



ATTACHMENT B3

Areas within the external boundaries that are not covered by the Applications

The Applicants exclude from the area covered by the Application any area over which native title has been extinguished at Common Law or by Statute save and except for those areas of land and waters over which prior extinguishment may be disregarded in accordance with the provisions of either s.47, s.47A or s.47B of the Native Title Act (1993) (as amended) (NTA)

In particular the following are excluded;

Category A past acts, as defined in s.229 of the NTA, including any previous non-exclusive possession acts which are also a Category A past act; and

Grants or vesting which are "previous exclusive possession acts" (as defined in s.23B of the NTA) or "Category A intermediate period acts" (as defined in s.232B of the NTA) attributable to the Commonwealth and such grants or vestings which are attributable to the states where the state has made provision as mentioned by s.23E and s.22F of the NTA in relation to these acts.

For the avoidance of doubt, the following acts which occurred on or before 23 December 1996, where valid (including because of Division 2 or 2A of Part 2 of the NTA) are included or for present purposes, are to be treated as included in the definition of "previous exclusive possession acts", unless excluded from the definition by subsection 23B(9), (9A), (9B), (9C) or (10).

1. The creation or establishment of :
 - (i) a permanent public work;
 - (ii) a dedicated road;
 - (iii) an act of adverse dominion where such an act was;
 - authorised by valid legislation; or
 - authorised or required by the condition of a valid Crown Grant, vesting or other interests;
 - (iv) an unqualified grant of an estate in fee simple.
2. The grant of:
 - (i) a scheduled interest (see s.249C of the NTA, including an agricultural lease where intensive cultivation of a permanent nature has been carried out and works or structures of permanent nature have been constructed in accordance with the terms and conditions of the lease;
 - (ii) a residential lease on which a residence has been constructed in accordance with the terms and conditions of the lease (see s.249)
 - (iii) a commercial lease on which permanent works or structures have been constructed in accordance with the terms and conditions of the lease (see s.246)
 - (iv) a lease for the provision of community services or amenities within a town or city on which works or structures of a permanent nature have been constructed in accordance with the terms and conditions of the lease (see s.249A)