the Determination).
2. The native title is to be held on trust.
3. The Bandjalang Aboriginal Corporation Prescribed Body Corporate (ICN 7930) is to:
 - (a) be the prescribed body corporate for the purposes of s. 57(1) of the *Native Title Act 1993* (Cth); and
 - (b) to perform the functions set out in s. 57(1) of the *Native Title Act 1993* (Cth) and the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth).

THE COURT DETERMINES THAT:

Existence of Native Title

1. Native title exists in relation to:
 - (a) each of the areas of land and waters described in Schedule One, to the extent that each falls within the external boundaries of the claim area as described in Attachment B to the Further Amended Claimant Application in the Proceedings (which is reproduced as Schedule Three to this Consent Determination) ("External Boundaries"); and
 - (b) all land between the mean high water mark and the mean low water mark within the External Boundaries
 - (c) collectively the areas described at (a) and (b) above are the "Consent Determination Area".

Native title holders

2. Native title is held by the Bandjalang People who are Aboriginal persons who are:
 - (a) the biological descendants of:
 - (i) King Harry, Jack Wilson, Susannah mother of Frank Jock Jnr, Michael "Mundoon" Wilson, George James, Eliza Breckenridge, Jack Breckenridge, Frank Jock Jnr, Ada Jock, Gibson Robinson, Grace Bond; and
 - (b) persons adopted or incorporated into the families of those persons (and the biological descendants of any such adopted or incorporated persons) and who identify as and are accepted as Bandjalang People in accordance with Bandjalang traditional laws and customs.

Nature and extent of native title rights and interests

3. Subject to paragraphs 4 to 9 inclusive the nature and extent of the native title rights and interests held by the Bandjalang People in the Consent Determination Area identified in Schedule One, are the nonexclusive rights set out below:
 - (a) the right to hunt, fish and gather the traditional natural resources of the Consent Determination Area for non-commercial personal, domestic and communal use;
 - (b) the right to take and use waters on or in the Consent Determination Area;
 - (c) the right to access and camp on the Consent Determination Area;
 - (d) the right to do the following activities on the land:

- (i) conduct ceremonies;
- (ii) teach the physical, cultural and spiritual attributes of places and areas of importance on or in the land and waters; and
- (iii) to have access to, maintain and protect from physical harm, sites in the Consent Determination Area which are of significance to the Bandjalang People under their traditional laws and customs.

General Limitations

4. Native title does not exist in:
 - (a) minerals as defined in the *Mining Act 1992* (NSW) and the *Mining Regulation 2010* (NSW); and
 - (b) petroleum as defined in the *Petroleum (Onshore) Act 1991* (NSW) and the *Petroleum (Submerged Lands) Act 1982* (NSW).
5. Native title rights and interests do not exist in the areas within the Consent Determination Area covered by Public Works (including the land defined in section 251D of the *Native Title Act 1993* (Cth)) which were constructed, established or situated prior to 23 December 1996 or commenced to be constructed or established on or before that date.
6. Public Works within the Consent Determination Area constructed, established or situated after 23 December 1996 have had or will have, if yet to be constructed, such effect as has resulted from Part 2 Division 3 of the *Native Title Act 1993* (Cth).
7. Native title rights and interests do not exist in any area of land which has been dedicated as a public road or a main road in accordance with the statutory requirements for such dedication, even if the land is no longer so dedicated.
8. The native title rights and interests described in paragraph 3 are exercised for personal, domestic and noncommercial communal purposes and do not confer possession, occupation, use or enjoyment to the exclusion of all others. The native title rights and interests do not confer any right to control public access or public use of the land and waters of the Consent Determination Area.
9. The native title rights and interests in the Consent Determination Area are subject to and exercisable in accordance with:
 - (a) the laws of the State of New South Wales and the Commonwealth, including the common law; and
 - (b) the traditional laws acknowledged and traditional customs observed by the Bandjalang People.

Nature and extent of other rights and interests

10. The nature and extent of other rights and interests in the Consent Determination Area are described in Schedule Two.
11. Any reference in a clause of Schedule Two to a specific right or interest, which is said to be included in a broader class of rights or interests described in that clause, is included for abundant caution and is not intended to limit the generality of that broader class.

Relationship between native title rights and interests and other rights and interests

12. The relationship between the native title rights and interests in the Consent Determination Area that are described in paragraph 3 and the other rights and interests described in paragraph 10 and Schedule Two ("the Other Interests") is that:
 - (a) the Other Interests continue to have effect; and
 - (b) the Other Interests and any activity done in accordance with or incidental to the exercise of a right conferred or held under the Other Interests, while they are in existence, prevail over but do not extinguish the native title rights and interests and any exercise of those native title rights and interests.

- (c) the native title is subject to extinguishment by:
 - (i) the lawful powers of the Commonwealth and of the State of New South Wales; and/or
 - (ii) the lawful grant or creation of interests pursuant to the Laws of the Commonwealth and the State of New South Wales.

Definitions

13. In these orders, unless the contrary intention appears:

“Bandjalang People” means the native title holders as described in order 6.

“camp” means to stay on the Consent Determination Area for temporary periods. Tents or other like structures are permitted. It does not include the right to permanently reside or build permanent structures or fixtures.

“Consent Determination Area” means the land and waters described and mapped in Schedule One.

“laws” include statutes, regulations and other subordinate legislation and the common law.

“Proceedings” means the application for determination of native title made by Anthony Edward Wilson and Douglas Steven Wilson for and on behalf of the Bandjalang People (NC96/16; NSD6034/98) and any matters arising from those proceedings.

14. If a word or expression is not defined in these orders, but is defined in the *Native Title Act 1993* (Cth), then it has the meaning given to it in the *Native Title Act 1993* (Cth).

SCHEDULE ONE - CONSENT DETERMINATION AREA

The land and waters in which the Bandjalang People hold native title are the parcels described in Annexure A as shown on the map attached at Annexure B.

In the event of an inconsistency between the written description provided in this attachment and the map, the written description shall prevail.

Annexure A to SCHEDULE ONE

DESCRIPTION OF THE CONSENT DETERMINATION AREA

	<i>ID AREA</i>	<i>PARCEL</i>	<i>DESCRIPTION OF LAND</i>
2	Lot 7050	DP 1112972	
8	Lot 7015	DP 1076665 & Lot 7096	DP 1113511
11	Lot 7020	DP 1051335	
12	Lot 7019	DP 1051692	
13	Lot 7094	DP 1113512	
20	Unidentified Crown Land as shown on the map at Annexure B		
23	Lot 7307	DP 1153014	
24	Lot 7308	DP 1153014	
30	Lot 7017	DP 1112984	
31	Lot 91	DP 755614	
32	Lot 7301	DP 1163536	

44	Lot 7095 DP 1113843	
48	Unidentified Crown Land as shown on the map at Annexure B	
116	Lot 161 DP 755624	Bundjalung National Park GG 25/1/1980
117	Unidentified land	Bundjalung National Park GG 30/1/1981
119	Lot 70 DP 755614	Bundjalung National Park GG 25/1/1980
120	Lot 42 DP 755614	Bundjalung National Park GG 4/11/1983
122	Lot 49 DP 755614	Bundjalung National Park GG 25/1/1980
123	Unidentified land	Bundjalung National Park GG 25/1/1980
124	Unidentified land	Bundjalung National Park GG 25/1/1980
125	Part of Lot 7302 DP 1163536	Bundjalung National Park GG 25/1/1980
126 except in relation to 126(c)	Part of Lot 52 DP 755614	Bundjalung National Park GG 25/1/1980
127	Part of 7302 DP 1163536	Bundjalung National Park GG 25/1/1980
129 except in relation to 129 (C)	Part of Lot 53 DP 755614	Bundjalung National Park GG 25/1/1980
130	Part of Lot 53 DP 755614	Bundjalung National Park GG 25/1/1980
132	Lot 13 DP 755613	Bundjalung National Park GG 25/1/1980
144	Unidentified	Bundjalung National Park GG 26/2/1999 addition
149	Part of Lot 3 DP 755610	Tabbimoble Swamp Nature Reserve GG 26/2/1999
150	Part of Lot 3 DP 755610	Tabbimoble Swamp Nature Reserve GG 26/2/1999
168	Lot 63 DP 755624	Broadwater National Park GG 12/7/1974
170	Lot 7058 DP 96632	Broadwater National Park GG 5/3/1999
171	Unidentified land	Broadwater National Park GG 22/8/1980
172	Unidentified	Broadwater National Park GG 12/7/1974
175	Unidentified	Broadwater National Park GG 12/7/1974
176	Unidentified	Broadwater National Park GG 12/7/1974
177	Unidentified	Broadwater National Park GG 28/5/1982
178	Unidentified	Bundjalung National Park GG 25/1/1980
179	Unidentified	Bundjalung National Park GG 25/1/1980
180	Unidentified	Bundjalung National Park GG 25/1/1980
181	Unidentified	Bundjalung National Park GG 25/1/1980 & 22/7/1983
182	Unidentified	Bundjalung National Park GG 25/1/1980 & 22/7/1983
183	Lot 377 DP 755624	Broadwater National Park GG 19/7/1985
184	Lot 378 DP 755624	Broadwater National Park GG 19/7/1985
185	Lot 379 DP 755624	Broadwater National Park GG 19/7/1985
186	Lot 384 DP 755624	Broadwater National Park GG 19/7/1985

187	Lot 386 DP 755624	Broadwater National Park GG 19/7/1985
188	Lot 387 DP 755624	Broadwater National Park GG 19/7/1985
190	Lot 399 DP 755624	Broadwater National Park GG 19/7/1985
191	Lot 400 DP 755624	Broadwater National Park GG 19/7/1985
192	Lot 401 DP 755624	Broadwater National Park GG 19/7/1985
193	Lot 7105 DP 1123365	Broadwater National Park GG 5/3/1999
194	Part of Lot 7058 DP 96632	Broadwater National Park GG 5/3/1999
196	Lot 7014 DP 1057092	Broadwater National Park GG 5/3/1999
197	Unidentified	Broadwater National Park GG 5/3/1999
198	Unidentified	Broadwater National Park GG 22/8/1980
200	Unidentified	Broadwater National Park GG 22/8/1980
201	Unidentified	Broadwater National Park GG 12/7/1974
202	Unidentified	Broadwater National Park GG 12/7/1974
203	Unidentified	Broadwater National Park GG 12/7/1974
204	Unidentified	Broadwater National Park GG 12/7/1974
205	Unidentified	Broadwater National Park GG 12/7/1974
206	Unidentified	Bundjalung National Park GG 25/1/1980
207	Unidentified	Part Esk River
213	Unidentified	Broadwater National Park GG 22/8/1980
214	Except in relation to 214D Unidentified	Bundjalung National Park GG 25/1/1980
215	Unidentified	Bundjalung National Park GG 25/1/1980
217	Unidentified	Bundjalung National Park GG 25/1/1980
219	North of the southern boundary Unidentified	Bundjalung National Park GG 25/1/1980
220	Unidentified	Bundjalung National Park GG 25/1/1980

Annexure B to SCHEDULE ONE

MAP OF CONSENT DETERMINATION AREA

[See NNTR attachment 1: "Annexure B to Schedule One - Map of Consent Determination Area"]

SCHEDULE TWO

OTHER RIGHTS AND INTERESTS

1. The rights and interests of Telstra Corporation Limited;
 - (a) as the owner or operator of telecommunications facilities within the Consent Determination Area;

- (b) as the holder of a carrier licence under the *Telecommunications Act 1997* (Cth);
 - (c) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act 1975* (Cth), the *Australian Telecommunications Corporations 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;
 - (d) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Consent Determination Area in performance of their duties; and
 - (e) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Consent Determination Area.
 - (f) Under a consent granted by the NSW Minister for the Environment on 13 January 1995 for the installation of an underground fibre optic cable through Broadwater National Park.
2. The rights and interests of the Richmond Valley Council and Clarence Valley Council under their local government jurisdiction and as entities exercising statutory powers in respect of the land and waters in their local government areas, including existing access to public work.
 3. The rights and interests of the Crown in right of the State of New South Wales.
 4. The rights and interests granted or recognised by the State of New South Wales pursuant to statute or otherwise in the exercise of its executive power and under any regulations made pursuant to such legislation, and including, for the avoidance of any doubt, but not limited to, the following rights and interests that have been granted or recognised by:
 - (a) permissive occupancy C130 (PO 1952/3) granted to the Commonwealth by the State of New South Wales under s 136K of the *Crown Lands Consolidation Act 1913* (NSW); and
 - (b) permissive occupancy C241 (PO 1963/30) granted to the Commonwealth by the State of New South Wales under s 136K of the *Crown Lands Consolidation Act 1913* (NSW).
 - (c)
 - (i) the day use area at Broadwater Beach in Broadwater National Park;
 - (ii) the day use area at Gummigurrah in Bundjalung National Park; and
 - (iii) the camping area at Black Rocks in Bundjalung National Park.
 5. The rights and interests granted by the Commonwealth pursuant to statute or otherwise in the exercise of its executive power and under any regulations made pursuant to such legislation and including, for the avoidance of any doubt, but not limited to, the following rights and interests:
 - (a) the "Defence Practice Area" otherwise declared and described as "Item and Map No. 8 Evans Head" in the Schedule to the "Declaration of Defence Practice Areas" made by the Minister for Defence pursuant to sub-regulation 49(1) of the *Defence Force Regulations* on 17 October 1994, and published in *Commonwealth of Australia Gazette* No. GN 46 on 23 November 1994.
 6. The rights or interests held by reason of the force and operation of the laws of the State of New South Wales or of the Commonwealth.
 7. The rights and interests of members of the public arising under the common law including but not limited to:
 - (a) the public right to fish;
 - (b) the public right to navigate.
 8. The right to access land by an employee or agent or instrumentality of the State of New South Wales, of the Commonwealth or of other statutory authority as required in the performance of his or her statutory

or common law duties.

9. So far as confirmed pursuant to sections 16 and 18 of the *Native Title (New South Wales) Act 1994* as at the date of the determination, any existing public access to and enjoyment of:
- (a) waterways;
 - (b) the beds and banks or foreshores of waterways;
 - (c) coastal waters;
 - (d) beaches;
 - (e) stock routes; and
 - (f) areas that were public places at the end of 31 December 1993.
10. Any other:
- (a) legal or equitable estate or interest in the land or waters of the Consent Determination Area; or
 - (b) right (including a right under an option and a right of redemption), charge, power or privilege over, or in connection with:
 - (i) the land or waters of the Consent Determination Area; or
 - (ii) an estate or interest in the land or waters of the Consent Determination Area.

SCHEDULE THREE

EXTERNAL BOUNDARIES

Eastern boundary Description

The Eastern boundary of the of the application is described as Commencing at the north eastern most corner of Broadwater National Park and extending easterly to the Mean Low Water Mark of the South Pacific Ocean at Latitude 29.010562° South and east to a point 200 metres seaward of that Mean Low Water Mark; then generally southerly along a buffer 200 metres seaward of that Mean Low Water Mark to Latitude 29.262071° South.

Southern Boundary Description

Commencing at point 200 metres seaward of the Mean Low Water Mark of the South Pacific Ocean at Latitude 29.262071° South and extending generally westerly through the following coordinate points;

Longitude (East)	Latitude (South)
153.360841	29.262077
153.358195	29.261741
153.354467	29.261408
153.350453	29.261418
153.346922	29.261166
153.342022	29.261097
153.335250	29.261115

153.330938	29.261468
153.328489	29.261474
153.326235	29.261741
153.323896	29.260799
153.319573	29.260981
153.313098	29.260735
153.309566	29.260057
153.303778	29.258780
153.296623	29.258462
153.286520	29.256237
153.279618	29.254752

Then westerly to a point on the eastern boundary of Devils Pulpit State Forest, also a point on a western boundary of Bundjalung National Park at Latitude 29.254752° South.

The application area also covers all land and waters including the following land parcels:

STATE ID (Area Number) Current Lot Description

2	Lot 7050 DP1112972
3	Part Lot 10 DP1075394
8	Lot 7096 DP1113511
8	Lot 7015 DP1076665

Crown Land, between the High Water Mark and Low Water Mark

11	Lot 7020 DP1051335
12	Lot 7019 DP1051692
13	Lot 7094 DP1113512
15	Part Lot 10 DP1075394
20	Unidentified Crown Land

Crown Land, between the High Water Mark and Low Water Mark

21	Part Lot 10 DP1075394
23	Lot 7092 DP1113531
23	Lot 7012 DP1112973
23	Lot 7091 DP1113534
24	Lot 7002 DP1112982

30	Lot 7017 DP1112984
31	Lot 91 DP755614
32	Lot 7001 DP92541
32	Part Lot 52 DP755614
37	Lot 10 DP868045
38	Lot 13 DP868045
39	Lot 7011 DP1051693
43	Part Lot 10 DP1075394
44	Lot 7095 DP1113843
48	Crown Land, between the High Water Mark and Low Water Mark
116	Part Lot 161 DP755624 Part Bundjalung National Park
117	Part Lot 161 DP755624 Part Bundjalung National Park
117	Unidentified Crown Land
119	Lot 70 DP755614 Part Bundjalung National Park
120	Lot 42 DP755614 Part Bundjalung National Park
122	Lot 49 DP755614 Part Bundjalung National Park
123	Part Crown Plan 357 - 3052 Part Bundjalung National Park
124	Part Crown Plan 357 - 3052 Part Bundjalung National Park
125	Part Lot52 DP755614 Part Bundjalung National Park
126	Except in relation to 126C Part Lot52 DP755614 Part Bundjalung National Park
127	Part Lot 52 DP755614 Part Bundjalung National Park
129	Except in relation to 129C Part Lot 53 DP755614 Part Bundjalung National Park
130	Part Lot 53 DP755614 Part Bundjalung National Park
132	Lot 13 DP755613 Part Bundjalung National Park
144	Part Lot 19 DP755629 Part Bundjalung National Park
149	Part Lot 3 DP755610 Part Tabbimoble Swamp Nature Reserve
150	Part Lot 3 DP755610 Part Tabbimoble Swamp Nature Reserve
151	Lot 283 DP755624 Part Broadwater National Park
168	Lot 63 DP755624 Part Broadwater National Park
170	Part Lot 7058 DP96632 Part Broadwater National Park
171	Lot 1701 - 3050 Part Broadwater National Park
172	Part Broadwater National Park
175	Part Broadwater National Park
176	Part Broadwater National Park

177	Part Broadwater National Park
178	Part Bundjalung National Park
179	Part Broadwater National Park
180	North of the Southern Boundary as Described Part Bundjalung National Park
181	Part Bundjalung National Park
182	Part Bundjalung National Park
183	Lot 377 DP755624 Part Broadwater National Park
184	Lot 378 DP755624 Part Broadwater National Park
185	Lot 379 DP755624 Part Broadwater National Park
186	Lot 384 DP755624 Part Broadwater National Park
187	Lot 386 DP755624 Part Broadwater National Park
188	Lot 387 DP755624 Part Broadwater National Park
190	Lot 399 DP755624 Part Broadwater National Park
191	Lot 400 DP755624 Part Broadwater National Park
192	Lot 401 DP755624 Part Broadwater National Park
193	Part Lot 7048 DP1057102 Part Broadwater National Park
193	Lot 7105 DP1123365 Part Broadwater National Park
194	Part Lot 7058 DP96632 Part Broadwater National Park
196	Lot 7014 DP1057092 Part Broadwater National Park
197	Part Broadwater National Park
198	Part Broadwater National Park
198	Part Broadwater National Park
198	Part Broadwater National Park
200	Part Broadwater National Park
201	Part Broadwater National Park
202	Part Broadwater National Park
203	Part Broadwater National Park
204	Part Broadwater National Park
205	Part Broadwater National Park
206	Part Broadwater National Park
207	North of the Southern Boundary as described Part Esk River
213	Part Broadwater National Park
214	Except in relation to 214D Part Bundjalung National Park
215	Part Bundjalung National Park

217	Part Bundjalung National Park
219 North of the Southern Boundary as described	Part Bundjalung National Park
220	Part Bundjalung National Park

and;

That portion of Bundajlung National Park north of State ID 214 and south of that parcel of unidentified Crown land west of Lot 529 on DP721119. Bounded in the east by State ID 23, in the west by Oyster Creek and south of Evans River.

Note

Data Reference and source

Application boundary data compiled by National Native Title Tribunal based on data sourced from Dept of Lands, Land and Property Information Division, NSW.

Area Numbers sourced from the historical and current land tenure report 20 May 2003.

Cadastral data sourced from Public Sector Mapping Agency (May 2008) some lot references sourced from Dept of Lands (NSW), online Geospatial Portal (Nov 2007).

Road reserve data sourced from Dept of Lands, NSW (July 2001).

Conservation data sourced from Department of Environment and Conservation NSW (June 2006).

Reference datum

Geographical coordinates have been provided by the NNTT Geospatial Unit and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time

Use of Coordinates

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

REGISTER ATTACHMENTS:

1. Annexure B to Schedule One - Map of Consent Determination Area, 1 page - A3, 02/12/2013

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.