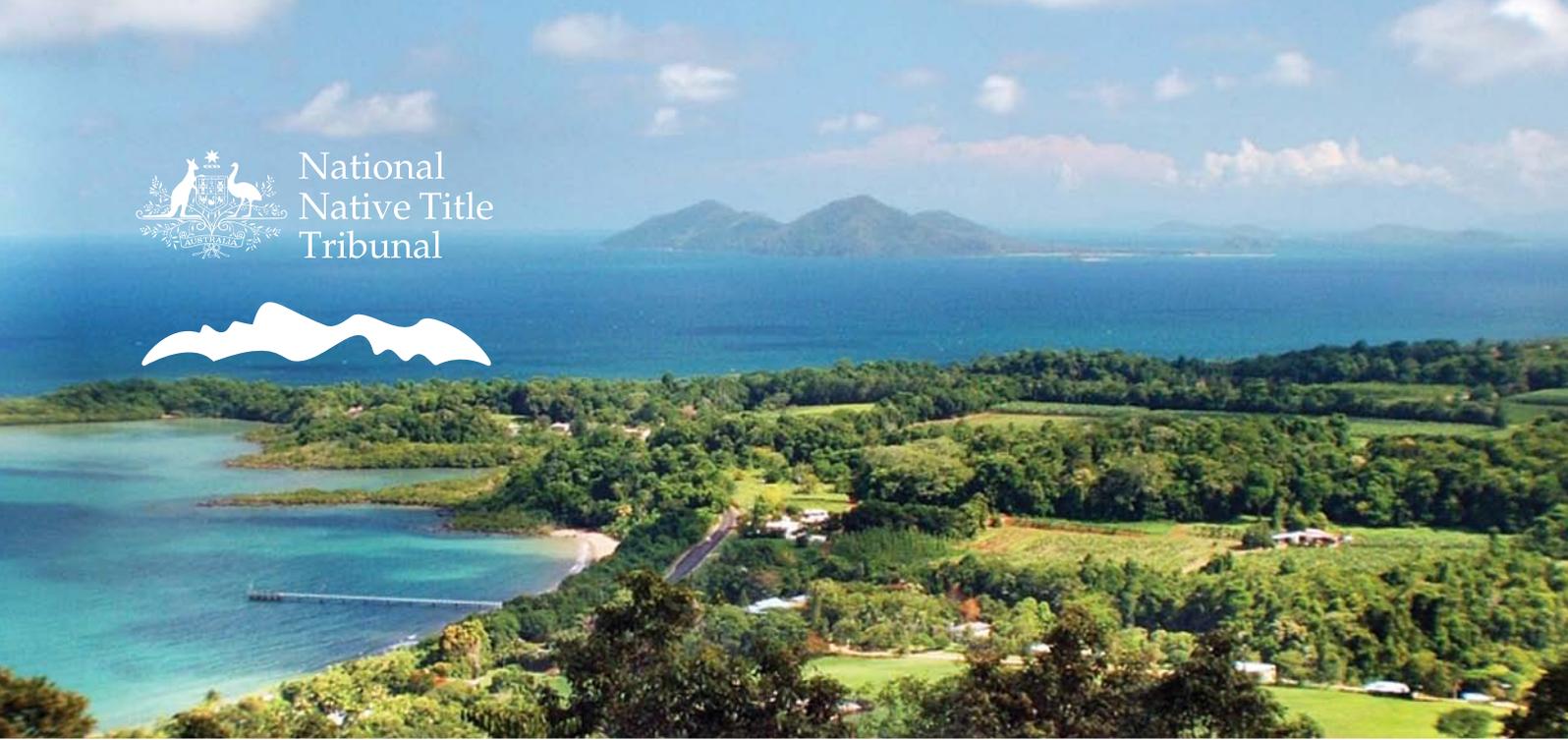




National
Native Title
Tribunal



Looking south from Bicton Hill towards Mission Beach; Clump Point is shown on the left with Dunk Island on the horizon. Photo: Paul Toogood.

Djiru People's native title determinations

1 September 2011
Far North Queensland

Djiru People determinations

On 1 September 2011, the Federal Court of Australia made two consent determinations recognising the Djiru People's native title rights over country, 133 km south of Cairns in Far North Queensland. The combined determination area consists of about 9440 ha of land and waters, including parts of the Tully Gorge National Park, Clump Mountain National Park, Djiru National Park, Hull River National Park, Walter Hill Range Conservation Park, unallocated state land and reserve land.

The Djiru People negotiated with representatives of the Queensland Government, Commonwealth of Australia, Cassowary Coast Regional Council, Ergon Energy Corporation Limited, El Arish Sports and Recreational Association Incorporated, North Queensland Clump Mountain Project Cooperative Society Limited and individuals to reach agreement about the Djiru People's native title rights and the rights of others with interests in the claim area. The Djiru People also negotiated four indigenous land use agreements (ILUAs) that establish how their respective rights and interests will be exercised on the ground. All agreements were reached with the assistance of the National Native Title Tribunal through mediation involving the parties.



Rae Kelly and Dawn Hart unveil a sign at Clump Point welcoming visitors to Djiru country, near Mission Beach.

The two determinations bring the total number of determinations made in Australia to 172, and in Queensland to 62.

The Djiru Warrangburra Aboriginal Corporation has been established as the Prescribed Body Corporate to manage the native title rights on behalf of all native title holders.

What the consent determination means

A native title determination is a decision by the Federal Court of Australia that native title does or does not exist over an area of land or water. If the parties to a native title claim reach agreement, and the Federal Court endorses the agreement, it is called a consent determination.

Exclusive native title rights recognised

The Federal Court recognised the Djiru People's exclusive native title rights over about 540 ha of land. 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 Court also recognised the group's non-exclusive rights over about 8900 ha of land and waters above and below the high water mark in the determination area. This includes the rights to:

- access, be present on, move about on and travel over the area;
- camp on the area and, for that purpose, erect temporary shelters on the area;
- hunt, fish and gather on the land and waters of the area for personal, domestic, and non-commercial communal purposes;
- take, use, share and exchange natural resources from the land and waters for personal, domestic and non-commercial communal purposes;

- take and use the water of the area for personal, domestic and non-commercial communal purposes;
- conduct ceremonies on the area;
- be buried and bury native title holders within the area;
- maintain places of importance and areas of significance to the native title holders under their traditional laws and customs and protect those places and areas from physical harm;
- teach on the area the physical and spiritual attributes of the area; and
- light fires on the area for domestic purposes including cooking, but not for the purpose of hunting or clearing vegetation.



The Djiru claim group at an authorisation meeting in 2003.

Relationship between the native title rights and other rights

Both consent determinations recognise the Djiru People's native title rights and interests while protecting the rights of the other parties, with respect to those areas where the group's non-exclusive rights have been recognised. If there is inconsistency between native title rights and interests and the valid interests of others in such areas, the other interests may take precedence over the native title rights. The group will exercise its non-exclusive rights alongside the rights of others and parts of the determination area will continue to be shared by all those with an interest in the area, including members of the public.

Agreements related to the determinations

During the mediation process conducted by the Tribunal, the Djiru People also negotiated several ILUAs with some parties. The ILUAs set out how the parties' rights and interests will be carried out on the ground.

A Protected Areas ILUA between the Djiru People, the State Government and the Wet Tropics Management Authority establishes how the native title rights and interests will be exercised in the national parks and conservations parks within the claim area.

A Tenure Resolution ILUA between the Djiru People and the State Government provides for the grant of freehold land and the creation of reserves under the *Land Act 1994*, the transfer of Aboriginal land under the *Aboriginal Land Act 1991* and the creation of national parks and nature refuges under the *Nature Conservation Act 1992*.

A Local Government ILUA between the Djiru People and Cassowary Coast Regional Council provides for the protection of Aboriginal cultural heritage, whilst establishing how development in the future will proceed in the local government area.

An ILUA between Ergon Energy Corporation Limited and the Djiru People was also finalised. It provides for continued access by Ergon to the determination area so that it can carry out its functions.

Stepping stones

7 March 2003

Djiru People #2 native title determination application filed with the Federal Court over national parks, state forests and reserve land.

7 July 2003

Djiru People #3 native title determination application filed with the Federal Court over various parcels of unallocated state land.

20 August 2003

Both Djiru People claims were registered by the Registrar of the National Native Title Tribunal on the Register of Native Title Claims.

22 July 2010 - 31 January 2011

Connection evidence agreed to by the State of Queensland on 22 July 2010; most other respondents by November 2010, and the Commonwealth by 31 January 2011.

22 July 2010 to August 2011

The Tribunal facilitated the final phase of mediation between the parties to assist them to reach agreement in relation to the consent determinations. The Tribunal also assisted the parties to negotiate various ILUAs.

1 September 2011

Justice Dowsett of the Federal Court of Australia made the consent determinations at Mission Beach.

Map of determination area



Copy of judgment and determinations

You can find a copy of the judgment and determination on the Federal Court of Australia's website: www.fedcourt.gov.au under the sub-heading 'Judgments'.

Further information

National Native Title Tribunal
Queensland Registry
Cairns Regional Office
Level 14, Cairns Corporate Tower
15 Lake Street
Cairns Qld 4870
Telephone 07 4046 9000
Freecall 1800 640 501

Federal Court of Australia
Librarian
Level 6, Commonwealth Law Courts
119 North Quay
Brisbane Qld 4000
Telephone 07 3248 1100

North Queensland Land Council
61 Anderson Street
Cairns Qld 4870
Telephone 07 4042 7000

The Tribunal welcomes feedback on whether this information was useful. Email the Communications unit with your comments and suggestions to enquiries@nntt.gov.au or telephone 1800 640 501.



**National
Native Title
Tribunal**

Published by the National Native Title Tribunal © Commonwealth of Australia, August 2011.

This is provided as general information only and should not be relied upon as legal advice for a particular matter.

Any words and phrases not defined in this information have the meaning given to them in the *Native Title Act 1993* (Cwlth).

Freecall 1800 640 501 www.nntt.gov.au