

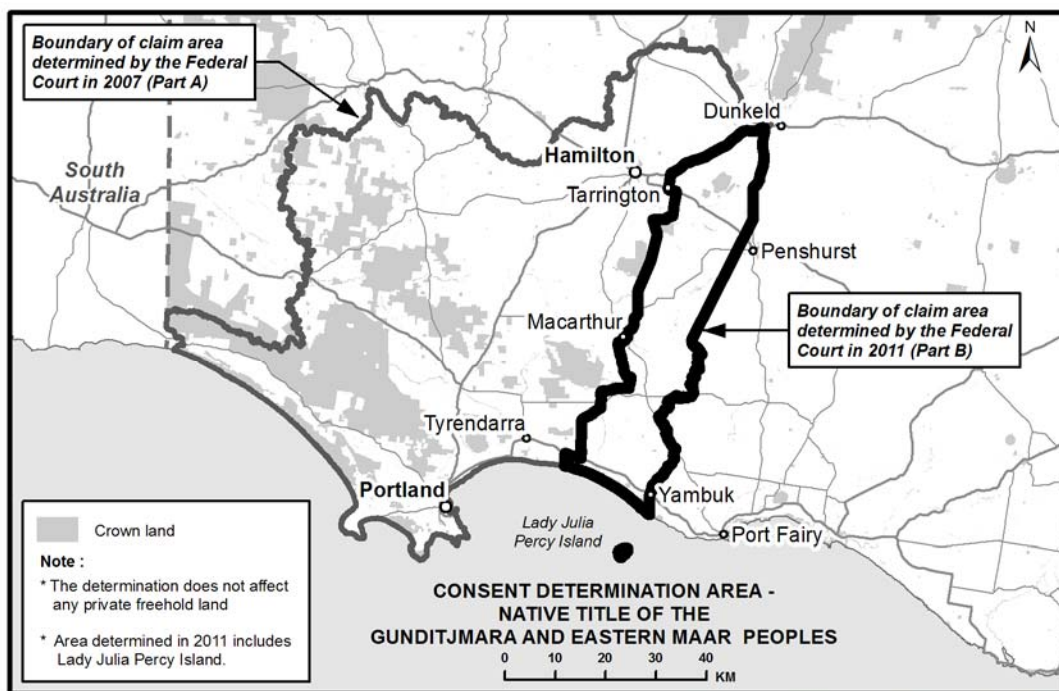
Fact sheet

DETERMINATION OF NATIVE TITLE FOR THE GUNDITJMARA AND THE EASTERN MAAR PEOPLES 27 JULY 2011

What is the determination of native title?

Native title is the recognition in Australian law of Aboriginal people's rights and interests in their traditional lands and waters. Aboriginal groups can apply to the Federal Court to have these rights recognised under the *Native Title Act 1993*.

In this case, the Federal Court has recognised that the Gunditjmarra People and the Eastern Maar People both hold native title over Crown land in the *area shown on the map below*. The State and all other parties to the claim have agreed to this finding making it a 'consent determination'.



What is the area of the determination?

The area of the consent determination is an area shared by the Gunditjmarra and the Eastern Maar Peoples.

The consent determination area is an area roughly between the Shaw and Eumeralla Rivers and includes *Deen Maar* (or Lady Julia Percy Island) which is of particular cultural significance to the Gunditjmarra and Eastern Maar Peoples.

The area has been referred to as 'Part B' because it resolves the second part of two native title claims first made by the Gunditjmarra in 1996. The first part of these claims (or 'Part A') was resolved in 2007 when the Federal Court found, with the agreement of the State Government, that the Gunditjmarra hold native title in the western 'Part A' area.

Fact sheet

The Gunditjmara People and the Eastern Maar People

The Gunditjmara and Eastern Maar Peoples are the traditional Aboriginal owners of this area of south-west Victoria. They are separate but related 'domains' of the same community of native title-holders. Membership of the Gunditjmara and Eastern Maar is defined by reference to criteria including descent from identified ancestors who occupied the area around the time of European settlement.

What native title rights do the Gunditjmara and the Eastern Maar have?

Under the consent determination, the Gunditjmara and the Eastern Maar peoples have the native title right to:

- access to or enter and remain on the land and waters;
- camp on the land and waters landward of the high water mark of the sea;
- use and enjoy the land and waters;
- take the resources of the land and waters; and
- protect places and areas of importance on the land and waters.

These rights can only be exercised on Crown land and waters and are subject to relevant State and Commonwealth laws. These rights are the same as the rights recognised for the Gunditjmara in the 'Part A' area.

Does this affect other people with interests in the area?

Any existing interest-holders – such as people with licences over Crown land – are unaffected by this determination. In most cases, these interests will co-exist with the native title rights. However, to the extent of any inconsistency, the existing interests prevail over native title rights.

As is already the case, some new activities on Crown land and waters require native title-holders to be notified beforehand. The *Native Title Act 1993* sets out processes for addressing any impacts on native title where they occur.

Who will manage the native title rights in Part B?

In Part B, each of the two Peoples have nominated a corporation to manage the native title rights in the area. The Gunditj Murring Traditional Owners Aboriginal Corporation (GMTOAC) will hold the native title on behalf of the Gunditjmara People and the Eastern Maar Aboriginal Corporation (EMAC) will be an agent on behalf of the Eastern Maar People. These corporations are called "prescribed bodies corporate" ('PBCs') under the *Native Title Act*.

Native title law permits two PBCs to hold native title rights and interests for the same area of Crown land, where the native title-holders choose this. There is a precedent for this in the Pilbara region of Western Australia.

The two PBCs have committed to working together to minimise any administrative complexity and cost for all parties in 'future act' and Aboriginal cultural heritage processes arising from having two PBCs.