National Native Title Tribunal

Registration Decision

Application name	Peter Lansen & Ors v Northern Territory of Australia (Nathan River Pastoral Lease)
Name of applicant	Peter Lansen, Grace Daniels, Yvonne Forrest, Damien Tonson, Julie Limmen, Denis Watson and David John (applicant)
Application made	1 August 2017
Federal Court of Australia No.	NTD43/2017
NNTT No.	DC2017/002
Date of Decision	22 September 2017

Decision: Claim not accepted for registration

I have considered the claim in the Nathan River Pastoral Lease application for registration as required by ss 190A, 190B and 190C the *Native Title Act 1993* (Cth).[1] I have decided it does not satisfy all of the conditions required in s 190B.[2] Nor does it satisfy all of the conditions in s 190C. I must not accept the claim for registration.

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Angie Underwood

Delegate of the Native Title Registrar

1 All legislative references in this decision are to the *Native Title Act 1993* (Cth) unless otherwise stated.
2 This statement is required by s 190D(3).

Cases cited:

Daniels for the Ngaluma People & Monadee for the Injibandi People v Western Australia [1999] FCA 686 (‘*Ngarluma & Injibarndi v WA’)*
Gudjala People #2 v Native Title Registrar [2007] FCA 1167 (‘*Gudjala (2007)’*)
Gudjala People No 2 v Native Title Registrar (2008) 171 FCR 317; [2008] FCAFC 157 (‘*Gudjala (2008)’*)
Gudjala People #2 v Native Title Registrar [2009] FCA 1572(‘*Gudjala (2009)’*)
Martin v Native Title Registrar [2001] FCA 16 (‘*Martin*’)
Members of the Yorta Yorta Aboriginal Community v Victoria (2002) 214 CLR 422; [2002] HCA 58 (‘*Yorta Yorta’*)
Northern Territory v Doepel (2003) 133 FCR 112; (2003) 203 ALR 385; [2003] FCA 1384 (*‘NT v Doepel’*)
Stock v Native Title Registrar [2013] FCA 1290
Western Australia v Native Title Registrar (1999) 95 FCR 93; [1999] FCA 1591 (‘*WA v Native Title Registrar*’)
Western Australia v Strickland (2000) 99 FCR 33; [2000] FCA 652 (‘*Strickland’)*

BACKGROUND AND DECISION

[1] The Nathan River Pastoral Lease native title determination application covers an area of land and waters which comprise Northern Territory Portion 1334 (Nathan River Pastoral Lease 756) and Northern Territory Portion 7058. The application area extends southeast from the mouth of Limmen Bight River in Limmen Bight. On 2 August 2017 the Deputy Registrar of the Court gave a copy of the application to the Native Title Registrar (Registrar) and so the Registrar must now consider the claim made in the application (s 190A(1)). The Registrar delegated this task to me, a member of staff assisting the Tribunal (s 99).

[2] If the claim in the application satisfies all the conditions in ss 190B and 190C, then the Registrar must accept the claim for registration (s 190A(6)). If it does not satisfy all the conditions, the Registrar must not accept the claim for registration (s 190A(6B)). I have decided the claim does not satisfy all of the conditions in s 190B (this statement is required by s 190D(3)). Nor does it satisfy all the conditions in s 190C. My reasons on each condition now follow.

s 190B – NOT ALL CONDITIONS MET

[3] I am satisfied the application meets the requirements of ss 190B(2)-(4). I am not satisfied it meets the requirements of ss 190B(5)-(7).

s 190B(2) requirements met: identification of area subject to native title

What is needed to meet this condition?

[4] To meet s 190B(2), the Registrar must be satisfied the information and map contained in the application are sufficient to say with reasonable certainty whether native title rights and interests are claimed in relation to particular land or waters. The two questions for this condition are whether the information and map provide certainty about:

(a) the external boundary of the area where native title rights and interests are claimed; and
(b) any areas within the external boundary over which no claim is made (*NT v Doepel* [122]).

The information about the external boundary meets this condition

[5] Schedule B contains a written description that the application area covers all the land and waters subject to Northern Territory Portion 1334 (Nathan River Pastoral Lease 756) and Northern Territory Portion 7058. Attachment A is a colour map with the external boundary of each portion labelled and outlined with a bold magenta line. The map contains a topographic background, legend, scale bar, coordinate grid and locality diagram. On 7 August 2017 the Tribunal's geospatial unit reviewed the written description and map and provided an assessment ('geospatial assessment'). The assessment states the written description and map are consistent and identify the application area with reasonable certainty.

[6] I considered the geospatial assessment, the written description and the map. The written description and map are sufficient: I can identify the external boundary of the application area with reasonable certainty.

The information about excluded areas meets this condition

[7] Schedule B contains a written description that, subject to Schedule L, the application area excludes any areas where s 23B previous exclusive possession acts have been done. Schedule D contains a statement that the applicant has not conducted any searches to determine non-native title interests in the area. It is reasonable to assume the applicant's statement at Schedule B is very general in nature because they have limited knowledge about any particular areas excluded by past extinguishment of native title.

[8] Despite its general nature, I find the written description of the excluded areas is sufficient. It provides an objective way to identify excluded areas. It will be possible to work out any excluded areas affected by extinguishment once a search of historical and current tenure for the application area is completed. This approach is supported by *Ngaluma & Injibarndi v Western Australia* [29]-[38].

s 190B(3) requirements met: identification of the native title claim group

What is needed to meet this condition?

[9] To meet s 190B(3), the Registrar must be satisfied that:

(a) the persons in the native title claim group are named in the application; or
(b) the persons in the group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group.

[10] The only question for this condition is 'whether the application enables the reliable identification of persons in the native title claim group'. It is not relevant to consider whether the claim is on behalf of the correct native title claim group – the focus is on the adequacy of the description so its members can be ascertained (*NT v Doepel* [51] and [37] respectively).

The description of the persons in the native title claim group meets this condition

[11] A description may be sufficient even if it requires further factual inquiry to ascertain whether a person is a member of the claim group. A person's descent from certain ancestors provides a sufficient starting point for that inquiry – provided the ancestors are named and the descent rules are explained (*WA v Native Title Registrar* [64-67]). Schedule A states the 'Primary Native Title Holders' comprise eight estate groups. It then states each estate group is comprised of persons descended from apical ancestors. The apical ancestors for each estate group are

named, and some of their descendants and their children are named. Further, Schedule A defines the rules of descent 'according to traditional laws acknowledged, and customs observed' which include biological descent, adoption and incorporation. I find this level of detail provides a sufficient starting point for the inquiry into whether a person is a descendant of one or more of the named ancestors and so is a member of the claim group.

[12] I am satisfied the application enables the reliable identification of persons in the native title claim group.

s 190B(4) requirements met: identification of claimed native title

What is needed to meet this condition?

[13] To meet s 190B(4), the Registrar must be satisfied the application's description of the claimed native title rights and interests allows these rights and interests to be readily identified (*NT v Doepel* [92]). The question for this condition is whether the claimed rights and interests are understandable and have meaning, by considering the definition of 'native title rights and interests' in s 223 (*NT v Doepel* [99]).

The description of the native title rights and interests meets this condition

[14] Schedule E identifies a series of non-exclusive rights and interests claimed. These are listed in full at Attachment B of this decision. I considered the definition of 'native title rights and interests' at s 223 and I am satisfied the description of the claimed native title rights and interests is meaningful and understandable (*NT v Doepel* [99]). I can readily identify the claimed native title rights and interests (*NT v Doepel* [92]).

s 190B(5) requirements not met: factual basis for claimed native title

What is needed to meet this condition?

[15] To meet s 190B(5), the Registrar must be satisfied the factual basis sufficiently supports the assertion that the native title rights and interests claimed exist. In particular, the factual basis must support each the following assertions:

(a) the native title claim group have, and their predecessors had, an association with the area;

(b) there exist traditional laws acknowledged by, and traditional customs observed by, the native title claim group that give rise to native title rights and interests; and

(c) the native title claim group have continued to hold the native title in accordance with those traditional laws and customs.

[16] To assess each of the above, the Registrar's task is to 'address the quality of the asserted factual basis' and 'not to test whether the asserted fact will or may be proved' (*NT v Doepel* [17]).

s 190B(5)(a) – insufficient factual basis for association with the area

[17] To meet s 190B(5)(a), the factual basis must support the assertion that 'the native title claim group have, and the predecessors of those persons had, an association with the area'. It is not necessary that each member had an association to the area at all times: what is required is an

association between 'the whole group and the area' and between the predecessors of the whole group and the area since sovereignty (*Gudjala (2007)* [52]).[3] Further, the association must be over the entire application area (*Martin* [23]-[26]).

[18] The factual basis material is at Schedules F, G and M. The assertions for association are:

- the claimants are traditionally the owners of the claim area;
- they inherited their traditional connection from their ancestors in accordance with traditional laws and customs;
- they retain their traditional connection 'in relation to their traditional country (including the claim area)';
- the claim area is regarded as belonging to the claimants 'since time immemorial';
- the claim area is a part of a larger area which 'continued to be owned and occupied by the claimants after the assertion of sovereignty by the Crown of the United Kingdom'; and
- traditional usage of their 'traditional country … including in some cases the area claimed' (including camping, hunting, and caring for the land and waters).

[19] A number of the above assertions relate generally to the claimant's traditional country, and the claim area is only a part of this country. There are no details about their predecessors' physical or spiritual association with the claim area specifically or about their own continuing association. Generally, a sufficient factual basis will need to include such details - the Registrar or delegate is not obliged to accept 'very broad statements … which have no geographical particularity' (*Martin* [26]). I consider the assertions are insufficient for the requirements at s 190B(5)(a).

s 190B(5)(b) – insufficient factual basis for traditional laws and customs

[20] To meet s 190B(5)(b), the factual basis must support the assertion 'that there exist traditional laws acknowledged by, and traditional customs observed by, the native title claim group that give rise to the claim to native title rights and interests'. The wording of s 190B(5)(b) is almost identical to paragraph (a) of the definition of 'native title rights and interests' within s 223(1). As such, it is appropriate to consider s 190B(5)(b) in light of the case law regarding s 223(1)(a) (*Gudjala (2007)* [26]).4 The leading decision for this case law is *Yorta Yorta*.

[21] In *Yorta Yorta*, the High Court held a traditional law or custom 'is one which has been passed from generation to generation of a society, usually by word of mouth and common practice'. Its origins are in the normative rules of the society that existed before the Crown's assertion of sovereignty, and this normative system must have 'continuous existence and vitality since sovereignty' ([46]-[47]). Therefore, for the purposes of s 190B(5), the factual basis must demonstrate the laws and customs relied on by the claim group 'have their source in a pre-sovereignty society and have been observed since that time by a continuing society' (*Gudjala (2007)* [63]). The two elements of this factual basis are:

3 Although the Full Federal Court found Dowsett J made certain errors in *Gudjala (2007)*, they found no error in law on this point (see *Gudjala (2008)* [90]-[96]).
4 Again, no error of law was found here (see *Gudjala (2008)* [90]-[96]).

(i) an identification of an indigenous society at the time of sovereignty or, at the least, first contact; and

(ii) a 'relationship between the laws and customs now acknowledged and observed in a relevant Indigenous society, and those which were acknowledged and observed before sovereignty'
(*Gudjala (2007)* [66] and [26] respectively)

[22] I note again that the Registrar's task is to assess the quality of the assertions: the registration test conditions 'are not, nor could they be, concerned with the proof that native title exists' (*Stock v Native Title Registrar* [64]).

[23] At Schedule F, the application lists a number of laws and customs, which are asserted to be 'traditional'. There is also the assertion that the laws and customs 'have been possessed and exercised, and acknowledged and observed, by the claimants, since time immemorial, including … at the time when sovereignty was asserted by the Crown'. The Registrar or delegate is not obliged to accept a 'general assertion' of this nature (*Martin* [27]-[28]). It is not enough to assert that laws and customs are traditional because they have been handed down from generation to generation. That does 'no more than re-state the claim' (*Gudjala (2009)* [53]).

[24] There must be 'at least an outline of facts' about 'the pre-sovereignty society and its laws and customs relating to land and waters' and how the claim group's laws and customs are derived from that society (*Gudjala (2009)* [29]). The material at Schedule F does not identify the indigenous society at sovereignty or first contact and does not describe the laws and customs of that society. Nor does the material identify a connection between that society's laws and customs and those acknowledged and observed by the claim group today (*Gudjala (2009)* [77]). As such, the assertions are insufficient for the requirements at s 190B(5)(b).

s 190B(5)(c) – insufficient factual basis for continuance of native title

[25] To meet s 190B(5)(c), the factual basis must support the assertion 'that the native title claim group have continued to hold the native title in accordance with those traditional laws and customs.' However at s 190B(5)(b), I decided there were insufficient facts for the assertion that traditional laws and customs exist. Therefore, the assertion that native title continues to be held in accordance with those traditional laws and customs cannot have a factual basis – it does not follow. This is the reasoning in *Gudjala (2009)* [82]. The requirements at s 190B(5)(c) are not met.

s 190B(6) requirements not met: prima facie case

[26] To meet s 190B(6), the Registrar 'must consider that, prima facie, at least some of the native title rights and interests claimed can be established.' At s 190B(5)(b), I considered there was an insufficient factual basis for the assertion that traditional laws and customs exist which give rise to native title rights and interests. It follows that the application cannot meet the requirement at s 190B(6). This is the approach in *Gudjala (2009)* [81]-[82].

s 190B(7) requirements not met: traditional physical connection

What is needed to meet this condition?

[27] To meet s 190B(7), the Registrar 'must be satisfied that at least one member of the native title claim group currently has or previously had a traditional physical connection with any part of the land or waters covered by the application'. To be satisfied about this fact, some evidentiary material must be provided and again, the focus for the Registrar 'is not the same focus as that of a Court when it comes to hear and determine the application' *(NT v Doepel* [18]).

No evidence provided

[28] In the application (particularly Schedule M), there are general assertions that the claimants have maintained a traditional physical connection with the application area, including by; residing on their country; entering and travelling across the claim area; hunting, fishing/collecting resources; and visiting and protecting sites of significance. However, there is no information about particular members of the claim group who have, or previously had, a traditional connection to the area. Without such, I cannot be satisfied per s 190B(7) that 'at least one member of the native title claim group currently has or previously had a traditional physical connection with any part of the land or waters covered by the application'. The requirement at s 190B(7) is not met.

s 190B(8) requirements not met: s 61A compliance

[29] To meet s 190B(8), the 'application and accompanying documents must not disclose and the Registrar must not otherwise be aware that, because of s 61A … the application should not have been made.' The application does not comply with all of s 61A as follows:

Requirement	Result	Reasons
s 61A(1) – application must not be made over an approved native title determination area	Not Met	The geospatial assessment shows a 6.538 square kilometre overlap with St Vidgeon's (Roper River) native title determination DCD2000/002 (NTD6001/1997)
s 61A(2) – application must not be made over previous exclusive possession act areas	Met	Schedule B states the application area excludes previous exclusive possession act areas
s 61A(3) – application must not claim certain rights and interest in previous non-exclusive possession act areas	Met	The application does not claim native title rights and interests that confer possession, occupation, use and enjoyment to the exclusion of all others

[30] As noted in the table above, the geospatial assessment shows a 6.538 square kilometre overlap with the St Vidgeon's (Roper River) native title determination DCD2000/002 (NTD6001/1997). The requirement at s 190B(8) is not met.

s 190B(9) requirements met: no extinguishment etc. of claimed native title

[31] To meet s 190B(9), 'the application and accompanying documents must not disclose and the Registrar must not otherwise be aware' of any claims listed below. The application meets s 190B(9) as follows:

Requirement	Result	Reasons
(a) no claim of ownership of minerals, petroleum or gas that are wholly owned by the Crown	Met	Schedule Q states there is no claim of ownership of minerals, petroleum or gas wholly owned by the Crown
(b) no claim of exclusive possession over an offshore place	Met	The claim does not extend to offshore places because the claim area only comprises Northern Territory land portions 7058 and 1334
(c) no claimed native title rights and interests have otherwise been extinguished	Met	There is no information to indicate other extinguishment

s 190C – NOT ALL CONDITIONS MET

[32] I am not satisfied the application meets the requirements of s 190C(2) and s 190C(3). I am satisfied it meets s 190C(4).

s 190C(2) requirements not met: information etc. required by sections 61 and 62

[33] To meet s 190C(2), the Registrar must be satisfied the application contains all of the material required by ss 61 and 62. The Registrar is not required to undertake any merit or qualitative assessment of the material at s 190C(2) (*NT v Doepel* [16], [35]-[39]).

s 61 – all material is provided

[34] I examined the application. It contains the material required in the locations below:

Section requirement	Location in application
s 61(1) Native title claim group	Schedule A
s 61(3) Name and address for service	Part B
s 61(4) Native title claim group named/described	Schedule A

s 62(1)(a) – no accompanying affidavit meets the requirements

[35] Section 62(1)(a) states:

> The application must be accompanied by an affidavit sworn by the applicant that:
> (i) the applicant believes the native title rights and interests claimed by the native title claim group have not been extinguished in relation to any part of the area covered by the application, and

(ii) the applicant believes that none of the area covered by the application is also covered by an approved determination of native title, and
(iii) the applicant believes all of the statements made in the application are true, and
(iv) the applicant is authorised by all the persons in the native title claim group to make the application and to deal with matters arising in relation to it, and
(v) setting out details of the process of decision-making complied with in authorising the applicant to make the application and to deal with matters arising in relation to it.

[36] Seven affidavits accompany the application sworn by each of the persons who comprise the applicant. Each affidavit contains the statements required by ss 62(1)(a)(i), (iii), (iv) and (v). However, none of the affidavits contain the statement required by s 62(1)(ii) - that the applicant believes none of the area covered by the application is also covered by an approved determination of native title. Without this statement the affidavits do not meet the requirements of s 62(1)(a).

s 62(1)(b) – the application contains all details specified in s 62(2)

[37] The application must contain all of the details specified in s 62(2). The relevant details and the locations in the application are listed below:

Section requirement	**Location in application**
s 62(2)(a) Information about the boundaries of the area	Schedule B
s 62(2)(b) Map of external boundaries of the area	Attachment A
s 62(2)(c) Searches	Schedule D
s 62(2)(d) Description of native title rights and interests	Schedule E
s 62(2)(e) Description of factual basis	Schedule F
s 62(2)(f) Activities	Schedule G
s 62(2)(g) Other applications	Schedule H
s 62(2)(ga) Notices under s 24MD(6B)(c)	No details provided
s 62(2)(h) Notices under s 29	Schedule I

[38] The application does not provide any details of s 24MD(6B)(c) notices because the applicant has not used the updated Form 1 which contains a Schedule HA for these kinds of details. However, I have decided the requirements are met because the applicant is only required to provide details of s 24MD(6B)(c) notices they are aware of. There is no information before me to indicate that any such notices affect the application area.

190C(3) requirements not met: there are previous overlapping claim groups

What is needed to meet this condition?

[39] To meet s 190C(3), the Registrar 'must be satisfied that no person included in the native title claim group for the application … was a member of a native title claim group for any previous application'. To be a 'previous application':

a. the application must overlap the current application in whole or part;
b. there must be an entry for the claim in the previous application on the Register of Native Title Claims when the current application was made; and
c. the entry must have been made or not removed as a result of the previous application being considered for registration under s 190A.

There are three previous applications

[40] The geospatial assessment and my own searches show three applications meet the requirements of a 'previous application':

Tribunal Number	Federal Court Number	Name	Date of registration	NTDA Area (sq km)	Overlap Area (sq km)	% NTDA overlapping DC2017/002	% DC2017/002 overlapping NTDA
DC2000/015	NTD6016/2000	Lorella Downs	4/1/2001	2078.478	138.081	6.64	3.73
DC2000/029	NTD6030/2000	Billengarrah	19/1/2001	2180.270	26.361	1.21	0.71
DC2002/030	NTD6031/2002	Lorella-Nathan River	8/5/2009	4449.057	2603.897	58.53	70.30

[41] Because each of the above is a 'previous application', I must now consider whether any of the claim group members in the application before me are members in any of these previous applications (*Strickland* [9]).

The application includes persons who are members of previous overlapping claim groups

[42] I viewed the Register of Native Title Claims extract for each of the previous applications. In each of these previous applications, I identified apical persons who are listed as apical persons (or descendants) in the application before me. I identified 11 apical persons in the Lorella Downs previous application, 4 in the Billengarra previous application and 18 in the Lorella-Nathan River previous application. It is possible that further analysis could yield more, however this analysis is sufficient for the purposes of s 190C(3). I am satisfied there are persons in the application who are members of previous overlapping claim groups and so the s 190C(3) requirement is not met.

190C(4) requirements met: Identity of claimed native title holders

What is required to meet this condition?

[43] To meet s 190C(4), the Registrar must be satisfied the application is certified by all representative Aboriginal/Torres Strait Islander bodies that could certify the application (s 190C(4)(a)). The certification must contain the information required by ss 203BE(4)(a) to (c). There is no requirement to question the certification or consider whether the applicant is in fact authorised (*NT v Doepel* [80] to [81]).

[44] Alternatively, if the application is not certified, the Registrar must be satisfied the applicant is a member of the native title claim group and is authorised to make the application, and deal with

matters arising in relation to it, by all the other persons in the native title claim group (s 190C(4)(b)).

The application is certified

[45] The geospatial assessment shows one representative Aboriginal/Torres Strait Islander body over the entire application area - the Northern Land Council (NLC). The NLC provides certification at Attachment R of the application. It is signed by the Anthropology Branch Manager and dated 31 July 2017. I am satisfied the application is certified.

The certification meets the requirements in ss 203BE(4)(a) to (c)

[46] The certification complies with s 203BE(4)(a). It includes a statement that the NLC is of the opinion that; all persons in the native title claim group authorised the applicant to make the application and deal with all matters; and all reasonable efforts were made to ensure that the application describes or otherwise identifies all the other persons in the native title claim group. The certification complies with s 203BE(4)(b). It briefly sets out the reasons for NLC having that opinion.

[47] Section 203BE(4)(c) requires the representative body to, 'where applicable, briefly set out what the representative body has done to meet the requirements of s 203BE(3)'. Section 203BE(3) requires the representative body to make all reasonable efforts to achieve agreement between competing claimants and to minimise the number of overlapping applications over an area of land and waters. The certification contains brief information about a negotiated program for amending or discontinuing claims to facilitate a consent determination over the application area. As such the certification complies with s 203BE(4)(c).

End of reasons

Attachment A: Summary of registration test

Application name	**Nathan River Pastoral Lease**
NNTT file no.	**DC2017/002**
Federal Court of Australia file no.	**NTD43/2017**
Date of registration test decision	**22 September 2017**

Test condition	**Result**
s 190B(2)	**Met**
s 190B(3)	**Met**
s 190B(4)	**Met**
s 190B(5)	**Not met**
s 190B(6)	**Not met**
s 190B(7)	**Not met**
s 190B(8)	**Not met for s 61A(1) (overlap with approved determination), remaining conditions met**
s 190B(9)	**Met**
s 190C(2)	**Not met for s 62(1)(a)(v) (accompanying affidavit), remaining conditions met**
s 190C(3)	**Not met**
s 190C(4)	**Met**

Attachment B: Description of native title rights and interests

The description of the native title rights and interests as found at Schedule E of the application:

1. The native title rights and interests of the estate group members that are possessed under their traditional laws and customs are, subject to the traditional laws and customs that govern the exercise of the native title rights and interests by the native title holders, non-exclusive rights to use and enjoy those parts of the Determination Area identified in Schedule C being:
   (a) the right to travel over, to move about and to have access to those areas;
   (b) the right to hunt and to fish on the land and waters of those areas;
   (c) the right to gather and to use the natural resources of those areas such as food, medicinal plants, wild tobacco, timber, stone and resin;
   (d) the right to take and to use the natural water on those areas, and for the sake of clarity and the avoidance of doubt this right does not include the right to take or use water captured by the holders of Perpetual Pastoral Lease No.756;
   (e) the right to live, to camp and for that purpose to erect shelters and other structures on those areas;
   (f) the right to light fires on those areas for domestic purposes, but not for the clearance of vegetation;
   (g) the right to conduct and to participate in the following activities on those areas:
      (i) cultural activities;
      (ii) cultural practices relating to birth and death, including burial rites;
      (iii) ceremonies;
      (iv) meetings;
      (v) teaching the physical and spiritual attributes of sites and places on those areas that are of significance under their traditional laws and customs;
   (h) the right to maintain and to protect sites and places on those areas that are of significance under their traditional laws and customs;

(i) the right to share or exchange subsistence and other traditional resources obtained on or from those areas;
(j) the right to be accompanied on to those areas by persons who, though not native title holders, are:
    (i) people required by traditional law and custom for the performance of ceremonies or cultural activities on the areas;
    (ii) people who have rights in relation to the areas according to the traditional laws and customs acknowledged by the estate group members;
    (iii) people required by the estate group members to assist in, observe, or record traditional activities on the areas;
(k) the right to conduct activities necessary to give effect to the rights referred to in (a) to (j) hereof.

These native title rights and interests do not confer on the estate group members possession, occupation, use and enjoyment of the Determination Area, to the exclusion of all others.

2. The native title rights and interests of the native title holders referred to in clause 7 [sic] hereof that are possessed under their traditional laws and customs are, subject to the traditional laws and customs that govern the exercise of the native title rights and interests by the native title holders, non-exclusive rights to use and enjoy those parts of the Determination Area identified in Schedule C being:
    (a) the right to travel over, to move about and to have access to those areas;
    (b) the right to hunt and to fish on the land and waters of those areas;
    (c) the right to gather and to use the natural resources of those areas such as food, medicinal plants, wild tobacco, timber, stone and resin;
    (d) the right to take and to use the natural water on those areas, and for the sake of clarity and the avoidance of doubt this right does not include the right to take or use water captured by the holders of Perpetual Pastoral Lease No.756;
    (e) the right to camp on those areas;
    (f) the right to light fires on those areas for domestic purposes, but not for the clearance of vegetation;
    (g) the right to conduct activities necessary to give effect to the rights referred to in (a) to (f) hereof.

    These native title rights and interests do not confer on the native title holders referred to in clause 7 [sic] hereof possession, occupation, use and enjoyment of the Determination Area, to the exclusion of all others.

3. The native title rights and interests are subject to and exercisable in accordance with the valid laws of the Northern Territory of Australia and the Commonwealth of Australia.

4. The native title rights and interests are for the personal or communal needs of the native title holders which are of a domestic or subsistence nature and not for any commercial or business purpose.