



Members of the Ngadjon-Jii People (left to right): Ernie Raymont, Cameron Gosan, Robert Canendo, Debbie Gertz and Yvonne Canendo.

Ngadjon-Jii People's native title determination

Far north Queensland
12 December 2007



National
Native Title
Tribunal

The Ngadjon-Jii People's rights

On 12 December 2007 the Federal Court of Australia made a consent determination recognising the Ngadjon-Jii People's native title rights over 13,287 ha of land and waters approximately 47 km south of Cairns in far north Queensland. This area includes parts of the Wooroonooran National Park, Topaz Road National Park, Malanda Falls Conservation Park and two quarry reserves located near Malanda.

The consent determination is an important turning point because it recognises the Ngadjon-Jii People's native title rights under Australian law for the first time.

Exclusive native title rights recognised

The Federal Court recognised the Ngadjon-Jii People's exclusive native title rights over a 2.34 ha island in the middle of the Russell River. The group therefore has the right to possess, occupy, use and enjoy this area, to the exclusion of all others.

Non-exclusive native title rights recognised

The Federal Court recognised the Ngadjon-Jii People's non-exclusive native title rights over approximately 13,285 ha in the Wooroonooran National Park, Topaz Road National Park, Malanda Falls Conservation Park and two quarry reserves located near Malanda.

These include the right to:

- access the area
- hunt, fish and gather to satisfy personal, domestic, social, cultural, religious, spiritual, ceremonial and non-commercial communal needs
- take, use and enjoy the natural resources to satisfy personal, domestic, social, cultural, religious, spiritual, ceremonial and non-commercial communal needs
- maintain and protect places of importance to native title holders
- perform social, cultural, religious, spiritual or ceremonial activities and invite others to participate
- pass on native title rights and interests
- make decisions about the use and enjoyment of the area by Aboriginal people governed by the traditional laws and customs observed by the native title holders
- camp in certain areas in the Wooroonooran National Park.

The Court also recognised the group's non-exclusive rights to water in the determination area. These are the right to:

- use, enjoy, hunt on and fish in and gather from the water for personal, domestic, social, cultural, religious, spiritual, ceremonial and communal purposes.

These areas will continue to be shared by all those with an interest in the area, including members of the public.

Relationship between the native title rights and other rights

This consent determination recognises the Ngadjon-Jii People's native title rights while protecting the rights of the other parties. If the other rights and interests happen to be inconsistent with the native title rights and interests, the other rights and interests take precedence.

All of the groups' rights will be exercised in accordance with the laws of the Commonwealth and the State of Queensland. The Ngadjon-Jii People will also exercise their rights in accordance with their traditional laws and customs.



Yvonne Canando and Debbie Gertz.

"It [the determination] has recognised us as the traditional owners of this country through our connection to the land. By having this native title we're going to have a lot more say and a lot more input into what goes on in Eacham Shire."

Ernie Raymont, traditional elder and native title applicant

"This is our country and was our country first and foremost. It's country that's been handed down from generation to generation and we want to look after it and protect our areas. We hope to work in with government departments – if we all work together surely we can come to agreements to look after our country."

When our young people get older it [native title] is there for them to understand where they come from."

Yvonne Canando, traditional elder and native title applicant

Stepping stones

14 October 1999

The Ngadjon-Jii People lodged a native title application with the Federal Court.

4 June 2001

A plenary mediation meeting was held with all parties in Malanda.

2002 to 2007

The Tribunal conducted regular mediation meetings with all respondent parties in Cairns, Malanda and Atherton. Parties inspected sites in 2002 and 2006.

December 2007

The Federal Court made a determination of native title.

Managing the native title rights

The Native Title Act 1993 (Cwlth) requires the native title holders to set up an incorporated body, called a prescribed body corporate, within 12 months of the determination to manage their native title rights and interests. In the meantime, any notices required to be given to the native title holders can be given to the North Queensland Land Council Native Title Representative Body Aboriginal Corporation.

Agreement related to the determination

During negotiations the Ngadjon-Jii People and the State Government also reached an indigenous land use agreement (ILUA) that establishes how the native title rights and interests will be exercised in parts of the Wooroonooran National park, Topaz Road National Park and Malanda Falls Conservation Park.

The native title determination takes effect upon the registration of the ILUA on the Tribunal's Register of Indigenous Land Use Agreements.

ILUAs are agreements about the use and management of land and waters made between one or more native title groups and other people. An ILUA commonly sets out how the parties' rights and interests will be carried out on the ground.

What the consent determination means

A native title determination is a decision by a court, or recognised state or territory body, that native title does or does not exist in an area. The court can make the determination following an agreement between parties to a native title claim, if it is satisfied that the native title claimants have proved their continuous connection to the claimed area. Determinations made under these circumstances are called consent determinations.

This consent determination finalises the Ngadjon-Jii People's native title claim over the area through agreements reached with respondent parties about their native title rights and interests.

The respondent parties to the Ngadjon-Jii People's native title claim were:

- State of Queensland
- Cairns City Council
- Eacham Shire Council
- Ergon Energy Corporation Limited

The rights of these parties have been recognised in the determination.

During negotiations the parties agreed to recognise the Ngadjon-Jii People as the native title holders of the area. The parties also acknowledged that the Ngadjon-Jii People have a long-standing strong connection to the determination area under their traditional laws and customs.

Public Access

The public will still be able to access the Wooroonooran National Park, the Topaz Road National Park and the Malanda Conservation Park for recreation purposes. The public can also access and enjoy the waterways, beds, banks and foreshores of the Russell River.



Traditional elder and native title applicant Ernie Raymont with Trevor Rumble.

Determination area



Location of native title determination.

Do you need more information?

Prescribed Body Corporate

c/- North Queensland Land Council
Native Title Representative Body
Aboriginal Corporation
61 Anderson St
Cairns QLD 4870
Telephone (07) 4031 4779

Management of National Parks

Manager, Park Services
Environmental Protection Agency/
Queensland Parks and Wildlife
Service
PO Box 2066
Cairns QLD 4870
Telephone (07) 4046 6704

Indigenous Services

Department of Natural Resources
and Water
Locked Bag 40
Coorparoo DC Qld 4151
Telephone (07) 3406 2291

For a copy of the judgment and determination

Federal Court of Australia
Website www.fedcourt.gov.au
Search under 'Judgements'.

Librarian

Federal Court of Australia
Level 6, Commonwealth Law Courts
119 North Quay
Brisbane QLD 4000
Telephone (07) 3248 1100

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