



Extract from Schedule of Native Title Applications

Application Reference: Federal Court number: NSD6020/2001
NNTT number: NC2001/008

Application Name: Dulcie Nicholls & Ors on behalf of the Bundjalung People of Byron Bay and Attorney General of New South Wales (Bundjalung People of Byron Bay #3)

Application Type: Claimant

Application filed with: Federal Court of Australia

Date application filed: 05/12/2001

Current status: Full Approved Determination - 20/05/2020

Registration information: Please refer to the Register of Native Title Claims/National Native Title Register (as appropriate) for registered details of this application.

Date claim entered on Register of Native Title Claims: 04/04/2003

Registration decision status: Accepted for registration

Registration history: Registered from 4/04/2003 to 21/05/2020,

Date claim / part of claim determined: 20/05/2020

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Additional Information

On 30 April 2019 the Federal Court made a determination that native title exists in parts of the application area. See Nicholls on behalf of the Bundjalung People of Byron Bay and Attorney General of New South Wales [2019] FCA 527. That Determination is attached to this Extract. See also at <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2019/2019fca0527> . Order 2 of the determination provides that '[t]he Determination shall take effect upon the date on which the agreement referred to in paragraph 1 of Schedule Four is registered on the Register of Indigenous Land Use Agreements, pursuant to the Native Title Act 1993 (Cth).' Once that agreement has been registered, the determination of native title will be entered on the National Native Title Register. On 30 April 2019 the Federal Court made a determination that native title exists in parts of the application area. See Nicholls on behalf of the Bundjalung People of Byron Bay and Attorney General of New South Wales [2019] FCA 527. That determination is attached to this Extract. Order 2 of the determination provides that '[t]he Determination shall take effect upon the date on which the agreement referred to in paragraph 1 of Schedule Four [Cavanbah (Byron Bay) Arakwal Indigenous Land Use Agreement] is registered on the Register of Indigenous Land Use Agreements, pursuant to the Native Title Act 1993 (Cth).' That agreement referred to in Order 2 was registered on 20 May 2020, and therefore the determination is in effect from 20 May 2020.

Persons claiming to hold native title:

The Bundjalung People of Byron Bay are the native title claim group on whose behalf the Applicant makes this application.

The Bundjalung People of Byron Bay native title claim group are those Aboriginal persons who:

- (a)
 - (i) are the biological descendants of the apical ancestor Bobby Bray, also known as King Bobby of Bumberbin; or
 - (ii) are persons adopted in accordance with Byron Bay Bundjalung law and custom into the families of those persons described in (i), (including the biological descendants of any such adopted persons); and
- (b) identify themselves as a Bundjalung person of Byron Bay; and
- (c) are recognised as a Bundjalung person of Byron Bay by Bundjalung People of Byron Bay in accordance with their law and custom.

Native title rights and interests claimed:

The Bundjalung People of Byron Bay claim the following native title rights and interests in relation to the claim area (including the right to conduct activities necessary to give effect to them):

1. Where exclusive native title can be recognised, the Bundjalung People of Byron Bay, as defined in Schedule A of this application, claim the right to possession, occupation, use and enjoyment of the lands and waters of the application area to the exclusion of all others.
2. Where exclusive native title cannot be recognised, the Bundjalung People of Byron Bay as defined in Schedule A of this application, claim the following non-exclusive rights and interests:
 - (a) enter, travel over and remain on the land or waters;
 - (b) take and use the natural resources (other than water);
 - (c) take and use the water;
 - (d) camp and erect shelters and structures;
 - (e) light fires;
 - (f) engage in cultural activities, to conduct ceremonies, to hold meetings, and to participate in cultural practices relating to birth and death including burials;

- (g) have access to, to maintain and to protect from physical harm sites and places of importance which are of significance to the Bundjalung People of Byron Bay under their traditional laws and customs;
- (h) to teach the physical, cultural and spiritual attributes of places and areas of importance;
- (i) hunt;
- (j) fish;
- (k) be accompanied by persons who, though not Native Title Holders, are:
- (i) spouses, partners or parents of Native Title Holders, together with their children and grandchildren;
- (ii) people whose presence is required under traditional laws and customs for the performance of cultural activities, practices or ceremonies;and
- (iii) people requested by the Native Title Holders to assist in, observe or record cultural activities, practices or ceremonies.
3. The native title rights and interests are subject to and exercisable in accordance with:
- a) the valid laws of the State of New South Wales and the Commonwealth;
- b) the rights (past or present) conferred upon persons pursuant to the laws of the Commonwealth and the laws of the State of New South Wales;and
- c) the traditional laws acknowledged and traditional customs observed by the Bundjalung People of Byron Bay.

Application Area: **State/Territory:** New South Wales
Brief Location: Byron Bay
Primary RATSIB Area: New South Wales
Approximate size: 241.8046 sq km
(Note: There may be areas within the external boundary of the application that are not claimed.)
Does Area Include Sea: Yes

Area covered by the claim (as detailed in the application):

See "Attachment B".

Attachments:

1. Attachment B Description of the Area covered by the application , 12 pages - A4, 29/03/2019
2. Attachment C Map of the Area covered by the application , 2 pages - A4, 29/03/2019
3. Determination orders, 9 pages - A4, 30/04/2019

End of Extract