



Registration Decision

Application name	Stanislaus “Shorty” Mulladad Perrurle & Ors v Northern Territory of Australia (Ambalindum and The Garden)
Name of applicant	Stanislaus ‘Shorty’ Mulladad Perrurle, Gordon Cavanagh Kemarre, Frederick Mulladad Perrurle, Michael Gorey, Damien Ryder Kemarre, Riley Williams Peltharre and Peter ‘Coco’ Wallace Peltharre, on behalf of the members of the Akerte, Arleye Antywetnerlaneme, Arnapipe, Artwele, Inteyarkwe, Uleperte, Ulpmerre, Unemarre, Utneltye and Warrtharre landholding groups who are connected to the area covered by the application
Federal Court of Australia No.	NTD5/2021
NNTT No.	DC2021/002
Date of Decision	26 November 2021

Claim accepted for registration

I have decided the claim in the amended Ambalindum and The Garden application satisfies all the conditions in ss 190B–190C of the *Native Title Act 1993* (Cth).¹ Therefore the claim must be accepted for registration and will remain on the Register of Native Title Claims.

Katy Woods²

¹ All legislative references are to the *Native Title Act 1993* (Cth) (**Native Title Act**), unless stated otherwise.

² Delegate of the Native Title Registrar pursuant to ss 190–190D of the Native Title Act under an instrument of delegation dated 19 May 2021 and made pursuant to s 99 of the Native Title Act.

Reasons for Decision

Cases Cited

Northern Territory of Australia v Doepel [2003] FCA 1384 (**Doepel**)

Northern Land Council v Quall [2020] HCA 33 (**Quall HCA**)

Strickland v Native Title Registrar [1999] FCA 1530 (**Strickland**)

Background

- [1] This application has been made following orders made in the Federal Court of Australia (**Federal Court**) on 30 September 2021 to combine the following native title determination applications:
- (a) NTD10/2020 Peter ‘Coco’ Wallace v Northern Territory of Australia (DC2020/003) (**Unemarre**); and
 - (b) NTD5/2021 Stanislaus ‘Shorty’ Mulladad Perrurle & Ors v Northern Territory of Australia (**Ambalindum and The Garden**) (DC2021/001).³
- [2] The Unemarre application was filed on behalf of the Unemarre landholding group on 28 April 2020. It covered an area of approximately two square kilometres of The Garden pastoral lease, approximately 70 kilometres north east of Alice Springs. The Federal Court gave a copy of the Unemarre application to the Native Title Registrar (**Registrar**) pursuant to s 63, which triggered the Registrar’s duty to consider the claim in the application in accordance with s 190A. On 26 May 2020, in my capacity as delegate of the Registrar, I accepted the claim for registration as it satisfied all of the conditions in ss 190B–190C (**registration test**).
- [3] The Ambalindum and The Garden application was filed on behalf of the members of the Akerte, Arleye Antywetnerlaneme, Arnapipe, Artwele, Inteyarkwe, Uleperte, Ulpmerre, Unemarre, Utneltye and Warrtharre landholding groups on 13 April 2021. It covered an area of approximately 5,549 square kilometres of the Ambalindum and The Garden pastoral leases, excluding the area covered by the Unemarre application. The Federal Court gave a copy of the Ambalindum and The Garden application to the Registrar pursuant to s 63, triggering the Registrar’s duty to consider the claim in the application. On 4 June 2021, in my capacity as delegate of the Registrar, I accepted the claim for registration as it satisfied all the conditions of the registration test.
- [4] On 13 October 2021, an amended Ambalindum and The Garden application was filed pursuant to the orders made on 30 September 2021. According to those orders, the filing of the amended application means that the two proceedings are now amalgamated and the combined application will continue using the file number for Ambalindum and The Garden (NTD5/2021), that application being the ‘lead proceeding’.⁴
- [5] The Federal Court gave a copy of the amended application to the Registrar pursuant to s 64(4) on 15 October 2021. This referral has triggered the Registrar’s duty to consider the claim in the amended application, and this is the application currently before me.

³ Order, *Stanislaus “Shorty” Mulladad Perrurle and Northern Territory of Australia* (Federal Court of Australia, NTD5/2021, Justice Charlesworth, 30 September 2021) [1].

⁴ *Ibid* [2]–[4].

- [6] Section 190A(1A) and s 190A(6A) provide the circumstances in which the registration test does not have to be applied to an amended application. As the application was not amended pursuant to an order made under s 87A, I am satisfied s 190(1A) does not apply.
- [7] Schedule S to the amended application explains the combination of the Ambalindum and The Garden and the Unemarre applications and states that all the amendments reflect that combination. I have compared this amended application with the original Ambalindum and The Garden application filed on 13 April 2021 and I consider all the amendments do relate to the combination of the two applications, other than the amendment to Part B, which updates the contact details for the applicant's representative. As the application area has increased as a result of the combination with the Unemarre application, I am satisfied that s 190A(6A) does not apply, as that provision does not contemplate either a combination of separate applications or an increase to an application area.
- [8] As neither s 190A(1A) or s 190A(6A) apply to the amended application, then I must consider whether it satisfies all the conditions of the registration test. For the reasons set out below, I consider that the claim in the amended application does satisfy all of the registration test conditions and therefore it must be accepted for registration. Attachment A contains information that will be included on the Register of Native Title Claims (**Register**).

Procedural fairness

- [9] On 20 October 2021, a senior officer of the National Native Title Tribunal (**Tribunal**) wrote to the representative of the Northern Territory government (**NTG**) to advise I would be considering the information in the application and any comments that the NTG wished to make should be received by 27 October 2021. On 21 October 2021, the NTG's representative advised the senior officer that the NTG did not wish to make any submissions.
- [10] Also on 21 October 2021, the senior officer wrote to the applicant's representative and advised that any further information the applicant wished me to consider should be received by 28 October 2021. No further information was received from the applicant and so this concluded the procedural fairness process.

Information considered

- [11] In accordance with s 190A(3)(a), I have considered the information in the application and accompanying documents. There is no information before me from searches of State, Territory or Commonwealth interest registers obtained by the Registrar under s 190A(3)(b). There is no information before me from the NTG which I must consider in accordance with s 190A(3)(c).
- [12] Section 190A(3) also provides that the Registrar may have regard to such other information considered appropriate. Pursuant to that provision, I have considered:
- (a) information in the geospatial assessment and overlap analysis of the application area prepared by the Tribunal's Geospatial Services dated 25 October 2021 (**geospatial report**);
 - (b) information in the Tribunal's geospatial database and the Register;

- (c) the original, pre-combination Ambalindum and The Garden application, as described above;
- (d) the original, pre-combination Unemarre application, as described above;
- (e) the reasons I prepared for my decision of 26 May 2020, to accept the pre-combination Unemarre application for registration; and
- (f) the reasons I prepared for my decision of 4 June 2021, to accept the pre-combination Ambalindum and The Garden application for registration (**my previous reasons**).

[13] I note the following information about this application and the two pre-combination applications:

- (a) The Unemarre application was brought on behalf of the Unemarre landholding group, which is one of the groups on whose behalf the Ambalindum and The Garden application is brought;⁵
- (b) The description of the members of the Unemarre landholding group is identical in the two applications;⁶
- (c) The Unemarre application area is located wholly within the original Ambalindum and the Garden application area, and the combined application area encompasses both pre-combination application areas in their entirety;⁷
- (d) The Unemarre application area and the Ambalindum and The Garden application area are both located within Arrernte territory and the landholding groups who comprise the native title claim group observe Arrernte traditional laws and customs;⁸
- (e) The applicant for the Unemarre application, Mr Peter ‘Coco’ Wallace Peltharre is also a member of the applicant for the Ambalindum and The Garden application and he deposes in affidavits filed in both applications that his authority to make these applications arises from the position he holds under Arrernte traditional laws and customs;⁹ and
- (f) The general description of native title rights and interests claimed is identical in the two pre-combination applications and in the application currently before me, except that the Unemarre application does not refer to the affidavits from members of the nine other landholding groups, instead referring only to the information from Mr Peter ‘Coco’ Wallace Peltharre regarding the Unemarre landholding group.¹⁰

[14] I have considered the statements of law which I included in my previous reasons. I am of the view that the statements of law in my previous reasons remain accurate and were correctly applied, and so I refer to and rely on those statements of law at particular conditions in my reasons below, where I consider it is appropriate to do so. I have considered the application

⁵ Schedule A [1]; Schedule A NTD10/2021 Unemarre [1].

⁶ Schedule A [8]; Schedule A to NTD10/2021 Unemarre [7].

⁷ Schedule B; Attachment C.

⁸ Schedule A [2]; Schedule A to NTD10/2021 Unemarre [2].

⁹ Affidavit of Peter ‘Coco’ Wallace Peltharre in support of NTD10/2021 Unemarre, 5 February 2021 [5]; affidavit of Peter ‘Coco’ Wallace Peltharre in support of NT5/2021 Ambalindum and the Garden, 28 April 2020, [5].

¹⁰ Schedule F; Schedule F to NTD10/2021 Unemarre.

before me afresh against each registration condition, however in the interests of brevity, I refer to and rely on my previous reasons where it is both appropriate and convenient to do so.

[15] In my view, because there is information in the pre-combination *Ambalindum and The Garden* application and in the application before me which address the conditions of the registration test in relation to the *Unemarre* application, I do not need to also rely on or refer to the reasons I prepared for my decision of 26 May 2020, to accept the pre-combination *Unemarre* application for registration.

Section 190C: conditions about procedures and other matters

Information etc. required by ss 61–2 – s 190C(2): condition met

What is required to meet s 190C(2)?

[16] As s 190C(2) requires the Registrar to be satisfied the application contains all of the prescribed details and other information, and is accompanied by any affidavit or other document, required by ss 61–2, I do not rely on my previous reasons at this condition. I understand I am not required to undertake a merit assessment of the material at this condition.¹¹ I also understand the matters covered by s 61(5) are matters for the Federal Court.

Consideration

[17] I consider the application contains the details specified in s 61:

Section	Details	Information	Result
s 61(1)	Native title claim group have authorised the applicant	Part A, Schedule A, s 62 affidavits filed with application (s 62 affidavits)	Met
s 61(3)	Name and address for service	Part B	Met
s 61(4)	Native title claim group named/described	Schedule A	Met

[18] I consider the application contains the information specified in s 62:

Section	Details	Information	Result
s 62(1)(a)	Affidavits in prescribed form	s 62 affidavits	Met
s 62(1)(d)	Section 47 agreements	-	Met – see reasons below
s 62(2)(a)	Information about the boundaries of the area	Schedule B	Met
s 62(2)(b)	Map of external boundaries of the area	Schedule C	Met
s 62(2)(c)	Searches	Schedule D, Attachment D	Met
s 62(2)(d)	Description of native title rights and interests	Schedule E	Met
s 62(2)(e)	Description of factual basis	Schedule F	Met
s 62(2)(f)	Activities	Schedule G	Met
s 62(2)(g)	Other applications	Schedule H	Met
s 62(2)(ga)	Notices under s 24MD(6B)(c)	Schedule HA	Met
s 62(2)(h)	Notices under s 29	Schedule I, Attachment I	Met

¹¹ *Doepel* [16], [35]–[39].

Section 62(1)(d)

[19] Section 62(1)(d) states that, if the operation of s 47C has been agreed to in writing in accordance with s 47C(1)(b) or s 47C(5) in relation to all or part of the application area, then the application must be accompanied by a copy of the relevant agreement. As no s 47 agreement accompanies the application, I understand that no such agreement has been agreed to.

Conclusion

[20] As the application contains the details and information specified in ss 61–2, I am satisfied s 190C(2) is met.

No previous overlapping claim group – s 190C(3): condition met

What is required to meet s 190C(3)?

[21] To meet s 190C(3), the Registrar must be satisfied that no person included in the claim group for the current 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 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.

Consideration

[22] The geospatial report states and my own searches confirm there are no applications which overlap the area covered by the current application, apart from the two pre-combination applications described above. In my view, neither of these applications are ‘previous applications’ for the purposes of 190C(3), as they are the applications that comprise the application that I am currently considering. As there are no overlapping applications which meet the definition of a ‘previous application’ under s 190C(3), the issue of common claimants does not arise.

Conclusion

[23] I am satisfied that no person included in the claim group was a member of a native title claim group for any previous application, and so s 190C(3) is met.

Identity of claimed native title holders – s 190C(4): condition met

Do the amendments to s 190C(4) apply?

[24] Amendments to s 190C(4) came into effect on 25 March 2021.¹² Item 24 of the Replacement Revised Explanatory Memorandum to the *Native Title Legislation Amendment Bill 2020* provides:

¹² *Native Title Legislation Amendment Act 2021* (Cth).

This item provides for application and transitional provisions for this Part. The effect of this item is that where a claim group authorises an applicant or an ILUA under sections 251A or 251B prior to the commencement of this item on Proclamation, the current registration provisions for the claim or agreement would continue to apply to that agreement or claim, even after the item commences. Where the authorisation of an applicant does not occur until after the commencement of this item, the new provisions would apply (provided the relevant claimant or compensation application, or native title agreement occurs after commencement).¹³

[25] The certificate from Central Land Council (**CLC**) in Schedule R states that the applicant was authorised at meetings held on 25 and 26 August 2020.¹⁴ Considering this information and the guidance in the Replacement Revised Explanatory Memorandum, I understand I must apply the requirements of s 190C(4) as that provision stood prior to the 25 March 2021 amendments.

What is required to meet s 190C(4)?

[26] To meet the requirements of s 190C(4), as it stood prior to the amendments of 25 March 2021, the Registrar must be satisfied that either:

- (a) the application has been certified under Part 11 by each representative body that could certify the application in performing its functions under that Part; or
- (b) the applicant is a member of the 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 claim group.

[27] As Schedule R contains a certificate from the CLC, I understand I must assess the application against the requirements of s 190C(4)(a), and in particular that:

- (a) the certificate identifies the relevant representative body;
- (b) the representative body has the power under Part 11 to issue the certification; and
- (c) the certificate meets the requirements of s 203BE(4).¹⁵

[28] The certificate in Schedule R is not the same certificate which accompanied the original application, therefore I do not rely on my previous reasons at this condition.

Consideration

Is the relevant representative body identified?

[29] As noted above, the CLC has provided the certificate, which is signed by the Chief Executive Officer pursuant to 'Resolution CM2020.02.12 of the Central Land Council'. The geospatial report states, and I have verified using the Tribunal's geospatial database, that the CLC is the representative body for the whole of the application area. I am therefore satisfied the certificate identifies the relevant representative body.

Does the representative body have the power to issue the certification?

[30] As a recognised representative body, the CLC can perform all the functions listed in Part 11 of the Native Title Act, including the certification functions in s 203BE. I am satisfied the CLC has the power under Part 11 to issue the certification. I also understand there is no impediment to

¹³ Native Title Legislation Amendment Bill 2020, Replacement Revised Explanatory Memorandum, Item 24 [46].

¹⁴ Schedule R [3].

¹⁵ *Doepel* [80]–[81].

the delegation of the certification function to particular individuals, such as the Chief Executive Officer, acting either as a delegate or agent of the representative body.¹⁶

Does the certificate meet the requirements of s 203BE(4)?

[31] I have considered each of the requirements of s 203BE(4) in turn below.

Section 203BE(4)(a) – statements

[32] Section 203BE(4)(a) requires a representative body to state that it is of the opinion that the requirements of ss 203BE(2)(a)–(b) have been met. Section 203BE(2)(a)–(b) prohibits a representative body from certifying an application unless it is of the opinion that:

- (a) all persons in the claim group have authorised the applicant to make the application;
and
- (b) all reasonable efforts have been made to ensure that the application describes or otherwise identifies all the other persons in the claim group.

[33] As the certificate contains these required statements in paragraph 2, I am satisfied s 203BE(4)(a) is met.

Section 203BE(4)(b) – reasons

[34] Section 203BE(4)(b) requires a representative body to briefly set out its reasons for being of the opinion that the requirements of ss 203BE(2)(a)–(b) have been met.

[35] Paragraph 3 of the certificate sets out the reasons for the CLC’s opinion that ss 203BE(2)(a)–(b) are met, which includes the following information:

- (a) Authorisation of the applicant:
 - 1. A meeting was held on 25 and 26 August 2020 at Santa Teresa to obtain instructions from the claim group in relation to the application, which was attended by essential senior members of the claim group;
 - 2. Using the claim group’s traditional decision-making process, the relevant members of the claim group authorised the members of the applicant to make the application.
- (b) All reasonable efforts made to describe all persons in the claim group:
 - 1. The CLC has conducted anthropological and historical research which indicates that the members of the claim group, as described in Schedule A, are the only persons who assert native title rights in the application area, and this is also acknowledged by the wider Aboriginal community;
 - 2. The claim group description accords with the traditional laws and customs of the persons who hold the native title claimed in the application area.

[36] As the certificate sets out the reasons for the CLC’s opinion that ss 203BE(2)(a)–(b) are met, I am satisfied s 203BE(4)(b) is met.

¹⁶ *Quall HCA* [48], [63].

Section 203BE(4)(c) – overlapping applications

[37] Section 203BE(4)(c) requires a representative body to set out, where applicable, what it has done to meet the requirements of s 203BE(3). Section 203BE(3) states that if the application area is wholly or partly covered by other applications, including proposed applications, of which the representative body is aware, the representative body must make all reasonable efforts to:

- (a) achieve agreement between the persons in respect of whom the applications are made; and
- (b) minimise the number of applications covering the land or waters.

[38] Paragraph 4 of the certificate states the CLC is not aware of any other application or proposed application that partly or wholly covers the application area. As the geospatial report states, and my own searches confirm that there are no overlapping applications, other than the two pre-combination applications, I consider that s 203BE(4)(c) is not applicable.

Conclusion

[39] As the certificate identifies the relevant representative body, the representative body has the power under Part 11 to issue the certification, and the certificate meets the applicable requirements of s 203BE(4), the requirements of s 190C(4)(a) are satisfied. This means s 190C(4) is met.

Section 190B: conditions about merits of the claim

Identification of area subject to native title – s 190B(2): condition met

What is required to meet s 190B(2)?

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

- (a) the information and map provide certainty about the external boundary of the application area; and
- (b) the information enables identification of any areas within the external boundary over which no claim is made.¹⁷

[41] As the application area has been amended, I do not rely on my previous reasons at this condition.

Consideration

Does the information about the external boundary meet this condition?

[42] Paragraph (a) of Schedule B describes the application area as covering six Northern Territory

¹⁷ Section 62(2)(a)–(b); *Doepel* [122].

portions, with reference to the respective 'NTP' numbers. Each portion is further described with reference to its area in square kilometres and particular type of ownership, being either leasehold or fee simple.

- [43] Schedule C contains a map titled 'The Garden and Ambalindum Native Title Determination Application' and dated 17 June 2021. The map shows the application area with a bold outline and hatched fill, with each of the NT portions listed in Schedule B identified with a label.
- [44] The assessment in the geospatial report is that the map and description are consistent and identify the application area with reasonable certainty. I have considered the information in Schedule B and the map in Schedule C and I consider they do provide certainty about the external boundary of the application area.

Does the information about excluded areas meet this condition?

- [45] Paragraph (b) of Schedule B lists the areas within the external boundary that are not covered by the application, including particular NT portions and roads. I am satisfied the specific exclusions can be identified from the information in Schedule B.
- [46] Paragraph (b) of Schedule B also provides that subject to Schedule L, any area in relation to which a previous exclusive possession act has been done is excluded from the application. I understand it is unrealistic to expect a concluded definition of areas covered by general exclusion clauses to be given in the application, however I am satisfied that the information in Schedule B would enable the areas affected to be ascertained at the appropriate time.¹⁸

Conclusion

- [47] As I consider that both the external boundary of the application area and the excluded areas can be identified from the description with reasonable certainty, and that the map shows the external boundary, I am satisfied s 190B(2) is met.

Identification of the native title claim group – s 190B(3): condition met

- [48] At paragraphs [37]–[49] of my previous reasons, I set out my understanding of the Registrar's task at s 190B(3) and decided that s 190B(3)(b) applied to the claim group description in the application. I am satisfied that the law has not changed and that my understanding remains correct. I consider that I correctly applied the facts to the law in my previous reasons at this condition. I have compared the pre-combination Ambalindum and The Garden application with the application currently before me and I am satisfied the description of the claim group has not been amended. At paragraphs [50]–[55] of my previous reasons, I considered that the description of the claim group in Schedule A was sufficient to ascertain whether a person was a member of the claim group. I have considered the information in Schedule A afresh and remain of that view.

Conclusion

- [49] For the same reasons as set out in my previous reasons, I am satisfied the application describes the persons in the claim group sufficiently clearly such that it can be ascertained

¹⁸ *Strickland* [55].

whether any particular person is a member of the group as required by s 190B(3)(b). This means s 190B(3) is met.

Identification of claimed native title – s 190B(4): condition met

[50] At paragraph [56] of my previous reasons, I set out my understanding of the Registrar's task at this condition. I am satisfied that the law has not changed and that my understanding remains correct. I consider that I correctly applied the facts to the law in my previous reasons at this condition. I have compared the pre-combination *Ambalindum* and *The Garden* application with the application currently before me and I am satisfied the description of the claimed native title rights and interests has not been amended. At paragraphs [57]–[58] of my previous reasons, I considered that the description in Schedule E was sufficient to allow the claimed rights and interests to be identified. I remain of that view, having again considered the information in Schedule E.

Conclusion

[51] For the same reasons as set out in my previous reasons, I am satisfied the description is sufficient to understand and identify all the claimed rights and interests, which means s 190B(4) is met.

Factual basis for claimed native title – s 190B(5): condition met

What is required to meet s 190B(5)?

[52] In paragraph [60]–[61] of my previous reasons, I set out my understanding of the overall task of the Registrar at s 190B(5). I consider that the law has not changed in this regard and that my understanding was correct.

What information has been provided in support of the assertions at s 190B(5)?

[53] In paragraph [62] of my previous reasons, I considered the following schedules and documents contained information which supports the assertions at s 190B(5):

- (a) Schedule A, which sets out the association of the claim group with the application area, with reference to the 10 estate groups, the apical ancestors and their descendants;
- (b) Schedule F, which provides an outline of the factual basis of the claim;
- (c) Schedule G, which lists the activities which claim group members undertake on the application area;
- (d) Schedule M, which outlines the physical connection which claim group members have with the application area; and
- (e) The s 62 affidavits, which provide information about the respective deponents and their families, their relationship to the application area, and the laws and customs which they observe.

[54] I have compared the pre-combination *Ambalindum* and *The Garden* application with the application before me and I am satisfied it contains the same factual basis in the schedules and affidavits itemised above. I am also satisfied that I correctly applied the facts to the law and that it is appropriate to adopt my previous reasons in this fresh consideration of

s 190B(5). I have formed this view because the factual basis material addresses the association between the native title claim group and the whole combined application area, notwithstanding the fact that the Unemarre application area was excluded from the pre-combination Ambalindum and The Garden application.¹⁹ The factual basis material also addresses the existence and observance of traditional laws and customs across the entire combined application area.²⁰ As set out above, the Unemarre application area is wholly encompassed by the pre-combination Ambalindum and The Garden application and the Unemarre landholding group is one of the groups which comprise the native title claim group.

What is required to meet s 190B(5)(a)?

[55] In paragraph [63] of my previous reasons, I set out my understanding of the Registrar’s task at s 190B(5)(a). I am satisfied that the law has not changed and that my understanding remains correct.

Is the factual basis sufficient to support the assertion at s 190B(5)(a)?

[56] At paragraphs [64]–[83] of my previous reasons, I considered that the factual basis was sufficient to support the assertion at s 190B(5)(a). In reaching that view I considered the factual basis supported:

- (a) an association between the claim group and the area at sovereignty and since that time;
- (b) an association between the claim group and the area currently; and
- (c) an association, both past and present, with the whole area claimed.

[57] I have reviewed the information afresh and remain satisfied, for the same reasons set out in my previous reasons, that there is sufficient factual basis to support an assertion of both a physical and a spiritual association of the claim group to the whole combined application area.

Conclusion - s 190B(5)(a)

[58] I am satisfied s 190B(5)(a) is met.

What is required to meet s 190B(5)(b)?

[59] In paragraphs [84]–[88] of my previous reasons I set out my understanding of the Registrar’s task at s 190B(5)(b). I consider the law has not changed and I am satisfied that my understanding of the law, as set out in my previous reasons, remains correct.

Is the factual basis sufficient to support the assertion of s 190B(5)(b)?

[60] At paragraphs [92]–[95] of my previous reasons, I considered there was sufficient information to:

- (a) address the link between the pre-sovereignty society, the apical ancestors and the native title claim group; and
- (b) support the assertion of the existence of ‘traditional laws and customs’.

[61] I have considered the information before me afresh and I have reviewed my previous reasons. I remain satisfied that the factual basis is sufficient to support an assertion that there exist

¹⁹ Schedule A [1]–[4]; Schedule F [4], [20].

²⁰ Schedule A [10]; Schedule F [1]–[19]; Schedule G.

traditional laws acknowledged, and traditional customs observed by the native title claim group, for the same reasons as set out in my previous reasons.

Conclusion – s 190B(5)(b)

[62] I am satisfied s 190B(5)(b) is met.

What is required to meet s 190B(5)(c)?

[63] In paragraph [97] of my previous reasons I set out my understanding of the Registrar’s task at s 190B(5)(c). I am satisfied that the law has not changed and that my understanding remains correct.

Is the factual basis sufficient to support the assertion of the continuity of traditional laws and customs?

[64] At paragraphs [98]–[99] of my previous reasons, I considered there was sufficient information to support the assertion of continuity of traditional laws and customs. I have reviewed the information before me as well as my previous reasons. I am of the view that I correctly applied the facts to the law in my previous reasons. For the same reasons as set out in my previous reasons, I remain satisfied that the factual basis is sufficient to support the assertion that the claim group have continued to hold their native title rights in accordance with traditional laws and customs since settlement in the application area.

Conclusion – s 190B(5)(c)

[65] I am satisfied s 190B(5)(c) is met.

Conclusion

[66] As I consider the factual basis on which it is asserted that the claimed native title rights and interests exist is sufficient to support the three assertions of ss 190B(5)(a)–(c), s 190B(5) is met.

Prima facie case – s 190B(6): condition met

[67] At paragraph [102] of my previous reasons, I set out my understanding of the Registrar’s task at this condition. I consider that the law has not changed and my understanding remains correct. I have reviewed my previous reasons and consider that I correctly applied the facts to the law in my reasoning at this condition. As the rights and interests described in Schedule E have not been amended, and as the same factual basis material is relied upon, I consider it is appropriate to rely on my previous reasons in my fresh consideration of s 190B(6).

Which of the claimed native title rights and interests are established on a prima facie basis?

[68] At paragraphs [103]–[109] of my previous reasons, I considered that all of the claimed rights were established on a prima facie basis. I also considered that the claimed rights could be considered ‘native title rights and interests’ held pursuant to the claim group’s traditional laws and customs. Having undertaken a fresh consideration of the information in the application and the factual basis material, I remain of that view.

Conclusion

[69] I am satisfied the application contains sufficient information about all of the rights claimed, such that they can be said to be established on a prima facie basis as ‘native title rights and interests’, for the same reasons as set out in my previous reasons. This means s 190B(6) is met.

Traditional physical connection – s 190B(7): condition met

[70] In paragraphs [111]–[112] of my previous reasons I set out my understanding of the Registrar’s task at s 190B(7). I am satisfied that the law has not changed and that my understanding remains correct.

[71] At paragraphs [113]–[114] of my previous reasons, I considered that at least one claim group member has or had a physical connection to the application area. I also considered the claim group members’ connection with the application area is ‘traditional’ in the sense required by s 190B(7). I have reviewed my application of the facts to the law at this condition in my previous reasons and consider that it was correct. Given the factual basis for this application is the same as that previously considered, in my view it is appropriate to adopt my previous reasons in this fresh consideration of s 190B(7).

Conclusion

[72] I have reviewed the information before me and my previous reasons and I remain satisfied, for the same reasons as set out in my previous reasons, at least one member of the claim group currently has or had a traditional physical connection with a part of the application area as required by s 190B(7)(a), and so s 190B(7) is met.

No failure to comply with s 61A – s 190B(8): condition met

[73] At paragraph [117] of my previous reasons, I considered that the application complied with the provisions of ss 61A(1)–(3), and thus met the requirements of s 190B(8). I have reviewed the application before me and my previous reasons. I consider it is appropriate to adopt my conclusions at this condition, as the content of the relevant schedules to the application is identical in the application currently before me, with the minor exception of the paragraph numbering in Schedule B, which I do not consider changes the substance of the application.

[74] I consider that my understanding of the Registrar’s task was correct in my previous reasons and the law has not changed. I also consider that my application of the facts to the law at this condition in my previous reasons was correct. In addition, the geospatial report states, and I have verified, there has been no determination over any part of the application area, which is relevant to this fresh consideration of s 61A(1).

Conclusion

[75] For the same reasons as set out in my previous reasons, I am satisfied the requirements of s 190B(8) are met.

No extinguishment etc. of claimed native title – s 190B(9): condition met

[76] At paragraph [120] of my previous reasons, I considered that the application met the requirements of s 190B(9). I consider that my understanding of the Registrar’s task was correct and the law has not changed. I consider my application of the facts to the law at this condition in my previous reasons was correct. Having reviewed my previous reasons and the information before me, I consider it is appropriate to adopt my previous reasons at this condition, as the content of the relevant schedules is identical.

Conclusion

[77] For the same reasons as set out in my previous reasons, I am satisfied the requirements of s 190B(9) are met.

End of reasons

Attachment A

Information to be included on the Register of Native Title Claims

Application name	Stanislaus "Shorty" Mulladad Perrurle & Ors v Northern Territory of Australia (Ambalindum and The Garden)
NNTT No.	NTD5/2021
Federal Court of Australia No.	DC2021/002
Date of Registration Decision	26 November 2021

Section 186(1): Mandatory information

In accordance with ss 186, 190A(1) of the *Native Title Act 1993* (Cth), the following is to be entered on the Register of Native Title Claims for the above application.

Application filed/lodged with	Federal Court of Australia
Date application filed/lodged	As per Schedule
Date application entered on Register	26 November 2021
Applicant	As per Schedule
Applicant's address for service	As per Schedule
Area covered by application	As per Schedule
Persons claiming to hold native title	As per Schedule
Registered native title rights and interests	As per Schedule

Katy Woods

Delegate of the Native Title Registrar pursuant to ss 190–190D of the Native Title Act under an instrument of delegation dated 19 May 2021 and made pursuant to s 99 of the Native Title Act.