



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): NSD2300/2011
NNTT Number: NCD2017/002

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

Date(s) of Effect: 12/07/2018

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: 29/08/2017

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Order 2 of the determination provides that 'The Determination shall take effect upon the date on which the agreement referred to in paragraph 1 of Schedule Five is registered on the Register of Indigenous Land Use Agreements, pursuant to the *Native Title Act 1993* (Cth).'

The agreement referred to in paragraph one of Schedule Five was registered on the Register of Indigenous Land Use Agreements on 12 July 2018, and therefore the determination is now in effect.

REGISTERED NATIVE TITLE BODY CORPORATE:

Ngullingah Jugun (Our Country) Aboriginal Corporation RNTBC
Trustee Body Corporate
Level 1
44-70 Rosehill Street
Redfern New South Wales 2016

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:

4. Native title in relation to the Native Title Area is held by the Western Bundjalung People who comprise all the descendants of the following apical ancestors:

(a) Herbert 'Hunter' Avery (who was born in Grafton circa 1881);

- (b) King Bobby (who was born circa 1840s);
- (c) Queen Jinny Little (who was born in Yugilbar in 1840);
- (d) Richard 'Old Dick' Donnelly (who was born in Timbarra circa 1870);
- (e) Jane 'Jenny' 'Barbin Boatshed' Brown (who was born in Baryulgil circa 1855);
- (f) Thomas 'Tom' Donnelly (who was born in Tenterfield circa 1877);
- (g) Thomas Gordon (who was born in Copmanhurst in 1870);
- (h) Ethel Bawden (who was born in Yugilbar in 1884);
- (i) Grace Kelly also known as Grace Lardner (who was born on the Orara River circa 1876);
- (j) Mariah Little (who was born in Baryulgil circa 1855);
- (k) William 'Billy' 'Charles' Charles (who was born circa 1860);
- (l) Harry Joseph Mundine (who was born in Tabulam in 1868),
- (m) Teresa Agnes 'Ponjam' Derry (who was born in Tabulam in 1872);
- (n) Mick 'Bucky' Robinson (who was born in Timbarra/Tenterfield circa 1859);
- (o) Kate Gatton (who was born circa 1870);
- (p) Matilda 'Tilly' Gatton (who was born in Yugilbar in 1879);
- (q) Harry Walker (who was born circa 1850);
- (r) Jenny 'Ginny' Pearson (who was born circa 1860);
- (s) Alice Tindal also known as Alice Brown (who was born in Lionsville circa 1870), and
- (t) William Pearson (who was born in Gordon Brook in 1872),

and persons adopted or incorporated into the families of those persons and who identify as, and are accepted as, Western Bundjalung People in accordance with Western Bundjalung traditional laws and customs (and the biological descendants of those adopted or incorporated persons).

MATTERS DETERMINED:

THE COURT ORDERS THAT:

1. There be a determination of native title in the terms set out below (the "Determination").
2. The Determination shall take effect upon the date on which the agreement referred to in paragraph 1 of Schedule Five is registered on the Register of Indigenous Land Use Agreements, pursuant to the *Native Title Act 1993* (Cth).
3. In the event that the agreement referred to in paragraph 2 above is not registered on the Register of Indigenous Land Use Agreements on or before 28 May 2018, or at such later time as this Court may order, the matter is to be listed before the Court for further directions.
4. On the Determination taking effect, Ngullingah Jugun (Our Country) Aboriginal Corporation ICN 8672 shall hold the determined native title in trust for the common law holders pursuant to section 56(3) of the *Native Title Act 1993* (Cth) and is to:
 - (a) be the prescribed body corporate for the purposes of section 57(1) of the *Native Title Act 1993* (Cth); and
 - (b) perform the functions set out in section 57(1) of the *Native Title Act 1993* (Cth) and the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth).

5. There be no order as to costs.

6. Any party wishing to adduce further evidence or make further submissions relating to the reasons for judgment published today may give notice of their intention to do so within 28 days of today's date, accompanied by proposed directions.

7. The legal representatives for the first respondent are to provide the first respondent personally with a copy of these reasons for judgement.

THE COURT DETERMINES THAT:

1. Native title exists in the Native Title Area described in Schedule One and depicted in the maps at Annexures A and B to this determination.

2. Native title is extinguished in the Extinguished Area described in Schedule Two and depicted in the maps at Annexures A and B to this determination.

3. To the extent of any inconsistency between the written description in Schedules One and Two and the maps at Annexures A and B to this determination, the written description prevails.

Native title holders

4. Native title in relation to the Native Title Area is held by the Western Bundjalung People who comprise all the descendants of the following apical ancestors:

- (a) Herbert 'Hunter' Avery (who was born in Grafton circa 1881);
- (b) King Bobby (who was born circa 1840s);
- (c) Queen Jinny Little (who was born in Yugilbar in 1840);
- (d) Richard 'Old Dick' Donnelly (who was born in Timbarra circa 1870);
- (e) Jane 'Jenny' 'Barbin Boatshed' Brown (who was born in Baryulgil circa 1855);
- (f) Thomas 'Tom' Donnelly (who was born in Tenterfield circa 1877);
- (g) Thomas Gordon (who was born in Copmanhurst in 1870);
- (h) Ethel Bawden (who was born in Yugilbar in 1884);
- (i) Grace Kelly also known as Grace Lardner (who was born on the Orara River circa 1876);
- (j) Mariah Little (who was born in Baryulgil circa 1855);
- (k) William 'Billy' 'Charles' Charles (who was born circa 1860);
- (l) Harry Joseph Mundine (who was born in Tabulam in 1868),
- (m) Teresa Agnes 'Ponjam' Derry (who was born in Tabulam in 1872);
- (n) Mick 'Bucky' Robinson (who was born in Timbarra/Tenterfield circa 1859);
- (o) Kate Gatton (who was born circa 1870);
- (p) Matilda 'Tilly' Gatton (who was born in Yugilbar in 1879);
- (q) Harry Walker (who was born circa 1850);
- (r) Jenny 'Ginny' Pearson (who was born circa 1860);
- (s) Alice Tindal also known as Alice Brown (who was born in Lionsville circa 1870), and
- (t) William Pearson (who was born in Gordon Brook in 1872),

and persons adopted or incorporated into the families of those persons and who identify as, and are accepted

as, Western Bundjalung People in accordance with Western Bundjalung traditional laws and customs (and the biological descendants of those adopted or incorporated persons).

Nature and Extent of Non-Exclusive Native Title Rights and Interests

5. Subject to paragraphs 7 and 8, the nature and extent of the native title rights and interests in relation to the Native Title Area are the non-exclusive native title rights to:

- (a) enter, traverse across and remain on the land;
- (b) camp on, erect shelters and live but not to permanently camp on, possess or occupy the land;
- (c) take and use the water for personal, domestic, communal purposes (including cultural purposes) but not extending to a right to control the use and flow of the water in any rivers or lakes;
- (d) gather and use the traditional natural resources (other than water) including food, medicinal plants, timber, stone, charcoal, ochre and resin as well as materials for fabricating tools and hunting implements, and making artwork and musical instruments;
- (e) hunt;
- (f) fish;
- (g) light fires for domestic purposes, but not for the clearance of vegetation;
- (h) engage in cultural activities including:
 - (i) visiting places of cultural or spiritual importance and protecting those places by carrying out lawful activities to preserve their physical or spiritual integrity;
 - (ii) conducting and participating in ceremonies and rituals including in relation to birth and death;
 - (iii) holding cultural gatherings; and
 - (iv) passing on knowledge about the physical and spiritual attributes of places of importance; and
- (i) 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.

General qualifications on native title rights and interests

6. Native title does not exist in:

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).

7. The native title rights and interests described in paragraph 5 do not confer:

- (a) any right of possession, occupation, use and enjoyment of the land or waters in the Native Title Area to the exclusion of all others;
- (b) any right to control public access to or use the land or waters in the Native Title Area.

8. The native title rights and interests in relation to the land or waters in the Native Title Area are subject to and exercisable in accordance with:

- (a) the laws of the State of New South Wales and of the Commonwealth;

- (b) the traditional laws acknowledged and traditional customs observed by the Native Title Holders; and
- (c) the terms and conditions of the agreements referred to in Schedule Five.

The nature and extent of any Other Interests

9. The Other Interests in relation to the Native Title Area are described in Schedule Six.

Relationship between native title rights and interests and Other Interests

10. Subject to paragraphs 11 and 12, and except as otherwise provided by law, the relationship between the native title rights and interests in relation to land or waters in the Native Title Area and the Other Interests, described in Schedule Six, in relation to those areas is that:

- (a) the Other Interests continue to have effect;
- (b) the Other Interests co-exist with the native title rights and interests;
- (c) the Native Title Holders do not have the right to control access to or the use of the land or waters by the holders of the Other Interest; and
- (d) to the extent of any inconsistency, the Other Interests and any activity that is required or permitted by or under 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.

11. The relationship between the native title rights and interests in relation to the land or waters described in Part 2 of Schedule One (land or waters to which section 47A of the *Native Title Act 1993* (Cth) applies) and the Other Interests described at items 1(b) and 2 of Schedule Six is that:

- (a) the Other Interests continue to have effect;
- (b) the non-extinguishment principle in section 238 of the *Native Title Act 1993* (Cth) applies to the grant or vesting of the Other Interests or any prior interest in relation to the area in accordance with section 47A(3)(b) of the *Native Title Act 1993* (Cth);
- (c) the native title rights and interests continue to exist in their entirety, but have no effect in relation to the Other Interests;
- (d) the Other Interests, and any activity that is required or permitted by or under and done in accordance with the Other Interests, may be exercised and enjoyed in their entirety notwithstanding the existence of the native title rights and interests;
- (e) the native title rights and interests may not be exercised on land or waters the subject of the Other Interests while those Other Interests exist;
- (f) if the Other Interests or its effects are wholly removed or otherwise wholly cease to operate the native title rights and interests again have full effect; and
- (g) if the Other Interests or its effects are removed to an extent or otherwise cease to operate only to an extent, the native title rights and interests again have effect to that extent.

12. The relationship between the native title rights and interests in relation to any land or waters which are transferred to an Aboriginal Land Council under the *Aboriginal Land Rights Act 1983* (NSW) after the date of the Determination as a result of a claim lodged under that Act on or after 28 November 1994 and the Other Interests described in Item (1)(c) of Schedule Six is that:

- (i) pursuant to section 36(9) of the *Aboriginal Land Rights Act 1983* (NSW), the Other Interests referred to in this paragraph shall be subject to any native title rights and interests existing in relation to the land or waters immediately before the transfer; and
- (ii) the land or waters may only be dealt with by the Aboriginal Land Council in accordance with the *Aboriginal Land Rights Act 1983* (NSW) and the *Native Title Act 1993* (Cth).

13. Pursuant to section 47B of the *Native Title Act 1993* (Cth) any extinguishment effected by the creation

of prior interests within those areas described in Part 3 of Schedule One is to be disregarded.

DEFINITIONS

14. In this Determination, unless the contrary intention appears:

‘Aboriginal Land Council’ means New South Wales Aboriginal Land Council and any Local Aboriginal Land Council constituted under the *Aboriginal Land Rights Act 1983* (NSW) for a Local Aboriginal Land Council area, within the meaning of that Act, that is within the Native Title Area, and includes Baryulgil Local Aboriginal Land Council, Casino Boolangle Local Aboriginal Land Council, Grafton Ngerrie Local Aboriginal Land Council, Jana Ngalee Local Aboriginal Land Council, Jubullum Local Aboriginal Land Council and Moombahlene Local Aboriginal Land Council.

‘Application Area’ means the land or waters subject to native title determination application NSD 2300 of 2011.

‘Determination Area’ means the Native Title Area together with the Extinguished Area, but does not include the Part B Area.

‘external boundary of the Application’ means the boundary of the native title determination application filed by the Western Bundjalung people in Federal Court of Australia proceeding NSD 2300 of 2011 which is described in Schedule Three.

‘Extinguished Area’ means the land or waters described in Schedule Two.

‘land’ has the same meaning as in the *Native Title Act 1993* (Cth).

‘laws of the State of New South Wales and of the Commonwealth’ include statutes, regulations and other subordinate legislation, and the common law.

‘Native Title Area’ means the land or waters described in Schedule One.

‘Native Title Holders’ means the persons described in paragraph 4.

‘native title rights and interests’ means the rights and interests described in paragraph 5.

‘Other Interests’ means the rights and interests described in Schedule Six.

‘Part B Areas’ means the land or waters described in Schedule Four.

‘waters’ has the same meaning as in the *Native Title Act 1993* (Cth).

‘Western Bundjalung People’ has the same meaning as Native Title Holders.

‘Ngullingah Jugun (Our Country) Aboriginal Corporation’ means Ngullingah Jugun (Our Country) Aboriginal Corporation ICN 8672 incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

15. If a word or expression is not defined in these orders or this Determination, but is defined in the *Native Title Act 1993* (Cth) or the *Native Title (New South Wales) Act 1994* (NSW), then it has the meaning given to it in the *Native Title Act 1993* (Cth) or the *Native Title (New South Wales) Act 1994* (NSW), whichever is relevant.

SCHEDULE ONE - NATIVE TITLE AREA

[See NNTR attachment 1: “Schedule One - Native Title Area”]

SCHEDULE TWO - EXTINGUISHED AREA

[See NNTR attachment 2 and 3: “Schedule Two - Extinguished Area - Part 1 of 2; and Schedule Two - Extinguished Area - Part 2 of 2”]

SCHEDULE THREE - EXTERNAL BOUNDARY OF THE APPLICATION

[See NNTR attachment 4 and 5: “Schedule Three - External Boundary of the Application - Part 1 of 2; and Schedule Three - External Boundary of the Application - Part 2 of 2”]

SCHEDULE FOUR - PART B AREA

No determination is made at present in relation to the land or waters described in the table below:

Aboriginal Land Claim

Land Subject of Claim

ALC 24224

- (a) Lot 15/8/758015 (ID 9);
- (b) Lot 13/8/758015 (ID 10);
- (c) Lot 14/8/758015 (ID 11);
- (d) Lot 16/8/758015 (ID 12);
- (e) Lot 17/8/758015 (ID 13);
- (f) Lot 9/8/758015 (ID 14);
- (g) Lot 12/8/758015 (ID 15); and
- (h) Lot 11/8/758015 (ID 16).

ALC 24226

- (a) Lot 9/9/758015 (ID 35);
- (b) Lot 2/9/758015 (ID 36);
- (c) Lot 8/9/758015 (ID 37);
- (d) Lot 7/9/758015 (ID 38);
- (e) Lot 6/9/758015 (ID 39)
- (f) Lot 5/9/758015 (ID 40);
- (g) Lot 3/9/758015 (ID 41); and
- (h) Lot 4/9/758015 (ID 42).

ALC 24227

- (a) Lot 10/13/758015 (ID 5);
- (b) Lot 1/13/758015 (ID 6);
- (c) Lot 20/13/758015 (ID 7);
- (d) Lot 11/13/758015 (ID 17);
- (e) Lot 2/13/758015 (ID 18);
- (f) Lot 3/13/758015 (ID 19);
- (g) Lot 4/13/758015 (ID 20);
- (h) Lot 5/13/758015 (ID 21);
- (i) Lot 6/13/758015 (ID 22);
- (j) Lot 7/13/758015 (ID 23);
- (k) Lot 8/13/758015 (ID 24);
- (l) Lot 9/13/758015 (ID 25);
- (m) Lot 19/13/758015 (ID 26);
- (n) Lot 18/13/758015 (ID 27);

ALC 24228

- (o) Lot 17/13/758015 (ID 28);
- (p) Lot 16/13/758015 (ID 29);
- (q) Lot 15/13/758015 (ID 30);
- (r) Lot 14/13/758015 (ID 31);
- (s) Lot 13/13/758015 (ID 32); and
- (t) Lot 12/13/758015 (ID 33).
- (a) Lot 1/12/758015 (ID 8);
- (b) Lot 10/12/758015 (ID 34);
- (c) Lot 2/12/758015 (ID 43);
- (d) Lot 3/12/758015 (ID 44);
- (e) Lot 4/12/758015 (ID 45);
- (f) Lot 5/12/758015 (ID 46);
- (g) Lot 6/12/758015 (ID 47);
- (h) Lot 7/12/758015 (ID 48);
- (i) Lot 8/12/758015 (ID 49); and
- (j) Lot 9/12/758015 (ID 50).

Grafton Ngerrie Local Aboriginal Land Council Interests

Land Subject to interest

- Lot/ DP (ID Area)
- (a) Lot 115 DP48510 (ID2572)
 - (b) Lot 406 DP 46680 (ID2849)
 - (c) Lot 402 DP 44776 (ID3202)
 - (d) Lot 407 DP 48710 (ID3502)
 - (e) Lot 197 DP48433 (ID3865)
 - (f) Lot 409 DP 48826 (ID2965)
 - (g) Lot 196 DP48499 (ID3984)
 - (h) Lot 7002 DP 92946 (ID 235)
 - (i) Lot 347 DP 751366 (ID 236)
 - (j) Lot 701 DP 92899 (ID 260)
 - (k) Lot 3 Sec 23 DP 758290 (ID 261)
 - (l) Lot 4 Sec 23 DP 758290 (ID 262)
 - (m) Lot 390 DP 751366 (ID 298)
 - (n) Lot 124 DP 751369 (ID 351)

SCHEDULE FIVE - AGREEMENTS

1. The Indigenous Land Use Agreement under section 24CA of the *Native Title Act 1993* (Cth) dated 14 August 2017 made between Tim Torrens, David Mundine, Kathy Malera-Bandjalan, Bronwyn Bancroft, Leonard Gordon, David Walker, Terrence Robinson, Andrew Donnelly, Gary Brown, Graeme Walker, as the registered

native title claimant in relation to the land or waters in the Application Area, for and on behalf of the Western Bundjalung People, Ngullingah Jugun (Our Country) Aboriginal Corporation ICN 8672 and the State of New South Wales.

2. Any other Indigenous Land Use Agreement, which, after this Determination is made, is registered on the Register of Indigenous Land Use Agreement in relation to any land or waters in the Native Title Area within the Determination Area.

SCHEDULE SIX - OTHER INTERESTS IN THE NATIVE TITLE AREA

The Other Interests in the Native Title Area, as they exist at the date of this Determination, are as follows:

1. Aboriginal Land Council interests

(a) The rights and interests of New South Wales Aboriginal Land Council; Baryulgil Local Aboriginal Land Council; Casino Boolangle Local Aboriginal Land Council; Jana Ngalee Local Aboriginal Land Council; Moombahlene Local Aboriginal Land Council; and Jubullum Local Aboriginal Land Council (the 'Aboriginal Land Council respondents') and other Aboriginal Land Councils pursuant to undetermined Aboriginal land claims made under section 36 of the *Aboriginal Land Rights Act 1983* (NSW) in respect of certain lands within the Native Title Area, including the right to have each such claim determined according to law and, subject only to a determination that the land is claimable Crown land as defined in section 36(1) of that *Act*, the right to the transfer of an estate in fee simple pursuant to that *Act*.

(b) The rights and interests of the Aboriginal Land Council respondents listed in the table below as the holder of a freehold title including the rights of these Aboriginal Land Councils to use, manage, control, hold or dispose of, or otherwise deal with, land vested in it in accordance with the *Aboriginal Land Rights Act 1983* (NSW) over the areas of land or waters in the Native Title Area:

Local Aboriginal Land Council	Areas over which freehold title held
Baryulgil Local Aboriginal Land Council	(a) Lot 77 DP 752367 (ID2081)
	(b) Lot 76 DP 752367 (ID2082)
	(c) Lot 51 DP 752367 (ID2066)
	(d) Lot 70 DP 752367 (ID2067)
	(e) Lot 7 DP 752367 (ID2071)
	(f) Lot 98 DP 752367 (ID2072)
	(g) Lot 9 DP 752367 (ID2073)
	(h) Lot 95 DP 752367 (ID2074)
	(i) Lot 69 DP 752367 (ID2075)
	(j) Lot 48 DP 752367 (ID2076)
	(k) Lot 50 DP 752367 (ID2090)
	(l) Lot 45 DP 1008676 (ID2091)
	(m) Lot 13 DP 752367 (ID2096)
	(n) Lot 27 DP 752367 (ID2109)
	(o) Lot 3 DP 752367 (ID2112)
	(p) Lot 4 DP 752367 (ID2120)
	(q) Lot 46 DP 752367 (ID2126)
	(r) Lot 47 DP 752367 (ID2127)

- (s) Lot 49 DP 752367 (ID2128)
- (t) Lot 5 DP 752367 (ID2129)
- (u) Lot 6 DP 752367 (ID2132)
- (v) Lot 64 DP 752367 (ID2137)
- (w) Lot 67 DP 752367 (ID2140)
- (x) Lot 68 DP 752367 (ID2141)
- (y) Lot 75 DP 752367 (ID2146)
- (z) Lot 78 DP 752367 (ID2147)
- (aa) Lot 8 DP 752367 (ID2148)
- (bb) Lot 81 DP 752367 (ID2150)
- (cc) Lot 82 DP 752367 (ID2157)
- (dd) Lot 86 DP 752367 (ID2154)
- (ee) Lot 87 DP 752367 (ID2155)
- (ff) Lot 56 DP 1008675 (ID2163)
- (gg) Lot 105 DP1003891 (ID5498)
- (hh) Lot 103 DP 48534 (ID5519)
- (ii) Lot 5 DP 856073 (ID7282)
- (jj) Lot 2 DP 856073 (ID7283)
- (kk) Lot 131 DP752401 (ID7292)

Jana Ngalee Local Aboriginal Land Council

- (a) Lot 55 DP752376 (ID4219)
- (b) Lot 80 DP 48497 (ID4220)
- (c) (Part of) Lot 3 DP 615564 (ID5311)

Casino Boolangle Local Aboriginal Land Council

- (a) (Part of) Lot 70 DP 755604 (ID2050)
- (b) Lot 71 DP 46682 (ID2053)
- (c) Lot 102 DP 47650 (ID7118)

Moombahlene Local Aboriginal Land Council

- (a) Lot 36 DP751045 (ID1987)

Jubullum Local Aboriginal Land Council

- (a) Lot 55 DP14212 (ID2393)
- (b) Lot 53 DP14212 (ID6523)
- (c) Lot 224 DP752398 (ID6767)

And

(c) The rights of each of the Aboriginal Land Council Respondents in relation to land that is granted subject to native title pursuant to section 36(9) of the *Aboriginal Land Rights Act 1983* (NSW).

2. Aboriginal Corporation Land

(a) The rights and interests of the Aboriginal Corporation listed in the table below as the holder of a freehold title including the rights of these Aboriginal Corporations to use, manage, control, hold or dispose of, the areas

of land or waters in the Native Title Area:

Aboriginal Corporation Land	Areas over which freehold title held
Tabulam Aboriginal Corporation	(a) Lot 34 DP752378 (ID4623) (b) Lot 35 DP752378 (ID4590) (c) Lot 86 DP753378 (ID4630)
Mall-Bunoogah Aboriginal Corporation	(a) Lot 4 DP368358 (ID5892)
Jubal Aboriginal Corporation	(a) Lot 223 DP43811 (ID6390) (b) Lot 118 DP752397 (ID6396) (c) Lot125 DP831605 (ID6408) (d) Lot 220 DP43810 (ID6419)
Gungyah Ngalingnee Aboriginal Corporation	(a) Lot13/22 DP758944 (ID6312) (b) Lot 21 DP1003453 (ID6700) (c) Lot 1 DP749875 (ID6727)

3. Reserves

- (a) The rights of State, Local Government and other organisations or persons who have the care, control and management of any reserves within the Native Title Area subject to the laws of the State of New South Wales and of the Commonwealth; and
- (b) the rights of persons entitled to access and use reserves within the Native Title Area for the purposes for which they are reserved, subject to any statutory limitations upon those rights.

4. Mining and Petroleum Interests

- (a) The rights of the holders of any mining interests.
- (b) The rights of holders of any petroleum interests.

5. Water Interests

- (a) The rights of any holder as at the date of this determination of any licences or permissive occupancies granted under the *Water Act 1912* (NSW) and the *Water Management Act 2000* (NSW).

6. Fishing Interests

- (a) The rights of the holders from time to time of leases, licences and permits granted or issued under the *Fisheries Management Act 1994* (NSW) and Regulations made under that *Act*.
- (b) Other rights and interests under the care, management and control of the Department of Primary Industry - Fisheries subject to the laws of the State of New South Wales and of the Commonwealth.
- (c) The rights of the Department of Primary Industry - Fisheries, and employees or agents of the same under the *Fisheries Management Act 1994* (NSW) and Regulations made under that *Act*.

7. National Park Interests

- (a) The rights of the holders from time to time of leases, licences and permits granted or issued under the *National Parks and Wildlife Act 1974* (NSW) and Regulations made under that *Act*.
- (b) The rights of the NSW Office of Environment and Heritage, and employees or agents of the same under the *National Parks and Wildlife Act 1974* (NSW) and Regulations made under that *Act*.
- (c) The rights of the NSW Office of Environment and Heritage, and employees or agents of the same, who

have the care, control and management of any reserves, subject to the laws of the State of New South Wales and of the Commonwealth.

8. Occupational Permits

The rights and interests of any holder as at the date of this determination of any forest permit under the *Forestry Act 2012* (NSW) which continues in force under the *National Parks and Wildlife Act 1974* (NSW).

9. Forestry Interests

- (a) The rights of the holders from time to time of leases, licences and permits granted or issued under the *Forestry Act 2012* (NSW) and Regulations made under that *Act*.
- (b) Other rights and interests under the care, management and control of the Forestry Corporation of New South Wales (as constituted under the *Forestry Act 2012* (NSW)) subject to the laws of the State of New South Wales and of the Commonwealth.
- (c) The rights of the Forestry Corporation of New South Wales, and employees or agents of the same under the *Forestry Act 2012* (NSW) and Regulations made under that *Act*.

10. Crown Lands Interests

- (a) The rights of the holders from time to time of leases, licences and permits granted or issued under the *Crown Lands Act 1989* (NSW) and Regulations made under that *Act*.
- (b) Other rights and interests under the care, management and control of the New South Wales Department of Industry - Lands subject to the laws of the State of New South Wales and of the Commonwealth.
- (c) The rights of the New South Wales Department of Industry - Lands, and employees or agents of the same under the *Crown Lands Act 1989* (NSW) and Regulations made under that *Act*.

11. Telstra Corporation Limited

- (a) The rights and interests of Telstra Corporation Limited (ACN 051 775 556):
 - (i) as the owner or operator of telecommunications facilities within the Native Title Area;
 - (ii) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act 1975* (Cth), the *Australian Telecommunications Corporation Act 1989* (Cth), the *Telecommunications Act 1991* (Cth) and the *Telecommunications Act 1997* (Cth), including rights:
 - (A) to inspect land;
 - (B) to install and operate telecommunications facilities; and
 - (C) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities;
- (b) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Native Title Area in the performance of their duties; and
- (c) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Native Title Area.

12. Electricity and Energy Supply Interests

- (a) The rights and interests of an electricity or energy supply authority within the meaning of the *Electricity (Consumer Safety) Act 2004* (NSW) and the *Energy Services Corporations Act 1995* (NSW) to exercise functions, powers or rights in accordance with the laws of the State of New South Wales or of the Commonwealth and as either or both owner and operator of facilities for the transmission of electricity and other forms of energy and associated infrastructure situated on the Native Title Area including but not limited to the right to enter the Native Title Area in order to access, use, maintain, repair, replace, upgrade or otherwise deal with existing facilities and infrastructure.
- (b) The rights and interests of:

- (i) a network operator within the meaning of the *Electricity Supply Act 1995* (NSW); or
- (ii) for the purposes of any privatisation transaction, any lessor or lessee of a transmission system or person who owns or is authorised to control or operate a transmission system,

to exercise functions, powers or rights in accordance with the laws of the State of New South Wales or of the Commonwealth as operator of facilities for the transmission of electricity and other forms of energy and associated infrastructure situated on the Native Title Area including but not limited to the right to enter the Native Title Area in order to access, use, maintain, repair, replace, upgrade or otherwise deal with existing facilities and infrastructure.

13. Local Government Interests

The rights and interests of Clarence Valley Council and Tenterfield Shire Council as councils constituted under the *Local Government Act 1993* (NSW).

14. Licence Interest

Rights and interests under licence number LI 355173 granted by the Crown in right of the State of New South Wales pursuant to the *Crown Lands Act 1989* (NSW).

15. Other interests generally

- (a) Rights and interests, including licences and permits, granted by the Crown in right of the State of New South Wales or of the Commonwealth pursuant to statute or under regulations made pursuant to such legislation.
- (b) Rights and interests held by reason of the force and operation of the laws of the State of New South Wales or of the Commonwealth.
- (c) Rights and interests of members of the public arising under common law or statute.
- (d) So far as is confirmed pursuant to section 18 of the *Native Title (New South Wales) Act 1994* (NSW) as at the date of the Determination, any existing public access to and enjoyment of:
 - (i) waterways;
 - (ii) the bed and banks or foreshores of waterways;
 - (iii) travelling stock reserves; and
 - (iv) areas that were public places at the end of 31 December 1993.
- (e) The rights of:
 - (i) an employee, agent or instrumentality of the State of New South Wales;
 - (ii) an employee, agent or instrumentality of the Commonwealth;
 - (iii) an employee, agent or instrumentality of any Local Government Authority,

to access the Native Title Area and carry out actions as required in the performance of his/ her or its statutory or common law duty.

ANNEXURE A

[See NNTR attachment 6 and 7: "Annexure A - Maps of the Native Title Area - Part 1 of 2; and Annexure A - Maps of the Native Title Area - Part 2 of 2"]

ANNEXURE B

[See NNTR attachment 8: "Annexure B - Map of the Extinguished Area"]

REGISTER ATTACHMENTS:

1. Annexure B - Native Title Area in Lot 3 on Deposited Plan 615564 (ID5311), 1 page - A4, 29/08/2017
2. Schedule One - Native Title Area, 14 pages - A4, 29/08/2017
3. Schedule Two - Extinguished Area - Part 1 of 2, 29 pages - A4, 29/08/2017
4. Schedule Two - Extinguished Area - Part 2 of 2, 29 pages - A4, 29/08/2017
5. Schedule Three - External Boundary of the Application - Part 1 of 2, 14 pages - A4, 29/08/2017
6. Schedule Three - External Boundary of the Application - Part 2 of 2, 14 pages - A4, 29/08/2017
7. Annexure A - Maps of the Native Title Area - Part 1 of 2, 43 pages - A4, 29/08/2017
8. Annexure A - Maps of the Native Title Area - Part 2 of 2, 40 pages - A4, 29/08/2017

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.