

National Native Title Tribunal
REASONS FOR DECISION COVER SHEET
REGISTRATION TEST

DELEGATE:	Sue Kee
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APPLICATION NAME	Gumbaynggirr
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NAME(S) OF APPLICANT(S)	: Margaret Boney-Witt
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NNTT NO	:NC98/15
FEDERAL COURT NO	:NG6104/98
DATE APPLICATION MADE	:3 June 1998

REGION	New South Wales
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The delegate has considered the application against each of the conditions contained in s190B and 190C of the *Native Title Act 1993*.

DECISION

The application **IS ACCEPTED** for registration pursuant to s190A of the *Native Title Act 1993*.

.....
Sue Kee

..... 1999
Date of Decision

Delegate of the Registrar

Brief History of the application

This application for a determination of native title was lodged with the Sydney Registry of the National Native Title Tribunal on 3 June 1998.

The application was, in accordance with the Tribunal's procedures operating at the time, entered onto the Tribunal's Register of Native Title Claims.

The application was later transferred to the Federal Court upon the commencement of amendments to the *Native Title Act 1993*. It was issued with Federal Court application number NG6104/98.

On 21 October 1999 the Deputy District Registrar of the Federal Court provided the Tribunal with a copy of an amended native title determination application, filed in the Court on 20 October 1999. The amended application is the subject of an order dated 18 October 1999 which varies an order of 1 October 1999.

This version of the application which is the *current* application.

Information considered in making the decision

In determining this application I have considered and reviewed all of the information and documents from the following files, databases and other sources:

- ◆ NC98/15 (NG6104/98) Working and Registration Files;
- ◆ The National Native Title Tribunal Geospatial Database and geospatial information dated 17 August 1999;
- ◆ The Register of Native Title Claims;
- ◆ The Native Title Register;
- ◆ The submission of the Department of Land and Water Conservation NSW dated 3 May 1999;
- ◆ The amended submission of the Director General of the Department for Land and Water Conservation dated 1 November 1999, on behalf of the NSW Minister for Land and Water Conservation;
- ◆ The amended application copied to the Tribunal by the Federal Court on 21 October 1999 and affidavits in support affirmed/sworn 10 August and 21 September 1999;
- ◆ Supplementary submission of 15 November 1999, **22 and 26 June 2000** by NSW Aboriginal Land Council;
- ◆ Additional confidential information provided to the Registrar by the Applicant namely:
 - ◆ Preliminary Report by **[name deleted]** and affidavit affirmed 19 September 1999.
- ◆ **Supplementary submission regarding confidential material of the Director General of the Department for Land and Water Conservation dated 7 June 2000.**

A. Procedural Conditions

190C2	Information, etc, required by section 61 and section 62: <i>The Registrar must be satisfied that the application contains all details and other information, and is accompanied by any affidavit or other document, required by sections 61 and 62.</i>	
Details required in section 61		
61(3)	Name and address for service of applicant(s)	
Reasons relating to this sub-condition		Application passes the condition
The application identifies the name and the address for service the Applicant.		
61(4)	Names persons in native title claim group or otherwise describes the persons so that it can be ascertained whether any particular person is one of those persons	
Reasons relating to this sub-condition		Application passes the condition
The application does not name the persons in the native title claim group. A description is provided at Schedule A. The application describes the native title claim group as descendants of fourteen named individuals. The description of the native title claim group is sufficient for it to be ascertained whether any particular person is one of those persons. I have reached this view for the reasons contained in my decision at s.190B(3).		
61(5)	Application is in the prescribed form¹, lodged in the Federal Court, contain prescribed information², and accompanied by prescribed documents and fee	
Reasons relating to this sub-condition		Application passes the condition
The application is in the form prescribed by Regulation 5(1)(a) Native Title (Federal Court) Regulations 1998. As required under section 61(5)(b), the amended application was filed in the Federal Court. The application meets the requirements of section 61(5)(c) and contains all information as prescribed in section 62. I refer to my reasons below in relation to s.62. As required by section 61(5)(d) the application is accompanied by the prescribed documents, being: <ul style="list-style-type: none"> • an affidavit, as prescribed by s. 62(1)(a), and • a map, as prescribed by s. 62(1)(b). I refer to my reasons for decision below in relation to s.62(1)(a) and (b). I note that section 190C(2) only requires me to consider details, other information, and documents required by section 61 and 62. I am not required to consider whether the application has been accompanied by the payment of a prescribed fee to the Federal Court. For the reasons outlined above, it is my view that the requirements of s.61(5) are met.		

¹ Note that in relation to pre 30.09.98 applications, the application does not need to be in the prescribed form as required by the amended *Act*. Note also that pre 30.09.98 applications are deemed to have been filed in the Federal Court.

² Note also that “prescribed information” is that which is required by s62 as set out in the text of this reasons document under “Details required in section 62(1)”.

Details required in section 62(1)

62(1)(a)	<i>Affidavits address matters required by s62(1)(a)(i) – s62(1)(a)(v)</i>
Reasons relating to this sub-condition	Application passes the condition
<p>An affidavits has been received from the Applicant. A competent witness has witnessed the affidavit. I am satisfied that it addresses the matters required by s. 62(1)(a)(i) - (v) at paragraphs (1) to (5) of the affidavit. Paragraph (5) of the affidavit refers to a decision which was taken at a Gumbaynggirr Nation meeting on 2-3 February 1997 at Yarrawarra, Corindi Beach as being the statement of the basis of the Applicant’s authorisation and consequently the requirements of s62(1)(a)(v) is satisfied. I am satisfied that the statement, read in conjunction with Attachment R, being a certification by the NSW Aboriginal Land Council, complies with the requirements of s.62(1)(a)(v).</p> <p>I am satisfied that the application complies with the requirements of this subsection. See also the reasons set out in my decision at s.190C(4)(a).</p>	

62(1)(c)	<i>Details of any traditional physical connection (information not mandatory)</i>
Comment on details provided	Application passes the condition
<p>The Applicant has provided details of traditional physical connection at Schedule M, Attachment G.</p>	

Details required in section 62(2) by section 62(1)(b)

62(2)(a)(i)	<i>Information identifying the boundaries of the area covered</i>
Reasons relating to this sub-condition	Application passes the condition
<p>At Schedule B, the Applicant has provided information identifying the external boundary of the claimed area.</p> <p>I am satisfied that the application complies with the requirements of this subsection. See also the reasons set out in my decision at s190B(2).</p>	

62(2)(a)(ii)	<i>Information identifying any areas within those boundaries which are not covered</i>
Reasons relating to this sub-condition	Application passes the condition
<p>At Schedule B, the Applicant has provided information identifying the internal boundaries of the claimed area.</p> <p>I am satisfied that the application complies with the requirements of this subsection. See also the reasons set out in my decision at 190B2.</p>	

62(2)(b)	<i>A map showing the external boundaries of the area covered by the application</i>
Reasons relating to this sub-condition	Application passes the condition
<p>The Applicant has provided a map at Schedule C, Attachment C. The map provided does identify the outside boundary of the area covered by the application.</p> <p>I am satisfied that the application complies with the requirements of this subsection. See also the reasons set out in my decision at s.190B2.</p>	

62(2)(c)	<i>Details/results of searches carried out to determine the existence of any non-native title rights and interests</i>
Reasons relating to this sub-condition	Application passes the condition
<p>The requirements of s62(2)(c) can be read widely to include all searches conducted by any person or body. However, I am of the view that under this condition I need only be informed of searches that the Applicant is aware of in order to be satisfied that the application complies with this condition. It would be unreasonably onerous to expect the Applicant to have knowledge of, and obtain details about all searches carried out by any person or body. At Attachment D the Applicant has inserted the words “not relevant” which identifies that she is not aware of any searches that have been carried out to determine the existence of any non-native title rights and interests in relation to the land or waters in the area covered by the application.</p> <p>I am satisfied that the application complies with the requirements of this subsection. See also the reasons set out in my decision at s.190B2.</p>	

62(2)(d)	<i>Description of native title rights and interests claimed</i>
Reasons relating to this sub-condition	Application passes the condition
<p>Each native title right and interest claimed by the Applicant is described at Schedule E. There are fifteen particular native title rights and interests claimed. In accordance with section 62(2)(d), the rights and interests claimed do not merely consist of a statement to the effect that the native title rights and interests that may exist or that have not been extinguished at common law. The description is a list of individually identifiable rights and interests. I am satisfied that the application complies with the requirements of this subsection. I have outlined these rights and interests claimed in my reasons for decision in relation to s.190B4.</p>	

62(2)(e)(i)	<i>Factual basis – claim group has, and their predecessors had, and association with the area</i>
Reasons relating to this sub-condition	Application passes the condition
<p>Schedule F sets out the factual basis for the assertion that the claim group in the application have, and their predecessors had, an association with the area. A general description of the factual basis for this assertion is also provided in the application at Schedules F and G and in the preliminary report of [name deleted].</p> <p>Attachment G include affidavits of the Applicant and her grand-daughter (Ms Margaret Witt) that provide further information that themselves and their predecessors had an association with the area. I am satisfied that the application complies with the requirements of this subsection. For an assessment of the sufficiency of the factual basis provided by the Applicant in the application and in other material provided to the Tribunal, refer to my reasons in relation to s.190B(5)(a).</p>	

62(2)(e)(ii)	<i>Factual basis – traditional laws and customs exist that give rise to the claimed native title</i>
Reasons relating to this sub-condition	Application passes the condition
<p>Schedule F sets out the factual basis for the assertion that traditional laws and customs exist that give rise to the claimed native title. A general description of the factual basis for this assertion is also provided in the application at Schedules F and G and in the preliminary report of [name deleted]. At Schedule G, affidavits of the Applicant and her grand-daughter (Ms Margaret Witt) provide further information that there exist traditional laws and custom that give rise to the claimed native title.</p> <p>I am satisfied that the application complies with the requirements of this subsection.</p> <p>For an assessment of the sufficiency of the factual basis provided by the Applicant in the application and in other material provided to the Tribunal, refer to my reasons in relation to s. 190B(5)(b).</p>	
62(2)(e)(iii)	<i>Factual basis – claim group has continued to hold native title in accordance with traditional laws and customs</i>
Reasons relating to this sub-condition	Application passes the condition
<p>Schedule F sets out the factual basis for the assertion that the native title claim group has continued to hold the native title in accordance with traditional laws and customs. At Schedule G, affidavits of the Applicant and her grand-daughter (Ms Margaret Witt) together with [name deleted] report provide further information that the native title claim group has continued to hold the native title in accordance with traditional laws and customs.</p> <p>I am satisfied that the application complies with the requirements of this subsection.</p> <p>For an assessment of the sufficiency of the factual basis provided by the applicants in the application and in other material provided to the Tribunal, refer to my reasons in relation to s. 190B(5)(c).</p>	
62(2)(f)	<i>If native title claim group currently carry on any activities in relation to the area claimed, details of those activities</i>
Reasons relating to this sub-condition	Application passes the condition
<p>At Schedule G the application provides general details of activities that the native title claim group carries out in relation to the area claimed.</p> <p>I am satisfied that the application complies with the requirements of this subsection.</p>	
62(2)(g)	<i>Details of any other applications to the High Court, Federal Court or a recognised State/Territory body the applicant is aware of (and where the application seeks a determination of native title or compensation)</i>
Reasons relating to this sub-condition	Application passes the condition
<p>The application at Schedule H states that there are no other applications that have been made in relation to the whole or part of any area covered by this application.</p> <p>I am satisfied that the application complies with requirements of this subsection.</p>	
62(2)(h)	<i>Details of any S29 Notices (or notices given under a corresponding State/Territory law) in relation to the area, and the applicant is aware of</i>
Reasons relating to this sub-condition	Application passes the condition
<p>The application states that as far as the Applicant is aware no notices have been given under s.29 of the NTA (or under any corresponding provision of a law of the State of NSW) that relate to</p>	

the whole or part of any area subject to this application.
I am satisfied that the application complies with requirements of this subsection.

Reasons for the Decision

For the reasons identified above the amended application contains all details and other information, and is accompanied by the affidavits and other documents, required by s.61 & s.62. I am satisfied that the application meets the requirements of s.190C(2).

190C3	<p>Common claimants in overlapping claims:</p> <p>The Registrar must be satisfied that no person included in the native title claim group for the application (the current application) was a member of the native title claim group for any previous application if:</p> <p>(a) <i>the previous application covered the whole or part of the area covered by the current application; and</i></p> <p>(b) <i>an entry relating to the claim in the previous application was on the Register of Native Title Claims when the current application was made; and</i></p> <p>(c) <i>the entry was made, or not removed, as a result of consideration of the previous application under section 190A.</i></p>
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Reasons for the Decision

I am satisfied that there are no overlapping claims with common claimants.
I am satisfied that the application meets the requirements of this subsection. Refer to my reasons at s62(2)g.

190C4(a) and 190C4(b)	<p>Certification and authorisation:</p> <p>The Registrar must be satisfied that either of the following is the case:</p> <p>(a) <i>the application has been certified under paragraph 202(4)(d) by each representative Aboriginal/Torres Strait Islander body that could certify the application in performing its functions under that Part; or</i></p> <p>(b) <i>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.</i></p>
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Reasons for the Decision

The application has been certified by the NSW Aboriginal Land Council, a gazetted native title representative body for the area of the application. The certificate is provided at attachment R of the application. I note that the certificate is dated 8 August 1999 and has been signed by Norma Ingram, Director for the NSW Aboriginal Land Council, who would have the proper authority to sign such a document.

An affidavit has been received from the Applicant. A competent witness has witnessed the affidavit. Paragraph (5) of the affidavit refers to a decision which was taken at a Gumbaynggirr Nation meeting on 2-3 February 1997 at Yarrawarra, Corindi Beach as being the statement of the basis of the Applicant's authorisation.

Attachment R, being certification from the NSW Aboriginal Land Council, confirms this decision constituted "authorisation" by all persons in the native title claim group, within the meaning of subsection 251B(b) of the Act. I have assessed the certificate against the requirements of s202(7) of the Act and consider it complies with those requirements.

I am satisfied that Attachment R complies with the requirements of certification as required by s.190C(4).

I am satisfied that the application meets the requirements of this subsection.



190C5	<p><i>Evidence of authorisation:</i></p> <p><i>If the application has not been certified as mentioned in paragraph (4)(a), the Registrar cannot be satisfied that the condition in subsection (4) has been satisfied unless the application:</i></p> <ul style="list-style-type: none"><i>(a) includes a statement to the effect that the requirement set out in paragraph (4)(b) has been met; and</i><i>(b) briefly sets out the grounds on which the Registrar should consider that it has been met.</i>
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Reasons for the Decision

For the reasons set out at 190C(4) above, I note that I am not required to consider the application against this condition.

B. Merits Conditions

190B2	<p><i>Description of the areas claimed:</i></p> <p><i>The Registrar must be satisfied that the information and map contained in the application as required by paragraphs 62(2)(a) and (b) 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></p>
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Reasons for the Decision

Map and External Boundaries

Map

The Applicant has provided a map at Schedule C, Attachment C of the application. The State's submission of 3 May 1999 contends that the map is deficient, however as the amended application contains a different map to that which the submission refers, I am of the view that the State's submission of 3 May 1999 on this point has been overtaken by events.

The map has a scale, clearly marked latitudes and longitudes and has been generated by the Tribunal's Geospatial Analysis and Mapping Branch under the Tribunal's Assistance to Applicants Policy pursuant to s.78 of the Act. I am satisfied that the map submitted with the application meet the requirements of s.62 (2)(b).

Written description

In addition to the provision of a map defining the external boundaries of the claim the Applicant at Schedule B has provided a general description of the external boundary.

This description is supplemented by complete external boundaries geospatial coordinates data (dated 17 August 1999) generated by the Tribunal's Geospatial Analysis and Mapping Branch.

Waters

The State, in its' amended submission of 1 November 1999, contends that 'the meaning of the word waters is defined in s.253 of the Act and includes an alternative list of 3 definitions' and 'the applicants [sic] have not specified which of these definitions is applicable'.

In reply, the NSW Aboriginal Land Council in its' supplementary submission of 15 November 1999 clarify that the definition of 'waters' in this context can only refer to paragraph (a) [of the s.253 definition], thus the waters referred to in the written description is a reference to:

'sea, a river, a lake, a tidal inlet, a bay, an estuary, a harbour or subterranean waters'.

I am satisfied that the physical description of the external boundaries meets the requirements of s.62(a)(i).

Internal Boundaries

The internal boundaries are described in the application at Schedule B by

- parcel specific exclusions at paragraphs (a) – (e); and
- a formula that excludes:

◆ a variety of tenure classes from the claim area as defined in s. 23B of

- ◆ the Act, which defines previous exclusive possession acts;
- ◆ previous non-exclusive possession act areas as defined in section 23F of the Act, save where the Act as defined in s.23G(1)(a) and s.23G(1)(b)(ii) allows such a claim to be part of a native title determination application;
- ◆ to the extent of their inconsistency with the native title rights and interests claimed:
 - ◆ Category B Past Acts, as defined by s.230 of the Act;
 - ◆ Category B Intermediate Period acts as defined by s.232C of the Act;
- ◆ to the extent of their inconsistency with the native title rights and interests claimed and subject to the operation of the non-extinguishment principle, as defined by s.238 of the Act,
 - ◆ Category C Past Acts, as defined by s.231 of the Act;
 - ◆ Category C Intermediate Period Acts, as defined by s.232D of the Act;
 - ◆ Category D Past Acts, as defined by s.232 of the Act;
 - ◆ Category D Intermediate Period acts as defined by s.232E of the Act.

The State in its amended submission of 1 November 1999 contends that the applicants [sic] have not specified the Deposited Plan number of Lot 102 in the Parish of Newry’.

In reply to this contention the NSW Aboriginal Land Council, in its supplementary submission of 15 November 1999, clarifies that ‘the reference is a reference to Portion 102 in the Parish of Newry’, and argue that ‘the extent of which is clarified by the map’ [at Attachment ‘C’ of the application].

In forming a view as to whether the formula description of areas excluded are consistent with the general rubric of ‘reasonable certainty’ required by this subsection as articulated by French J in *Strickland v Native Title Registrar* (W6018 of 1999) FCA1530 (Unreported) at paragraph 50, I note that the questions raised by these class exclusions can not be resolved without substantial inquiry to establish whether any particular area of land or waters within the external boundary of the application is within the claim area or not.

I am mindful of the administrative character of the registration test and following the reasoning of French J in *Strickland* I consider that the description provides a reasonable level of certainty: the exclusion clauses contained in Schedules B and clarifications of the scope of native title rights or interests claimed as set out in Schedule E of the application effectively exclude those parts of the claim area which were subject to the scheduled tenures. For example, the Part Conditional Purchase 1933/1 Bellingen, identified by the State in its submission of 3 May 1999 as an extinguishing tenure would, in my view, be excluded from the claim if it has been validly granted and is captured by s.23B of the Act.

In respect of the saving provisions of s.23G(1)(a), s.23G(1)(b)(ii) and s.238, I consider that the description provided allows it to be shown objectively, upon the provision of particulars, whether the Applicant may have benefit of these provisions and that this is all that is required by this section.

The other authorities available to date on what may satisfy the requirements of s. 62 (2)(a) (i) and (ii) of the *Native Title Act 1993* are *Daniels v The State of Western Australia* (WAG6017 of 1996) FCA686 (Unreported) (‘the Daniels decision’) and *State of Western Australia v native Title Registrar & Ors* [1999] FCA 1591-1594 (‘the Carr J decisions’).

In *Daniels*, at paragraph 32, Nicholson J says in relation to information identifying the area covered by the application and areas within its boundaries not covered by the application:

"These requirements are to be applied to the state of knowledge of an applicant as it could be expected to be at the time the application or amendment is made. Consequently a class or formula approach could satisfy the requirements of the paragraphs where it was the appropriate specification of detail in those circumstances. For example, at the time of an initial application when the applicants had no tenure information it may be satisfactory compliance with the statutory requirement... Whether this would be so on a later application or amendment would depend..."

In *Strickland*, at paragraph 52 French J says of his Honour Justice Nicholson's approach in *Daniels*:

"in the context of the registration test, the kind of judgment which his Honour was contemplating might be undertaken by the Court is undertaken administratively by the Registrar. It is necessarily evaluative in character within the general parameters laid down by the statutory provisions that the Registrar must apply".

Conclusion

In *Strickland* his Honour says at para 55,

"the Act is to be construed in a way that renders it workable in the advancement of its main objectives as set out in s.3, which include providing for the recognition and protection of native title. The requirements of the registration test are stringent. It is not necessary to elevate them to be impossible".

Following the judicial guidance as to the administrative function before me I have formed the view that I am satisfied that the information and map provided by the Applicant, read in conjunction with the exclusions specified by the Applicant, are sufficient for it to be said with reasonable certainty that the native title rights and interests are claimed in relation to particular areas of land or waters within the external boundaries of the claim area.

I am satisfied that the information and map submitted with the application meet the requirements of s.62 in that the external and internal boundaries of each of the areas the subject of the claim can be identified.

I am satisfied that the application meets the requirements of this subsection.

190B3

Identification of the native title claim group:

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 that group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group.*

Reasons for the Decision

To meet this condition of the registration test the description of the group must be sufficiently clear so that it can be ascertained whether any particular person is a member of the native title claim group.

An exhaustive list of names of the persons in the native title claim group has not been provided and so the requirements of s.190B(3)(a) are not met. In the alternative, according to s.190B(3)(b), the application must otherwise describe the persons in the native title claim group sufficiently clearly so that it can be ascertained whether any particular person is one of those persons.

The application at Schedule A **describes** the claim group as descendants of the following named individuals:

1. Maggie Buchanan;
2. Frank Whaddy and Vina Duncan;
3. Elsie Taylor and Jack Flanders;
4. Topsy Taylor and Sam Dotti;
5. Henry Duckett and Emily Walker;
6. David Ballengarry and Florence Randall;
7. Wabro Kelly;
8. Ben Bennelong and Dollie 'Tickie' Kelly

A person may be reckoned as a member of the native title claim group as a biological descendant of the above named individuals.

The State in its amended submission of 1 November 1999 submits that the description of the claim group is deficient, that the claim group is not described sufficiently clearly so that it can be ascertained whether any particular person is in that group. The State contends that it is necessary for the applicants [sic] to provide further clarification if:

- a) it is not intended that where two people are named together that a member of the claim group must be descended from both of the named people; and
- b) if the word descendants does not refer to biological descendants only, and is intended to include adopted descendants as well. In particular, the State submits that it is necessary for the applicants [sic] to state the customary rules or process by which a non-biological descendant may be adopted into the group.

In reply to the State's submission, the NSW Aboriginal Land Council in its supplementary submission of 15 November 1999 confirm that:

- a) it is intended that where two people are named together that a member of the claim group

- must be descended from both of the named people; and
- b) the reference to ‘descendants’ is intended to include both biological and non-biological descendants. The Land Council submits that the description of the group makes it clear that people adopted into the Gumbaynggirr nation will be included within the native title claim group. The customary rules or process by which non-biological descendants may be adopted into a group is a separate question of process that does not go to the question of adequately describing the claimant group.

The information contained in Schedule A does not, in my view, provide for the inclusion of persons outside the descent group as the claim group is able to be identified through the criteria of descendancy, whether biological or non-biological, from the named persons, (both named persons where two people are named together), set out in Schedule A. This view, while adopting a broad understanding of ‘descent’, at the expense of the application of a narrow and exclusive test of genetic disposition, does not derogate from the objective rule that the members of the native title claim group can be ascertained by their relationship by descent from the named persons in Schedule A. It is therefore not necessary for me to enquire whether persons who are members of the claim group are adopted into the claim group by marriage, or by some other customary rule or process required as a means of recognition as a member of the Gumbaynggirr nation.

On this basis, it is my view that the information provided is sufficient for it to be ascertained using criteria which can be objectively verified whether any particular person is a descendant of one of those named persons. Consequently, I consider the information is sufficient to identify whether a person is a member of the native title claim group or not.

I am satisfied that the application meets the requirements of this subsection.

190B4

Identification of claimed native title

The Registrar must be satisfied that the description contained in the application as required by paragraph 62(2)(d) is sufficient to allow the native title rights and interests claimed to be readily identified.

Reasons for the Decision

Schedule E of application lists fifteen specific native title rights and interests claimed by the applicants. These are:

1. A right to own the area;
2. A right to possess the area;
3. A right to occupy the area;
4. A right to be present on the area;
5. A right to use and enjoy the area;
6. A right to travel through the area;
7. A right to live on the area;
8. A right to camp on the area;
9. A right to speak for the area;
10. A right to hunt animals on the area;
11. A right to gather plants, fuel, firewood, freshwater, rainwater and minerals on the area;
12. A right manage animals, plants and minerals on the area;
13. A right to make decisions about the way that the area may be used by non-native title holders;
14. A right to carry out traditional ceremonies and activities on the area;
15. A right to free access to the area for the purpose of satisfying the rights identified in the preceding sub-paragraphs.

These fifteen native title rights and interests are all subject to the rights validly granted by the crown pursuant to statute to others to possess, occupy, use or enjoy the land or waters. This is expressed as follows:

- a. The rights and interests of those lawfully exercising rights and interests which have been validly created or vested in them by the State of New South Wales.
- b. Subject to the rights and interests of those lawfully exercising rights and interests which have been validly created or vested in them by the Commonwealth of Australia.

Further and the in the alternative to the above paragraph and subject to the paragraph below:

- a. If:
 - i. The area covered by the application or a part of the area covered by the application is or was the subject of a "Previous Non Exclusive Act" as defined by Section 23F of the Act;
 - ii. The Previous Non Exclusive Possession Act involved the grant of rights and interests which were not inconsistent with the rights and interests claimed in paragraphs above, then,

The native title rights and interests claimed under paragraphs 1 and/or 2 are claimed subject to the rights and interests granted under the Previous Non Exclusive Possession Act (as provided by Section 23G(1)(a) of the Act

b. If:

- iii. The area covered by the application or a part of the area covered by the application is or was the subject of a “Previous Non Exclusive Act” as defined by Section 23F of the Act;
- iv. The Previous Non Exclusive Possession Act involved the grant of rights and interests which were not inconsistent with the rights and interests claimed in paragraphs 1 and/or 2 above but did not extinguish them, then,

The rights and interests claimed under paragraphs 1 and/or 2 are claimed subject to any suspension of them during the currency of the Previous Non Exclusive Act (as provided by Section 23G(1)(b)(ii) of the Act;

c. If:

- i. The area covered by the application or a part of the area covered by the application is or was the subject of a “Category B past act” as defined by Section 230 of the Native Title Act or a Category B Intermediate Period Act” as defined by Section 232C of the Native Title Act; and,
- ii. The Category B Past Act or Category B Intermediate Period Act involved the grant of rights and interests which were not inconsistent with the rights and interests claimed in paragraphs 1 and/or 2 above and;
- iii. The Category B Past Act or Category B Intermediate Period Act was not a Previous Non Exclusive Possession Act; then,

Those rights and interests referred to in paragraphs 1 and/or 2 which are not inconsistent with the rights and interests granted under the Category B past Act or the Category B Intermediate Period Act are claimed;

d. If:

- 1. The area covered by the application of a part of the area covered by the application is or was the subject of:
 - (i) A “Category C Past Act” as defined by Section 231 of the Native Title Act; or
 - (ii) a “Category C intermediate Period Act” as defined by 232D of the Native Title Act; or,
 - (iii) a “Category D Past Act” as defined by Section 232 of the Native Title Act; or,
 - (iv) a “Category D Intermediate Period Act” as defined by Section 232E of the Native Title Act; and,
- 2. The Category C Past Act, Category C Intermediate Period Act, Category D past Act and/or Category D Intermediate period Act referred to in the preceding sub-paragraph was not a Previous Non-Exclusive Possession Act then,

Subject to the operation of the “non-extinguishment principle” as defined by section 238 of the Native Title Act, those rights and interests claimed under paragraphs 1 and/or 2 are claimed.

- 3. Native Title rights and interests not claimed in respect of any area to which Section 23B of the Native Title Act 1993 (Cth) applies.
- 4. Native title rights and interests are not claimed in respect of:
 - a. Any land excluded from the area within the boundaries of the area covered by the application by Schedule B;
 - b. Any minerals, petroleum or gas which are wholly owned by the Crown.

At Schedule E (b) the application excludes any area subject to a previous exclusive possession act defined under s.23F and s.23G of the Native Title Act 1993 and /or the common law allows

the land to be part of a Native Title Determination application.

This test condition was considered by French J in *Strickland* at para 28:

“The common law of native title and the Act which provides for its recognition and protection can not be applied to distort traditional law and custom or the rights and interests which arise under such law and custom into convenient laundry lists of common analogues”.

Having regard to his Honour’s judicial guidance I am of the view that the requirements of s190(4)B only requires that in this administrative function I be satisfied that the rights and interests claimed are sufficiently described to allow them to be readily identified. Where the rights and interests claimed are set out individually and clearly, as they are in this application, it is sufficient to meet the requirements.

In accordance with the requirements of s.62(2)(d) the rights and interests claimed are not merely a statement to the effect they are all those rights and interests that may exist or that have not been extinguished at law. Each of the native title rights and interests claimed is readily identifiable.

In addition I note that the Applicant has sought to limit, by way of formula, the claimed native title rights and interests. The effect of this limitation is that the claimed rights and interests are not inconsistent with the validly granted rights and interests of others with respect to the claim area.

I am satisfied that the application meets the requirements of this subsection.

190B5	<p>Sufficient factual basis:</p> <p><i>The Registrar must be satisfied that the factual basis on which it is asserted that the native title rights and interests claimed exist is sufficient to support the assertion. In particular, the factual basis must support the following assertions:</i></p> <ul style="list-style-type: none"><i>(a) that the native title claim group have, and the predecessors of those persons had, an association with the area;</i><i>(b) 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;</i><i>(c) that the native title claim group has continued to hold the native title in accordance with those traditional laws and customs.</i>
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Reasons for the Decision

The affidavit of the Applicant at Schedule G provides evidence of the deponent’s connection to the wider Gumbaynggirr traditional country – of which the land and waters the subject of this application form a part. I am inclined to take a broad view which sees the conditions satisfied by demonstration of traditional connection with a larger Gumbaynggirr country. In reaching this conclusion I have taken into account that this application is one of the applications for determination of native title which have been filed by the Gumbaynggirr in respect of a larger Gumbaynggirr country, and the additional information provided in report.

On this basis I have accepted the statements in the affidavits as pertaining to land and waters the subject of this application. References (in this part of my reasons and at 190B(6) and 190B(7)) to the “claimed area” should be read in this context.

Section 190B(5) requires that I be satisfied that there is sufficient factual basis to support three specific assertions:

190B(5)(a) - that the native title claim group have, and the predecessors of those persons had, an association with the area.

To be satisfied under this criterion, it must be evident that the association with the area is and was communal, that is, shared by a number of members of the native title claim group.

The State in its amended submission of 1 November 1999 contends that 'other than the statement made at paragraph 2 of attachment G, the Applicant's affidavit and the general statement at paragraph 3 of Schedule F of the application, the applicant has not provided any genealogical evidence to support the application. No independent evidence is provided'.

In reply the NSW Aboriginal Land Council in its supplementary submission of 15 November 1999 contend that 'prima facie evidence for the factual basis of the claim is all that is required. The Applicant's affidavit does assert that the Applicant is a descendant of one of the apical ancestors [Ben 'King' Bennelong}. Therefore the Applicant's affidavit should suffice'.

This criterion only requires that it must be evident that the native title claim group have, and the predecessors of those persons, had an association with the area. I am satisfied by the contention set out by the NSW Aboriginal Land Council in this regard.

The Applicant in her affidavit states:

My mother's parents lived at South Arm in the Urunga area. My mother was born in Urunga...We spent periods of my childhood on Second Headland at Urunga (which falls within the area of the claim) to be near the ocean and to be able to fish. My father knows where freshwater was...he would hunt...collect honey...my father told me about significant sites in the Urunga area.

I am satisfied that there is a factual basis to support the assertion that the native title claim group have and the predecessors of those persons, had an association with the area.

I am satisfied that the application meets the requirements of this subsection.

190B(5)(b) – 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.

This subsection requires me to be satisfied that: traditional laws and customs exist; that those laws and customs are respectively acknowledged and observed by the native title claim group, and that those laws and customs give rise to the claim to native title rights and interests.

This criterion only requires that the factual basis on which it is asserted that the native title rights and interests claimed exists is sufficient to support the assertion. In particular that there exists 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.

[name deleted] in his report observes 'on the basis of the research I have undertaken over the past 9 years, I am of the opinion that evidence exists...to support the proposition that the Gumbaynggirr people are a distinctive cultural block who share a body of customs, laws and language concerning occupation and ownership of lands. Further, as a result of the recent field work carried out with the claimant group, I am satisfied that, prima facie, the rights and interests of the nature described in this report are practiced by the claimant group'.

The Applicant, for example, states:

I am a recognised Gumbaynggirr Elder from Urunga. I have been in the area all of my life and know the stories, land and the history. I have the right to speak for my country and younger Gumbaynggirr people and outsiders (including white people) ask me for permission to do certain things.

[name deleted], in his report observes ‘Her [the Applicant’s] claim as Elder is based upon having lived in the area all her life and knowing the stories, the land and its history. In my experience, this is not an uncommon occurrence amongst the Gumbaynggirr.

On the basis of the information provided in the affidavits and additional information, I find that there exist traditional laws and customs observed by the native title claim group that give rise to the claim to native title rights and interests. A broad range of continuing culture is described in the affidavits and the evidence in the additional information in [name deleted] report. The source of this culture is claimed to be Gumbaynggirr law and custom.

I am satisfied there exists a factual basis for the traditional laws and customs of the native title claim group that gives rise to the claimed native title rights and interests. I am satisfied that the application meets the requirements of this subsection.

190B(5)(c) - that the native title claim group have continued to hold the native title in accordance with those traditional laws and customs.

Under this criterion, I must be satisfied that the native title claim group continues to hold native title in accordance with their traditional laws and customs.

The report of [name deleted] confirms that the native title group and their predecessors had an association with the area, that there are traditional laws and customs giving rise to the native title rights and interests and that the native title group has continued to hold their native title in accordance with those rights and interests. For example, [name deleted] observes ‘...since the earliest period of invasion by non-Aboriginal people...the Gaumbaynggirr people had been in occupation of the mid north coast region or a long period prior to 1788 and possessed a complex system of rules concerning the use and occupation of their land. The land know as Second Headland,..falls within Gumbaynggirr territory....There are protocols and rights of access to and therefore ownership of land that I have evidenced are practiced by the claimant group’.

The affidavits of the Applicant and one of the members of the native title claim group provide evidence of a continuing system of rules and beliefs adhered to by members of the native title claim group. They specify many of the rights and responsibilities of members of that group and processes by which those rights and responsibilities are recognised and exercised.

There is evidence that members of the claim group continue to hold native title rights and interests in accordance with traditional laws and customs. The evidence I have reviewed shows that the native title claim group continue to pass on custodianship of the land and waters, and how to use the natural resources of the land and waters claimed, manage and protect sites, speak and teach Gumbaynggirr language, pass on knowledge about ritual, spiritual associations and avoidance law, teach bark painting.

The Applicant, for example, states:

I am teaching my children and grandchildren and other children from the area to keep the law in relation to people and country as taught to me by the elders, including respect for elders, where the women’s places are and where the men’s places are.

I am satisfied that there is a factual basis which supports the assertion that the native title claim group have continued to hold native title in accordance with traditional laws and customs.

I am satisfied that the application meets the requirements of this subsection.

190B6

Prima facie case:

The Registrar must consider that, prima facie, at least some of the native title rights and interests claimed in the application can be established.

Reasons for the Decision

Under s.190B(6) I must consider that, prima facie, at least some of the native title rights and interests claimed can be established.

“Native Title Rights and Interests” are defined at s.233 of the Act. This definition specifically attaches native title rights and interests to land and water, and in summary requires:

- a. the rights and interests to be linked to traditional laws and customs;
- b. those claiming rights and interests to have a connection with the relevant land and waters;
and
- c. those rights and interests to be recognised under the common law of Australia.

The definition is closely aligned with all the issues I have already considered under s190B5. I will draw on the conclusions I made under that section in my consideration of s190B6.

Under s.190B(6) I must consider that, prima facie, at least some of the rights and interests claimed can be established. The term “prima facie” was considered in *North Galanjanja Aboriginal Corporation v Qld* 185 CLR 595 by their Honours Brennan CJ, Dawson, Toohey, Gaudron and Gummow JJ, who noted:

“The phrase can have various shades of meaning in particular statutory contexts but the ordinary meaning of the phrase “prima facie” is: “At first sight; on the face of it; as it appears at first sight without investigation.” [citing Oxford English Dictionary (2nd ed) 1989].”

I have adopted the ordinary meaning referred to by their Honours in considering this application. In deciding which native title rights and interests claimed can prima facie be established, I have relied upon information contained in the amended application and the following:

- ◆ Supplementary submission of 15 November 1999 by NSW Aboriginal Land Council.
- ◆ Additional information provided to the Registrar by the Applicant namely:
 - ◆ Preliminary Report by [name deleted] and affidavit sworn 19 October 1999.

The State in its amended submission of 1 November 1999 contend that none of the native title rights and interests claimed by the Applicant can be established on a *prima facie* basis in the absence of independent factual material to support the preliminary point of descent and connection. I have considered this contention in my statement of reasons in relation to 190B5(a). I am only required to be satisfied that it is evident that the native title claim group have and the predecessors of those persons had an association with the area. I am satisfied that there is a factual basis to support the assertion that the native title claim group have and the predecessors of those persons had an association with the area.

Evidence of the assertions as to particular rights and interests is contained in the report of [name

deleted], and specially in affidavits at Schedule G as referred to below.

1. The right to possess the area

Evidence is contained in the following affidavits:

Applicant: paras 9, 10, 19,

Ms M Witt: para 2

2. The right to own the area

Evidence is contained in the following affidavit.

Applicant: paras 9, 10, 19, 20

The State in its amended submission of 1 November 1999 contends that where the applicants [sic] have claimed at Schedule E paragraph a ‘a right to own the area’, it is unclear what the use of the word ‘own’ as a derivative of ‘ownership’ means in relation to traditional laws and customs (*Mary Yarrmirr & Ors v NT of Australia & Ors* [1998] 771 FCA (6 July 1998) at paragraph 100, per Olney J ‘the Croker Island decision’)

In reply the NSW Aboriginal Land Council in its supplementary submission of 15 November 1999 submit that the reference by Olney J in the *Croker Island* decision is that the right of ownership can only be understood as a combination of rights and interests and must be described by reference to incidents which attach to it. The rights and interests [in this application] have been described and ownership is used in the sense of being a combination of the rights and interests referred to.

[name deleted] in his report states ‘There are protocols and rights of access to and therefore ownership [my emphasis] of land that I have evidence are practiced by the claimant group. An example of these rights in practice is the reciprocal recognition of other peoples’ land and the protocols expected when visiting or living there’.

3. The right to occupy the area

Evidence is contained in the following affidavits:

Applicant: paras 9, 10, 19,

Ms M Witt: para 2

4. The right to be present on the area

Evidence is contained in the following affidavits:

Applicant: paras 9, 10, 19.

Ms M Witt: para 2.

5. The right to use and enjoy the area

Evidence is contained in the following affidavit:

Applicant: paras 9, 10, 13, 14, 15, 16, 17, 18.

6. The right to travel through the area

Evidence is contained in the following affidavit:

Applicant: paras 9, 18.

7. The right to live on the area

Evidence is contained in the following affidavit:

Applicant: para 11.

8. The right to camp on the area

Evidence is contained in the following affidavit:

Applicant: para 11.

9. The right to speak for the area

Evidence is contained in the following affidavit:

Applicant: paras 9, 10, 19.

The State in its amended submission of 1 November 1999 contends that:

‘The applicant asserts in her affidavit, which forms attachment G, that she has the right to speak for country and that “outsiders (including white people) ask me for permission to certain things.” The applicant has not provided any further information as to who has requested permission and in what circumstances. There is also no independent evidence provided. It is queried whether this is sufficient factual basis to establish the rights claimed at paragraphs i. and m. of schedule E.’

[name deleted], in his report observes ‘Her [the Applicant’s] claim as Elder is based upon having lived in the area all her life and knowing the stories, the land and its history. In my experience, this is not an uncommon occurrence amongst the Gumbaynggirr’.

10. The right to hunt animals on the area

Evidence is contained in the following affidavit:

Applicant: para 7

11. The right to gather plants, fuel, firewood, freshwater, rainwater and minerals on the area

Plants: Applicant: para 17, Ms M Witt: para 5.

Fuel, firewood: Applicant: para 16.

Freshwater: Applicant: para 18

Rainwater :Applicant : para 7

Minerals: Ms M Witt para 4

12. The right to manage animals, plants and minerals on the area

Evidence is contained in the following affidavits:

Applicant: para 19

13. The right to make decisions about the way that the area may be used by non-native title holders

Evidence is contained in the following affidavit:

Applicant: para 10.

The State in its amended submission of 1 November 1999 contends that:

‘The applicant asserts in her affidavit, which forms attachment G, that she has the right to speak for country and that “outsiders (including white people) ask me for permission to certain things.”

The applicant has not provided any further information as to who has requested permission and in what circumstances. There is also no independent evidence provided. It is queried whether this is sufficient factual basis to establish the rights claimed at paragraphs i. and m. of schedule E.’

[name deleted], in his report observes ‘ there are protocols and rights of access to and therefore ownership of land that I have evidence are practiced by the claimant group. An example of these rights in practice is the reciprocal recognition of other people’s land and the protocols expected when visiting or living there.

14. The right to carry out traditional ceremonies and activities on the area

Evidence is contained in the following affidavits:

Applicant: paras 8, 20.
Ms M Witt: paras 3, 4.

15. The right to free access to the area for the purpose of satisfying the rights identified in the preceding sub-paragraphs

The affidavit evidence referred to above also enables me to be satisfied on a *prima facie* basis, that this right can be established.

I am satisfied that the application meets the requirements of this subsection.

190B7	<p><i>Traditional physical connection:</i> <i>The Registrar must be satisfied that at least one member of the native title claim group:</i></p> <ul style="list-style-type: none"><i>(a) currently has or previously had a traditional physical connection with any part of the land or waters covered by the application; or</i><i>(b) previously had and would reasonably have been expected currently to have a traditional physical connection with any part of the land or waters but for things done (other than the creation of an interest in relation to land or waters) by:</i><ul style="list-style-type: none"><i>(i) the Crown in any capacity; or</i><i>(ii) a statutory authority of the Crown in any capacity; or</i><i>(iii) Any holder of a lease over any of the land or waters, or any person acting on behalf of such holder of a lease.</i>
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Reasons for the Decision

Under s190B(7)(a) I 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.

Schedule M of the application refers to the affidavits provided at Attachment G to support the Applicant’s assertion that members of the native title claim group have a traditional physical connection to the land and waters covered by the application.

I must only be satisfied that one member of the claim group has or previously had a traditional physical connection with any part of the land claimed.

The Applicant in her affidavit states:

My mother's parents lived at South Arm in the Urunga area. My mother was born in Urunga...We spent periods of my childhood on Second Headland at Urunga (which falls within the area of the claim) to be near the ocean and to be able to fish. My father knows where freshwater was...he would hunt...collect honey...my father told me about significant sites in the Urunga area.

I take the evidence in the affidavit as evidence that the deponent, being a member of the native title claim group, has maintained a traditional physical connection with the area known as Gumbaynggirr country.

As referred to in my reasons for 190B(5) I am inclined to take a broad view of the application of s.190B(7) which sees the condition satisfied by demonstration of traditional physical connection with a larger Gumbaynggirr country. In reaching this conclusion I have taken into account that this application is one of the applications for determination of native title which have been filed by the Gumbaynggirr in respect of a larger Gumbaynggirr country, and the additional information provided in **[name deleted]** report.

Based on the affidavit before me, I am satisfied that one member of the native title claim group currently has and previously had a traditional physical connection with a part of the claim area. I am satisfied that the application meets the requirements of this subsection.

190B8

No failure to comply with s61A:

The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that, because of s61A (which forbids the making of applications where there have been previous native title determinations or exclusive or non-exclusive possession acts), the application should not have been made.

Reasons for the Decision

For the reasons that follow I have formed the conclusion that there has been compliance with s61A and that the provisions of this section are met.

s61A(1) – Native Title Determination

A search of the Native Title Register has revealed that there is no approved determination of native title in relation to the area claimed in this application

S61A(2) – Previous Exclusive Possession Acts

Schedule B of the amended application confirms that the application does not include any lands subject to a previous exclusive possession act as defined under s.23B of the *Native Title Act* save where the Act allows those lands to be part of a native title determination application. I am not aware of any such allowance under the *Native Title Act*, where current or former private freehold can be included in the claim area, and consequently find that the statement excludes all private freehold from the claim area.

For acts attributable to the Commonwealth that may be previous exclusive possession acts I would need to consider whether the act falls within the definition of a previous exclusive possession act under s.23B of the *Native Title Act*.

If the act is attributable to the State of NSW and may be a previous exclusive possession act then I need to refer to the NSW Government's *Native Title (New South Wales) Act 1998 No88*. However, when defining what a previous exclusive possession act is (attributable to the State) the Act refers to the Commonwealth's definitions under s.23B of the *Native Title Act*. Consequently, for the purposes of s.61A(2), I must consider whether there are any areas in the claim area that contain previous exclusive possession acts as defined by s.23B of the *Native Title Act*, whether those acts are attributable to the State or Commonwealth.

Where there has been extinguishment of native title on areas of land the subject of a previous exclusive possession acts as defined by s.23B, I find those areas to have been excluded from the claim area.

The Application has disclosed this by way of the definitional formula referred to in my reasons at s.190B(2) together with the specific exclusions.

I am satisfied that the applicants have excluded any areas of land from the claim area where there has been a previous exclusive possession act as defined by the *Native Title Act* and the *Native Title (New South Wales) Act 1998*.

S61A(3) – Previous Non-Exclusive Possession Acts

Schedule B confirms that the application does not include a claim for exclusive possession over previous non-exclusive possession act areas as defined under s.23F of the Act, save where the Act as defined in s.23G(1)(a) and s.23G(1)(b)(ii) allows such a claim to be part of a native title determination application.

I am satisfied that the application meets the requirements of this subsection.



190B9 (a)	<p><i>Ownership of minerals, petroleum or gas wholly owned by the Crown:</i> <i>The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:</i></p> <p><i>(a) to the extent that the native title rights and interests claimed consist or include ownership of minerals, petroleum or gas - the Crown in right of the Commonwealth, a State or Territory wholly owns the minerals, petroleum or gas;</i></p>
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Reasons for the Decision

Schedule Q of the application states there is no claim to ownership of minerals, petroleum or gas wholly owned by the Crown.

I am satisfied that the application meets the requirements of this subsection.



190B9 (b)	<p>Exclusive possession of an offshore place: <i>The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:</i></p> <p>(b) <i>to the extent that the native title rights and interests claimed relate to waters in an offshore place - those rights and interests purport to exclude all other rights and interests in relation to the whole or part of the offshore place;</i></p>
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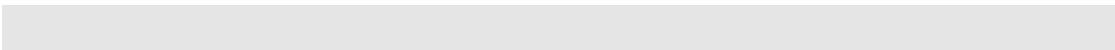
Reasons for the Decision

<p>The area claimed does not include any offshore area. I am satisfied that the application meets the requirements of this subsection.</p>	
190B9 (c)	<p>Other extinguishment: <i>The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:</i></p> <p>(c) <i>in any case - the native title rights and interests claimed have otherwise been extinguished (except to the extent that the extinguishment is required to be disregarded under subsection 47(2), 47A(2) or 47B(2)).</i></p>

Reasons for the Decision

<p>The application and accompanying documents do not disclose, nor am I otherwise aware, that the application contravenes the criteria set out in s.190B(9)(c).</p> <p>There may be areas within the boundary of the application, where on certain portions of land native title rights and interests have otherwise been extinguished. It appears that even if areas of the type prohibited by this section (s190B(9)(c)) are located within the external boundary of the area of the amended application, such areas have been excluded from the claim area by virtue of Schedule B of the application. Refer also to my reasons at s.190B(8).</p> <p>I am satisfied that the application meets the requirements of this subsection.</p>	
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End of Document



Decision of Delegate

1. The application IS accepted for registration pursuant to s190A of the *Native Title Act* 1993

If the claim is not accepted for registration, written notice of the decision and the reasons for the decision, are to be provided to the applicant and to the Federal Court, in accordance with s190D of the *Native Title Act*.

2. The Registrar is to give notice of the decision, as required by s66(3) of the *Native Title Act*, whether or not the claim has been accepted for registration.

Sue Kee
DELEGATE

DATE