

## **Australia's oddest jurisdiction: The continuous anomaly of Jervis Bay Territory**

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**Abstract:** The organisation of sovereign states into various components rarely proceeds on entirely rational grounds and often involves the accommodation of various social, cultural, political and geographical factors. While there was clear rationale behind establishment of Australia's Jervis Bay Territory, its continuance is a notable example of irrationalism. Since 1915, the territory's miniscule population (391 in the 2016 census, of which the majority are Indigenous) has had to contend with dislocated legislation, administration and service provision, split (at various times) between Australian Commonwealth, Australian Capital Territory and New South Wales agencies. These issues have resulted in a variety of logistical problems for residents that suggest the pointlessness of the territory's continuance.

**Keywords:** Australia, Canberra, Jervis Bay Territory, New South Wales, subnational jurisdictions, Wreck Bay community

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### **Introduction**

Small sovereign and sub-national jurisdictions have long attracted authors, researchers and tourists keen to experience and explore their idiosyncrasies. There is a particular concentration of such areas in Europe in the form of the small states of Andorra, Liechtenstein, Luxembourg, Malta, Monaco, San Marino and the Vatican/ Holy See (Bertolini, 2017; Simpson, 2021). All these have managed to parlay their peculiarities into economic activities that have proved beneficial for their inhabitants: Liechtenstein and Luxemburg have substantial finance sectors that benefit from supportive local legislation; Andorra and San Marino have substantial tourism industries; Malta is an e-gaming, tourism, finance and manufacturing hub; Monaco attracts general tourists, gamblers and event attendees; and the Vatican is a major centre for religious pilgrimage.

Below these, Europe has a tier of subnational jurisdictions in which distinct local autonomies have persisted in the era of the modern sovereign state. These include Åland (within the state of Finland); Greenland and the Faroes (within the Kingdom of Denmark) and Catalonia (within the Kingdom of Spain). Great Britain has a particularly impressive portfolio of these. The Channel Islands are perhaps the most best-known example, as they are not even constitutionally part of the United Kingdom. Their peculiarity is multiple: not only are they divided into two autonomous bailiwicks, Guernsey and Jersey, but the former also includes Sark, which has a substantial degree of autonomy from Guernsey, and the disputed territory of Brecqhou, which its owners have claimed as an independent jurisdiction (Johnson, 2014, 2015; Dawes, 2015). Like several of the small European states, Jersey and Guernsey have used their tax-haven status to develop as major finance centres (Shaxson, 2011; O'Sullivan, 2019). Internationally there is also another group of territories that are classified as part of sovereign states but are distinct and remote from them and have various peculiarities of administration and culture. These have resulted from imperial expansion and France possesses the most

significant range in its *regions d'outre mer* (French Guiana, Guadeloupe, Martinique, Mayotte and Réunion) and *collectivites d'outre-mer* (French Polynesia, Saint Barthelemy, Saint Martin, Saint Pierre et Miquelon and Wallis and Futuna) (Mrgudovic, 2012; Aldrich and Connell, 2020). At another level down, the creation of new capital cities in locations apart from established metropolitan centres has resulted in small autonomous areas being inserted into federated nations. Examples include Abuja Capital Territory in Nigeria, Washington D.C. in the USA, and Australian Capital Territory (ACT), centred around the city of Canberra.

Australia has none of the archaic subnational jurisdictions of its imperial parent state, the United Kingdom; but it has its own complexities. Australia is relatively new as a sovereign country. It was established in 1901 through the federation of six separately administered British colonies (New South Wales, South Australia, Tasmania, Queensland Victoria and Western Australia) that became states within the Commonwealth of Australia.<sup>1</sup> At the time of federation, the sparsely populated area now known as Northern Territory (NT) was administered by South Australia; but in 1910, responsibility for its administration was transferred to the new national government. It was not until 1978 that a legislative assembly was established, and NT now operates as a state-like entity. Along with NT, the Commonwealth of Australia has eight other designated territories (Carney, 2006). Seven of these are external areas that collectively represent a mini-empire that Australia gained in the early-mid 20<sup>th</sup> Century through various means (Ashmore and Cartier Islands, Australian Antarctic Territory, Christmas Island, The Cocos [Keeling] Islands, the Coral Sea Islands, Heard and McDonald Islands and Norfolk Island). Of the remaining two, Australian Capital Territory (ACT) is the best known. ACT resulted from the New South Wales Government transferring a small landlocked area south of Sydney to Australian Commonwealth administration in 1911 as the site for a new national capital, completed in stages in the 1910s and 1920s; while an ACT Advisory Council was established in 1934, it was not until 1988 that self-government was granted for the ACT and since then it, like NT, it has operated as a state-like entity.

Australia's final territory, Jervis Bay, was established in 1915 to support the ACT but has since operated as an idiosyncratic – and arguably pointless – jurisdiction. The territory's miniscule population (391 in the 2016 census) has been subject to bizarrely fragmented legislation, administration and service provision, split (at various times) between Australian Commonwealth, Australian Capital Territory and New South Wales state and local government agencies. These issues have resulted in a variety of logistical problems for residents.

This article results from a research project designed to document and illuminate the institutional and political factors that have enabled and sustained the territory and to examine the effects of these on the lived experiences of inhabitants of the territory. A mixed methodology was employed, combining textual analysis (of official documents and speeches), ethnography, and observation and interpretation of physically manifested aspects of JBT and its borders. The article begins by examining the legislation involved in establishing JBT and related official reports and statements sourced from National Library of Australia digital and print archives. It then moves to examine the impact of the disjointed administration and operation of the territory on its Euro-Australian and indigenous communities and draws on research visits to the area, interviews and correspondence to characterise the current nature of

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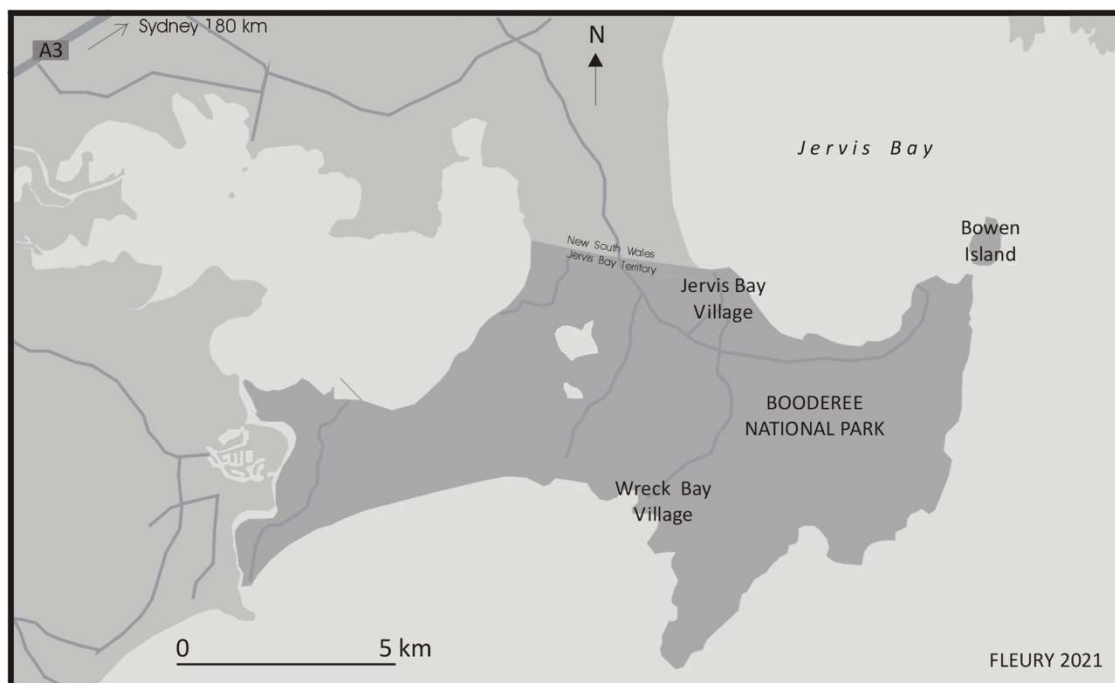
<sup>1</sup> The federation was specified as a 'Commonwealth' under its enabling legislation, the 'Commonwealth of Australia Constitution Act', passed by the British Parliament in 1900.

the territory. The article concludes by considering the merits of and impediments to the territory's dissolution.

### **Jervis Bay Territory and Australian Capital Territory**

Jervis Bay Territory (JBT) covers 68.7 km<sup>2</sup> and comprises a low-lying, sandy 'hammerhead' peninsula, accessed via a thin isthmus on the south side of Jervis Bay, together with Bowen Island, off the peninsula's north-eastern tip (Figure 1).<sup>2</sup> The territory is located 175 km east of Canberra/ACT and 190 km south of Sydney. JBT has a population of 391 (ABS, 2016), 207 of whom (52%) identify as Indigenous, with the majority residing in the Wreck Bay community (discussed below). JBT owes its existence to early perceptions that Canberra/ACT needed its own coastal port, and a connecting railway line to it, in order that the capital territory should not become dependent on NSW (and thereby be subject to direct or indirect influence upon it). As this section details, neither the port nor the railway to ACT were ever constructed.

**Figure 1: Jervis Bay Territory and surrounding areas (Christian Fleury, 2021).**



Following discussion between Australia's states, in May 1912 the NSW Government offered to transfer an area of land in Jervis Bay to the Commonwealth of Australia to establish a port facility, with the latter accepting the offer and asking NSW to expedite matters (*The Leader*, 1912, p. 2). Despite this request, the transfer did not occur until July 1915, when the 'Jervis Bay Territory Acceptance' Bill was passed by the NSW House of Representatives. In recommending the Bill to the House, Home Affairs minister William Archibald identified that the territory would include the Australian Naval College (which had just opened on the peninsula) and noted that "in due course, other buildings, such as dockyard, etc., will be constructed" (*ibid.*).<sup>3</sup> The issue of a rail link between the new territory and the established NSW

<sup>2</sup> There are no port facilities (or even jetties) on JBT's sea coast; and there is no history of marine transport between JBT and areas of the NSW coast for anything other than recreational purposes.

<sup>3</sup> Archibald also identified that the area in question would come under "the provisions of the Commonwealth laws such as the Commonwealth Arbitration Act and other measures" (*The Leader*, 1912, p. 2).

coastal town of Nowra (34 km to the north) was also discussed, with undertakings by the Government that it would consider its viability.<sup>4</sup> The Australian Commonwealth's 'Jervis Bay Acceptance Act' subsequently recognised the transfer of land from NSW; clause 4(1) stipulated that "the territory set out in the agreement and surrendered by the State to the Commonwealth shall be and is hereby accepted by the Commonwealth as a territory of the Commonwealth". The Act made no reference to the territory as being a part or a dependent of the ACT; and the relationship between the two was only legally stipulated 58 years later in an amendment to the Act (# 216) that stated that JBT should be considered as "annexed" to ACT with specific regard to the latter's laws applying in JBT. The amendment did not absorb JBT into ACT nor delegate ACT authority over JBT more generally.

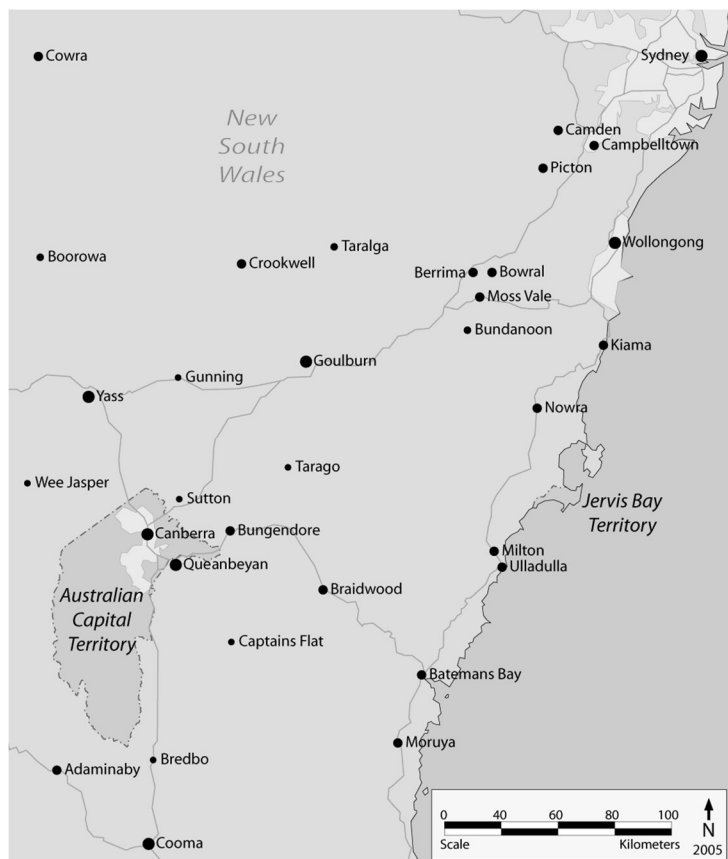
The current constitutional and legal status of the JBT is expressed by the Australian Commonwealth Department of Infrastructure, Transport, Regional Development and Communication (DITRD&C) in its JBT 'Governance and Administration' summary (n.d., online). Written in delicately opaquely legalese, the Summary states that "although the Jervis Bay Territory is not part of the Australian Capital Territory, the laws of the ACT apply, in so far as they are applicable". The cryptic characterisation of the latter phrase gives no indication of who might be responsible for determining which of the ACT laws that apply to JBT "are applicable" (or whether there are any related appeal procedures for the JBT or ACT in such determinations). The slippery nature of the phrase reflects the manner in which behind-the-scenes negotiations between ACT, the Australian Commonwealth and other bodies, such as the Australian Federal Police (AFP), have addressed any potentially contentious legal matter concerning JBT. This was apparent in September 2019 when the ACT Government decriminalised the cultivation and/or possession of small amounts of marijuana (AFP, 2019). Giving no indication of which (if any) bodies may have lobbied the ACT Government, a spokesperson for ACT Chief Minister Andrew Barr stated, somewhat cryptically, that the decriminalisation would only apply in ACT "due to the increased complexity in applying these laws, and how they would interact with [unspecified] Commonwealth Law" in JBT (Thomson, 2019).

While plans for the proposed rail route were drawn up as early as 1909 (Scrivener, 1909), further planning – let alone any construction – of the railway were delayed indefinitely (Crabb, 2019), in parallel with a similar delay in developing a port in JBT. In hindsight, the indefinite postponement of these schemes can be seen to reflect a diminishing sense of the necessity and value of either amenities as the Australian federation solidified and as rivalries and suspicions between NSW and Victoria declined. Presently there are no plans to build a port at JBT (to service Canberra or for any other purpose) or to construct a rail line between ACT and JBT. Indeed, transport access between JBT and ACT continues to be less than optimum. There is, for instance, no direct main road between the two, with car trips taking around 3 hours (each way), while the scheduled bus service between ACT and JBT (which runs via Batemans Bay) (Figure 2), takes over 5 hours (each way) to complete and requires residents of JBT to arrange their own transport to the nearest Jervis Bay bus stop. As this suggests, the failure to provide port facilities in JBT and a rail link to Canberra – which comprised the original and sole rationale for the establishment of the territory – has left JBT stranded as an anomalous coastal isolate.

**Figure 2: Jervis Bay Territory, Australian Capital Territory, adjacent areas of NSW and main roads.**

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<sup>4</sup> Like the rail link to Canberra, this never eventuated.



Source: Wiki Commons (2020).

Reflecting the territory's odd abandonment on the NSW south coast and the impracticality of establishing a dedicated set of offices, systems and agencies to maintain public services, the Australian Commonwealth subsidises external bodies to deliver these. Courts, education and welfare are provided by the ACT; fire and community health by NSW; waste collection and libraries by Shoalhaven City Council; policing by the AFP;<sup>5</sup> and water and electricity by commercial operators. As this patchwork suggests, there is ample potential for mismatch and lack of coordination between the entities concerned. The JBT community's ability to have its opinions adequately represented is also severely compromised by its allocation to disparate representative bodies. While JBT is counted as part of ACT in terms of Commonwealth Senate elections, it has no representation in the ACT Legislative Assembly and forms part of the primarily ACT-based electorate of Fenner in the federal Lower House. The MP for the Fenner constituency (population of 202,995 as per 2016 Census) therefore has to juggle the elaborate and time-consuming nature of issues and disputes about legislative and administrative issues concerning the JBT community (population: 391).

### **Jervis Bay Territory and the establishment of the Wreck Bay Community and Booderee National Park**

The traditional custodians of the Jervis Bay area are the Dharawal-Dhurga people, who refer to the peninsula that currently houses JBT as Bherwerre. Archaeological work indicates that Indigenous people have frequented Bherwerre for over 20,000 years, with middens

<sup>5</sup> The AFP also provides police services to ACT and to Australia's external territories.

indicating substantial Indigenous consumption of fish and shellfish in the area (Australian Government, Department of Agriculture, Water and the Environment, n.d.). The arrival of European settlers on the southern coast of NSW in the 1820s and 1830s severely disrupted local Indigenous people and led to a substantial reduction in their number, principally through the introduction of western diseases to which they had no acquired resistance. A remnant Indigenous population congregated on the peninsula's south coast in the late 1800s, due to its distance from European settlements on the northern part of the peninsula, the availability of marine foods in the vicinity and the regular delivery of driftwood onto nearby beaches by coastal currents that could be used to construct shelters (Australian Government, Department of Agriculture, Water and the Environment, n.d.). Jervis (1936) has provided an account of European explorations, Indigenous place names and early settlements in the region indicate that, in the early-mid 1800s, the area to the immediate south-east of the isthmus became identified as New Bristol (Jervis, 1936, p. 134). However, European settlement remained limited and fluid during the 19<sup>th</sup> Century and, indeed, as previously identified, the peninsula was characterised as uninhabited by NSW Home Affairs minister Archibald in 1915 during deliberations about the territory's establishment (*Shoalhaven Telegraph*, 1915, p. 12). Archibald's characterisation was notable for its failure to acknowledge that an indigenous community had established itself in Wreck Bay, on the peninsula's south coast in the preceding decade.<sup>6</sup>

By the 1920s, the Wreck Bay community was known to the Commonwealth and a small school was constructed there in 1924. In the following year – despite JBT not being part of NSW – the NSW Aboriginal Board was invited by the Australian Commonwealth Government to administer the Wreck Bay community as a “reserve” under the terms of the NSW Aboriginal Protection Act (1909). A (Euro-Australian) manager was appointed who oversaw all aspects of the community in a highly paternalistic manner. This degree of control remained after the passage of the ACT's ‘Ordinance Relating to Aborigines’ in 1954, which was deemed to have superseded the NSW Aboriginal Protection Act in JBT. Clause 5.1.b of the Ordinance stipulated that the relevant minister may “declare any unleased land belonging to the Commonwealth to be a reserve for the use of Aborigines,” with such a status being given to Wreck Bay. When the Ordinance was repealed in 1965, abolishing the highly restrictive conditions of the reserve system, a new issue confronted the community. Management of the village was transferred to the Australian Commonwealth Department of the Interior, and attempts were made to both move non-Indigenous settlers into Wreck Bay and to relocate the whole Indigenous community elsewhere (freeing up the area's waterfront for Euro-Australian access). The Wreck Bay Progress Association was established in the mid-1960s to counter such pressures and to fight the erasure of the community's historic identity. The establishment of the Wreck Bay Housing Company and Wreck Bay Women's Committee in 1973-74 continued the momentum, focussing on land rights issues, leading to a blockade of the main road to the southern peninsular coast that prevented tourist access. As a result of community protests and significant change in national opinion over the rights of Indigenous Australians,<sup>7</sup> the Commonwealth passed the ‘Aboriginal Land Grant (Jervis Bay Territory) Act 1986,’ which recognised 403 hectares of Bherwerre as Aboriginal land, leading to the establishment of the Wreck Bay Aboriginal Community Council (WBACC) to manage it.<sup>8</sup> The Community Council

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<sup>6</sup> I have been unable to ascertain whether Archibald or his advisors knew of the community at the time his statement was made. The Wreck Bay community appears to have isolated itself and it is possible that their presence was little known, or little remarked upon at the time.

<sup>7</sup> Which presaged the Australian High Court's Mabo decision in 1992, which recognised native land title.

<sup>8</sup> This paragraph draws extensively on the Wreck Bay Aboriginal Community Council ‘Timeline’ (n.d.) cross-referenced against and augmented by quotation from relevant legislation.

was subsequently given the power to create by-laws over its land grant area in 2005 (Federal Register of Legislation, n.d.).

In parallel with the Wreck Bay community's prolonged attempt to secure control over their traditional lands, a coalition of local community members and environmental activists also successfully countered a series of proposals for major developments in JBT that would have had a significant impact on its environment. The first of these emanated from the Commonwealth Department of the Interior and proposed the development of a steel production facility and anticipated township of around 15,000 people to provide labour and services on the northern shore of Jervis Bay with "complementary development" in JBT (Davidson, 1969). A second proposal, again initiated by the Australian Commonwealth in the same period, concerned the development of a nuclear facility on the north-eastern coast of JBT at Murray's Beach (Australian Nuclear and Uranium Sites, n.d.). Both proposals caused considerable concern about the impact of such developments on the relatively pristine environment of the Bay area and were shelved after concerted campaigns by environmental groups. A third proposal, to construct a major armaments and explosives depot for the Royal Australian Navy, was announced by the prime minister, Bob Hawke, in 1985, and was strongly opposed by the Wreck Bay community before an alternative site at Twofold Bay, near Eden on the far south NSW coast, was decided upon.<sup>9</sup> Since the mid-1980s, there have been no further plans to industrialise the area and the flurry of debate and discourse that accompanied the proposals has long subsided. The only surviving trace of the schemes is the existence of a large, flat area adjacent to Murray's Beach accessed by a long, sealed road. Both were constructed in anticipation of the reactor going ahead and the cleared area – like JBT itself – currently serves little purpose. Like the port and rail link to ACT before it, the reactor lingers as an odd phantasm, a thing-that-never-was that has nevertheless left its trace over the present.

Unlike the industrial schemes discussed above, plans for a national park in JBT were more successful and reached fruition in the 1990s with the Indigenous community managing to regain some degree of control and influence over their traditional lands in the process. The current national park has its origins in two initiatives. The first involved a small area of JBT around Lake McKenzie being declared a "frost-free annex" of the Australian National Botanic Gardens in Canberra in 1951.<sup>10</sup> Forty years later, the "annex" was surrounded by Jervis Bay Nature Reserve (JBNR), an area comprising roughly two thirds of the JBT that was declared a public park under the ACT Public Parks Ordinance of 1928 (which was deemed to extend to JBT for the purposes of the exercise). The JBNR was then converted to a national park under the control of the Commonwealth in 1992. Sustained lobbying by the Wreck Bay community and its supporters resulted in the Commonwealth granting freehold title over the national park area to the Wreck Bay community, with it then being leased back to the Commonwealth and with the Wreck Bay community having the majority of seats on the Jervis Bay National Park Board of Management from 1996 on. In acknowledgement of Indigenous freehold over and traditional rights to the area, it was renamed Booderee National Park in 1998 (using a Dhurga term meaning 'plentiful fish').

The detailed account of differing jurisdictions over the peninsula and the Indigenous people living on it offered above highlight the extent to which the area's original inhabitants have been caught up in a legislative and administrative circus initiated and sustained by European settler institutions. The now purposeless nature of JBT (as a port site without a port)

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<sup>9</sup> Port Wilson and Longlea Magazine, both in Victoria, were initially chosen in preference to JBT but were subsequently discounted.

<sup>10</sup> The Australian National Botanic Gardens were established in 1949 and are administered by the Commonwealth.

– let alone the complexities of its relationship to the ACT, its laws and agencies – illustrate the plight of Indigenous peoples when confronted by bureaucratic procedures that often regard them as incidental details in ‘big picture thinking’ about national and regional infra-structural development.

## 21<sup>st</sup> Century JBT

JBT is Australia’s *oddest* jurisdiction. It is also an area that barely impinges on the national consciousness as anything other than a peculiar scoop of coastal territory marked on maps of the thinly populated south coast of NSW. While JBT is an administrative enclave within NSW, it is not so much an exclave of ACT as its external associated territory. It also has complex aspects that result from it being largely overlaid by the Booderee National Park, administered by Parks Australia. The latter agency is responsible for the nature of the main entry point to the peninsula, on Naval College Road. In a country that occupies a continent, there are no border posts between Australian states: drivers can proceed uninterrupted along the 4,869 km route from Albany, in south-western Australia, to Nanum in the north-east; or the whole 4,171 km from Wilsons Promontory, in the south-east, to Broome in the north-west. But the traveller turning off the Princes Highway that runs between Melbourne and Sydney, accessing JBT experiences something substantially different. As a result of entry into JBT also being entry into the Booderee National Park, a ‘hard’ border point occurs, in the form of the Park’s entry gates (Figure 3) and the requirement to pay for a permit to enter the area. During the COVID-19 pandemic, the border became even ‘harder.’ JBT adopted ACT’s COVID-19 policies which, at various points in the year, restricted access to anyone from designated COVID-19 ‘hotspots’ in NSW entering the ACT while there were active cases in the areas in question (see ABC, 2021).

The major reason for external visitation to JBT is tourism: fishing, camping and walking are major activities in Booderee National Park. Local tourism is now in its second phase. It first emerged as a significant local factor in 1930, when the JBT’s sole operating asset, its naval college, was transferred to Flinders in Victoria. Recognising the negative impact of the relocation on the area’s economy, the Commonwealth Government attempted to kickstart the development of local tourism by leasing out the former naval college buildings and securing a liquor licence for an area of the site (*The West Australian*, 1935, p. 15). These measures proved effective and the site operated as a popular tourist centre until the Navy reclaimed it in 1958, despite considerable local opposition. Since the creation of Booderee National Park (discussed above) tourism has increased considerably, with over 450,000 visitations per year in 2015 (Australian Government, 2015). While there are no hotels and a limited number of rental rooms or apartments in JBT itself, there are several camp sites in the Park and visitors have a variety of accommodation options north of the JBT border. With little in the way of commercial infrastructure and a low population, JBT has a miniscule CBD, consisting of a supermarket/alcohol store and petrol pump in Jervis Bay village. Due to the particularity of JBT’s constitutional establishment, the inhabitants of the village (and other scattered residents in the north-east of the peninsula) have no local-level representation, such as a council, with their federal MP, currently Andrew Leigh (Labor Party), being their sole representative and advisor with regard to matters which would more usually be dealt with by local level representatives. There are few economic advantages to businesses being located in JBT, with no lower taxes (in the manner available to residents of Norfolk Island, for instance, until the



downgrading of its external territory status in 2016).<sup>11</sup> While there was a brief flurry of interest in JBT as a potential centre for same-sex marriages after ACT became the first Australian territory (or state) to legalise gay marriage in September 2013 (Drewitt-Smith & McLaren, 2011, Langford, 2013), this was soon dashed when the High Court of Australia nullified the law two months later.<sup>12</sup> As befits the ambiguity of being a territory in its own right – as opposed to being an annex of ACT – JBT lacks obvious symbols of territory-hood, such as, most notably, its own flag (unlike ACT, Cocos [Keeling] Islands, Christmas Island and Norfolk Island);<sup>13</sup> and it has no JBT sports teams that represent it in sporting competitions. Similarly, if there were any celebrations of the territory's centennial in 2015, they were low-key enough to go unreported in local, national and/or social media.

**Figure 3: JBT/Booderee National Park border point (2019, photograph by author).**



The administrative centre of the territory is the JBT Administration Office, which operates under the Australian Commonwealth DITRD&C whose JBT 'Governance and Administration' summary describes the office as responsible for "the provision of local and state *government-type* services" (my emphasis), including – but not limited to – motor vehicle registration, driver license testing and renewals, domestic animal registration and control and electricity payments, connections and disconnections (n.d., online).<sup>14</sup>

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<sup>11</sup> In conversation with me in July 2019, the manager of JBT's supermarket only identified the ability to sell alcohol on Christmas Day as an advantage not shared by NSW businesses north of the border.

<sup>12</sup> Gay marriage was finally legalised across Australia in 2017 following a national plebiscite on the issue.

<sup>13</sup> While some designs have been proposed (e.g., Dyers-Durrandon, 2020, Moody, 2018), none of these appear to have had any degree of uptake in JBT.

<sup>14</sup> Despite its unprepossessing exterior appearance, the administration office is as distinct in character as the territory itself. The visitors' area has a selection of informational notices and posters on its wall but also has an unexpected feature, a print of Gustav Klimt's sensual painting 'The Kiss' (1907). As befits a space graced by such an artwork, the office and its staff are (by and large) friendly and far less rushed in their interactions with clients than their metropolitan counterparts.

One of the most serious issues arising from JBT's association with ACT concerns its legal system. The Australian Commonwealth DITRD&C outlines that,

each court of the Australian Capital Territory has jurisdiction in, and in relation to, the Territory *as if* the Territory formed part of the Australian Capital Territory (DITRD&C, n.d., online; emphasis in original).

A major issue with this situation is that, while JBT has a police station, staffed by members of the AFP, it has no court office, and all trials and related legal matters have to be conducted in Canberra. As previously discussed, travel to ACT is logistically difficult in that, even for those with access to motor vehicles, the trip takes, at best 6 hours return, or 10 hours by bus. Any attendance for legal matters in Canberra also requires at least one overnight stay. Given the relatively low socio-economic status of the Wreck Bay community, any such visit to ACT can cause significant economic stress that, in turn, can incline those being prosecuted or attempting to prosecute cases to miss court appearances, resulting in further problems and, in the case of the former, further criminal charges. These, and related issues concerning provision of health, social welfare and education services, were recognised in a confidential report commissioned by the ACT Government in 2018 that was obtained by *Canberra Times* journalists using freedom of information access (Burgess, 2019). The report concluded that the ACT was “not well-positioned to deliver state-type services to Jervis Bay Territory” due to the distance between the ACT and JBT and the adverse economies of scale involved in establishing services specific to the community (rather than accessing adjacent NSW ones). Euro-Australian community members contacted during research for this article openly complained about local government services; however, they conveyed no clear opinion as to whether the territory should be dissolved and returned to NSW, one concern being whether the current level of servicing might deteriorate if JBT's special status was removed. Similarly, the WBACC declined to comment on whether JBT should be maintained when I contacted them about the issue; but their published statement of goals (2019) indicates their aspirations for an alternative system of management for the peninsula. These include:

- sole ownership of all lands and waters within Jervis Bay Territory;
- sole management of its freehold land and waters; allowing for community responsibility, empowerment and self-determination; and
- sole representation of the community's united and democratically agreed interests at all levels of Government and in all external dealings; so as to protect community members' rights (WBACC, 2019, p. 2).

It is unclear whether such an enhanced remit would see the territory managed by the WBACC (on behalf of the Commonwealth), or whether a dissolution is envisaged, but either case would deliver a distinctly different management to the current JBT. Federal MP Andrew Leigh has expressed a pragmatic view of JBT's continuing existence, seeing the maintenance and/or enhancement of the services to his JBT constituents, and particularly to the socially disadvantaged Wreck Bay community, as being the key issue, rather than a resolution of the territory's peculiar status per se (personal communication, January 28, 2021).

## Conclusion

The island-like attributes of a number of peninsulas have received academic attention in recent years (e.g. *Shima*, 2016) and the Bherwerre peninsula is open to similar characterisation. It also has similar aspects to Sydney's Northern Beaches and Sutherland Shire, areas recently

examined with regard to perceptions of their “insular peninsularities” (Hayward, Middlewick & Fleury, 2021). The authors assert that the insularity of the two areas of Sydney arises from a combination of topography, limited transport corridors, local government boundaries and social homogeneity, leading to (internal and external) perceptions of such areas as being distinctly *apart* from their surroundings. In many ways, the Bherwerre peninsula also merits such designation in terms of the limited access options across its small, northerly isthmus, the distinct status of the area as a territory of the Commonwealth of Australia and the relatively introverted nature of its population. One principal difference, however, is the *lack* of homogeneity of its population, divided between a designated Indigenous community (Wreck Bay) and the predominantly Euro-Australian community in Jervis Bay Village. While the Wreck Bay community is particularly isolated within the broader, predominantly Euro-Australian community of south-eastern NSW, the Jervis Bay Village community also has a distinct identity within the area due to the regulations applying to it and a sense of shared solidarity in negotiating these. The principal problems affecting JBT residents concern the territory’s continuing existence as an anomalous administrative speck notionally attached to ACT, whose governments have shown little attachment to it and, consequently, no desire to develop its infrastructure in a manner beneficial to its population. Similarly, NSW has shown little appetite for taking over service provision to an area it relinquished in 1915 (Le Lievre, 2017). Indeed, the territory is, in many ways, defined by the inertia manifest in NSW’s disinterest in claiming it back and the Commonwealth’s lack of interest in surrendering it. The population of the Bherwerre peninsula thereby remains stranded within the Australian state, ‘islanded’ by the peculiar status of their place of residence and with little imminent prospect of this situation being resolved. The anomalous and idiosyncratic nature of the territory is neither quaint and endearing (as in the case of Sark in the UK’s Channel Islands, with its medieval laws and customs maintained to the present) nor lucrative, through offering tourists attractive purchasing options (such as Andorra and San Marino). Moreover, the invisibility of JBT’s distinct jurisdiction – to all but those in the know – prevents it from profiting from the peculiarity of its status in the manner that the (unrecognised) micronation of Hutt River in Western Australia did until its dissolution in 2020, offering tourists entry visa stamps in their passports and a variety of photo opportunities (De Castro and Kober, 2018). JBT’s continuing existence primarily reflects the inflexibility of the Australian Commonwealth in resolving anomalies in its administrative jurisdictions and the understandable concern of its inhabitants and federal representative not to risk shifting to a jurisdiction in which their service provisions are likely to deteriorate.

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