

*National Native Title Tribunal*

**REASONS FOR DECISION COVER SHEET  
REGISTRATION TEST**

DELEGATE :	<b>Jennifer Whyte</b>
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APPLICATION NAME :	<b>Barngarla</b>
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NAME(S) OF APPLICANT(S) :
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<b>Henry Croft, Elliott McNamara, Barry Croft, Judy Wingfield, Lorraine Dare, Phoebe Wanganeen, Harry Eyles, Howard Richards, Jody Miller, Marlene Weetra-Height, Raymond Weetra and Lavinia Heron</b>
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NNTT NO	<b>SC96/04</b>
FEDERAL COURT NO	<b>SG 6011 of 1998</b>

REGION :	<b>South Australia</b>
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DATE APPLICATION MADE :	<b>4 April 1996</b>
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*Note: This is the date the application was lodged with the National Native Title Tribunal.*

The delegate has considered the application against each of the conditions contained in s190B and s190C of the *Native Title Act 1993*.

**DECISION**

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

## **Brief History of the Application**

The Barngarla Native Title Determination Application was lodged with the National Native Title Tribunal on 4 April 1996.

Through their legal representative, Teitzel & Partners, the Applicants to the application, filed amendments to the application in the Federal Court. Leave to amend the application was granted by the Federal Court on 12 March 1999 and 18 June 1999. Pursuant to the orders of 18 June 1999 the Applicants filed a “fair copy” of the application with the Court on 7 October 1999.

Further amendments were filed on 21 December 1999. Leave to further amend the application was granted to the Federal Court on 10 February 2000.

All references to “the application” or “amended application” in this decision, unless otherwise stated, refer to the “fair copy” filed on 7 October 1999 and amendments filed on 21 December 1999.

## **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:

- ◆ The Working Files, Tenure Files, Party Application Files, Registration Test Files, Legal Services Files and Federal Court Application and Amendment Files for SC96/4;
- ◆ Working Files and related materials for native title applications overlapping the area of the Barngarla application;
- ◆ The National Native Title Tribunal's Geospatial Database;
- ◆ The Register of Native Title Claims;
- ◆ The Native Title Register;
- ◆ Schedule of Native Title Claimant Applications;
- ◆ Determination of Representative ATSI Bodies; their gazetted boundaries;
- ◆ Anthropological and heritage studies

Note: Information and materials provided in the context of mediation have not been considered in making this decision due to the without prejudice nature of those conferences and the public interest in maintaining the inherently confidential nature of such conferences.



<b>61(5)</b>	<b><i>Application is in the prescribed form<sup>1</sup>, lodged in the Federal Court, contain prescribed information<sup>2</sup>, and accompanied by prescribed documents and fee</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p><b>s61(5)(a)</b> As required, the application is in the form prescribed by Regulation 5(1)(a) Native Title (Federal Court) Regulations 1998.</p> <p><b>s61(5)(b)</b> As required, the amended application was filed in the Federal Court. The pre-amended application was given to the Native Title Registrar, as mentioned in s61 of the (unamended) Act and is therefore taken to have been made to the Federal Court in accordance with Table A (Application, Savings or Transitional Provisions), Schedule 5, Part 3, item 6, case 3.</p> <p><b>s61(5)(c)</b> The application meets the requirements and contains all the information as prescribed in s62. I refer to my reasons for decision in relation to those sections.</p> <p><b>s61(5)(d)</b> As required, the application is accompanied by the prescribed documents, being:</p> <ul style="list-style-type: none"> <li>• affidavits, as prescribed by s62(1)(a); and</li> <li>• a map, as prescribed by s62(1)(b).</li> </ul> <p>I refer to my reasons for decision in relation to those sections.</p> <p>I note that s190C(2) only requires me to consider details, other information and documents required by s61 and s62. I am not required to consider whether the application has been accompanied by the payment of a prescribed fee to the Federal Court.</p> <p>I am satisfied there has been compliance with the procedural requirements of s61(5).</p>	

**Details required in section 62(1)**

<b>62(1)(a)</b>	<b><i>Affidavits address matters required by s62(1)(a)(i) – s62(1)(a)(v)</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>Each of the Applicants have sworn an affidavit in order to address the matters required by s62(1)(a)(i) – s62(1)(a)(v).</p> <p>The affidavits identify the deponents by name, address and occupation. All have been signed by</p>	

<sup>1</sup> Note that in applications made before 30 September 1998, the application does not need to be in the prescribed form as required by the amended NTA. Note also that such applications are deemed to have been lodged in the Federal Court.

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

the deponent, dated and witnessed by a person qualified to do so.

The affidavits are identical in content at paragraphs (i) to (iv) and meet the requirements of s62(1)(a)(i) to s62(1)(a)(iv) respectively.

There is some variation at paragraph (v) of the affidavits. Nine of the deponents state that they were authorised by virtue of a resolution passed on 6 February 1999. The remaining three deponents state that they were authorised by virtue of a motion moved on 9 February 1999. I am, however, satisfied that despite the difference both descriptions are sufficient to meet the requirements of s62(1)(a)(v). I have formed this view after considering the affidavits in conjunction with Attachment R1 of the application, being certification of the application by the Aboriginal Legal Rights Movement. The certificate describes a three day meeting conducted over 6 – 9 February 1999 with the Barngarla native title claim group.

I am satisfied there has been compliance with the procedural requirements of s62(1)(a).

<b>62(1)(c)</b>	<b><i>Details of physical connection (information not mandatory)</i></b>
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Comment on details provided	
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It is not a mandatory requirement that details of traditional physical connection are contained in the application for the purpose of s62(1)(c).

However, some details have been provided in the application at Schedules G and M.

There is also additional information, provided in affidavit form, from members of the native title claim group which outlines aspects of traditional physical connection.

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

<b>62(2)(a)(i)</b>	<b><i>Information identifying the boundaries of the area covered</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
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A written description of the external boundary of the area claimed has been included at Schedule B of the amendments filed on 21 December 1999. The written description is further supplemented by a set of geographic coordinates marked Attachment B. A map of the area claimed, depicting the external boundary, is also attached to the amended application at Attachment A.

For the reasons set out in relation to s190B(2) I am satisfied that this information is sufficient to meet the requirements of s62(2)(a)(i).

I am satisfied there has been compliance with the procedural requirements of s62(2)(a)(i).

<b>62(2)(a)(ii)</b>	<b><i>Information identifying any areas within those boundaries which are not covered</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>At Schedule D of the amendments filed on 21 December 1999 the Applicants have provided a written description, identifying the areas within the external boundary of the area claimed that are not covered by the application.</p> <p>Attachment B describes, by way of formula, land tenure specifically excluded from the claim area.</p> <p>For the reasons set out in relation to s190B(2) I am satisfied that this information is sufficient to meet the requirements of s62(2)(a)(ii).</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(a)(ii).</p>	

<b>62(2)(b)</b>	<b><i>A map showing the external boundaries of the area covered by the application</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>A map clearly depicting the external boundary of the area claimed is attached to the application at Attachment A.</p> <p>For the reasons set out in relation to s190B(2) I am satisfied that the map is sufficient to meet the requirements of s62(2)(b).</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(b).</p>	

<b>62(2)(c)</b>	<b><i>Details/results of searches carried out to determine the existence of any non-native title rights and interests</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> 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 I need only be informed of searches conducted by the applicants, in order to be satisfied that the application complies with this condition. It would be unreasonably onerous to expect applicants to have knowledge of and obtain details about all searches carried out by every other person or body.</p> <p>Schedule D of the “fair copy” application states that “no searches have been carried out to determine the existence of non native title rights and interests in relation to the land or waters in the area covered by the application”.</p> <p>The amendments filed on 21 December 1999 recognise the existence of certain interests within</p>	

the application area but stipulate that searches have only been obtained with respect to “[t]hose areas held by Western Mining Corporation (ODC) under the Olympic Dam Special Mining Lease and all interests held by ODC pursuant to the Roxby Downs (Indenture Ratification) Act 1982”.

There is no information to which I must have regard that contradicts the information provided by the Applicants.

I am satisfied there has been compliance with the procedural requirements of s62(2)(c).

<b>62(2)(d)</b>	<b><i>Description of native title rights and interests claimed</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
	<p>The condition requires the application to contain:</p> <ol style="list-style-type: none"> <li>1. a description of the native title rights and interests claimed; and</li> <li>2. details of any activities carried out by members of the native title claim group in exercise of those rights and interests.</li> </ol> <p>Further, this section requires the description to not merely consist of a statement to the effect that the native title rights and interests are all those that may exist or that have not been extinguished at law.</p> <p>A description of the native title rights and interests claimed is provided at Schedule E of the application. The contents of Schedule E are included under s190B(4) and s190B(6) of this decision. The description includes a list of eleven particularised rights and interests. I interpret this to be a complete list rather than a non-exhaustive list of particulars of some larger right.</p> <p>In accordance with the requirements of s62(2)(d) the rights and interests claimed do not merely consist of a statement to the effect that the rights and interests are all those that may exist or that have not been extinguished at common law.</p> <p>In my view the rights and interests specified by the Applicants are defined in a sufficiently clear manner so as to be readily identifiable.</p> <p>Additionally, Schedule G identifies some activities members of the Barngarla native title claim group continue to undertake in relation to the land and waters within the claim area. (Refer also to these reasons for decision in relation to s62(2)(f).) These activities constitute a general description of activities in exercise of the rights and interests claimed by the Applicants.</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(d).</p>

**Preface to s62(2)(e)**

<b>62(2)(e)</b>	<b><i>Application contains a general description of the factual basis on which it is asserted that the native title rights and interests claimed exist</i></b>
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Reasons relating to this sub-section	Application <b>passes</b> the condition
<p>This section requires satisfaction that the application contains a description of the factual basis on which it is asserted that the native title rights and interests exist. The description must include each of the three elements identified in the sub-sections 62(2)(e)(i), (ii) and (iii). A consideration of the extent or sufficiency of the description is not required. That inquiry is conducted in relation to s190B(5).</p> <p>I find that there is a general description of the factual basis set out in Schedule F of the application. I note further that some details of activities carried out by members of the Barngarla native title claim group are provided at Schedule G to the application and this information supplements the general description at Schedule F.</p> <p>I refer to the separate reasons set out below in relation to each of the particular facts identified in each of s62(2)(e)(i), (ii) and (iii). As set out below, I find that each of the particular facts required are included in the general description of the factual basis set out in the application.</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(e).</p>	

<b>62(2)(e)(i)</b>	<b><i>Factual basis – claim group has, and their predecessors had, and association with the area</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>The factual basis for the assertion that the native title claim group has, and their predecessors had, an association with the area is outlined at Schedule F of the application. I have detailed the contents of Schedule F in this decision in relation to s190B(5). Further information supporting this assertion is contained at Schedules A, G and M of the application.</p> <p>I am satisfied that the application sets out a general description of the factual basis on which the asserted native title rights and interests claimed exist.</p>	



I am satisfied there has been compliance with the procedural requirements of s62(2)(e)(i).

<b>62(2)(e)(ii)</b>	<b><i>Factual basis – traditional laws and customs exist that give rise to the claimed native title</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>The factual basis for the assertion that traditional laws and customs exist that give rise to the claimed native title is outlined at Schedule F of the application. I have detailed the contents of Schedule F in this decision in relation to s190B(5). Further information supporting this assertion is also contained at Schedule A, G and M of the application.</p> <p>I am satisfied that the application sets out a general description of the factual basis on which the asserted native title rights and interests claimed exist.</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(e)(ii).</p>	

<b>62(2)(e)(iii)</b>	<b><i>Factual basis – claim group has continued to hold native title in accordance with traditional laws and customs</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>The factual basis for the assertion that the native title claim group has continued to hold native title in accordance with traditional laws and customs is outlined at Schedule F of the application. I have detailed the contents of Schedule F in this decision in relation to s190B(5). Further information supporting this assertion is also contained at Schedule A, G and M of the application.</p> <p>I am satisfied that the application sets out a general description of the factual basis on which the asserted native title rights and interests claimed exist.</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(e)(iii).</p>	

<b>62(2)(f)</b>	<b><i>If native title claim group currently carry on any activities in relation to the area claimed, details of those activities</i></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
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The application provides general details of activities that the Bamgarla native title claim group undertake in relation to the area claimed. Schedule G states:

*The members of the Native Title claim group currently continue to:*

- (a) reside in the claim area;*
- (b) camp in certain parts of the claim area;*
- (c) travel through the claim area;*
- (d) hunting and gathering, preparing bush tucker and cooking bush tucker caught in the area;*
- (e) fishing and gathering from the sea adjacent to the land area;*
- (f) seeking to protect sites and wildlife on the area;*
- (g) protecting and preserving culture heritage and knowledge of the area;*
- (h) visiting area with children and passing on such knowledge culture and tradition to such children;*
- (i) conducting meetings on the area;*
- (j) maintaining and protecting the natural environment;*
- (k) protecting Aboriginal sites in the area from damage;*
- (l) utilising the area for bush medicines.*

There is also additional information contained in affidavit evidence (discussed in relation to s190B(5), s190B(6) and s190B(7)).

This section requires details of current activities. I do not regard this as requiring an exhaustive description of activities. Rather, I find a general description that traditional law business and customary activities are carried out, together with the (non-exhaustive) particulars of these activities, to constitute sufficient detail.

I consider that the identified activities of the group in relation to the claim area are described in general terms by Schedule G.

I am satisfied there has been compliance with the procedural requirements of s62(2)(f).

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<b>62(2)(g)</b>	<b><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></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>Details are provided at Schedule H of the amended application.</p> <p>The Applicants stipulate that amendments to the application have withdrawn the overlaps with four applications, leaving four remaining overlaps.</p> <p>This is consistent with the geospatial data of the Tribunal.</p> <p>I am satisfied that the details of overlapping applications of which the Applicants are aware have been included at Schedule H.</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(g).</p>	

<b>62(2)(h)</b>	<b><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></b>
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Reasons relating to this sub-condition	Application <b>passes</b> the condition
<p>Section 62(2)(h) requires the application to contain the details of any notices given under s29 (or State law equivalent) of which the applicants are aware.</p> <p>Schedule I of the application provides details of the notices that have been given since 30 September 1998 and which relate to the whole or part of the area of the application. The details are consistent with the knowledge of this Tribunal.</p> <p>I am satisfied there has been compliance with the procedural requirements of s62(2)(h).</p>	



<b>190C3</b>	<p><b>Common claimants in overlapping claims:</b></p> <p><b>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:</b></p> <p>(a) <b>the previous application covered the whole or part of the area covered by the current application; and</b></p> <p>(b) <b>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</b></p> <p>(c) <b>the entry was made, or not removed, as a result of consideration of the previous application under section 190A.</b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

### Reasons for the Decision

In assessing the Barngarla application against this condition I have relied primarily upon information obtained from the Tribunal's Geospatial Unit. I also rely upon his Honour French J's decision in *Strickland v Native Title Registrar* [1999] FCA 1530 14 November 1999.

At the time of making this decision there were eight applications overlapping with the Barngarla application. Of these, three have been identified as being technical in nature. The remaining five overlap the external boundary of the Barngarla application.

In order for this application to comply with s190C(3) I must be satisfied that no person included in the application was a member of the native title claim group for a previous application in the circumstances set out in s190C(3). In this case, however, I find it unnecessary to consider the question of whether there are any claimants common to both this application and any of the overlapping applications.

For the following reasons, none of the overlapping applications can jeopardise compliance of the current application with s190C(3):

1. In considering the application against this condition I have followed the decision of French J in *Strickland v Native Title Registrar*, an interpretation subsequently affirmed by Carr J in the matter of *State of WA v Native Title Registrar* [1999] FCA 1594 16 November 1999.
2. The application under consideration is an 'old Act' application, lodged with the Tribunal prior to commencement of the amendments to the *Native Title Act* on 30 September 1998. In accordance with the above mentioned decisions, the application was therefore 'made' (in terms of s190C(3)(b)) on 30 September 1998.
3. Two of the applications overlapping the external boundary of Barngarla (SC95/4 and SC96/5) are single applications, lodged with the Tribunal prior to the amendments to the *Native Title Act*. Another two (SC99/1 and SC99/2) are 'combined' applications where each of the pre-combination applications were also lodged with the Tribunal prior to commencement of the amendments. The remaining overlapping application (SC99/3) is a 'new Act' application, filed in the Federal Court in June 1999.
4. It remains to determine whether, as at 30 September 1998, there was an entry relating to any of the overlapping applications on the Register of Native Title Claims that was made or not removed as a result of consideration of the previous application under s190A.

5. As at 30 September 1998 no entries had been made or removed as a result of consideration of an application under s190A. In fact, the first decision in Australia made by the Registrar pursuant to s190A was made on 4 December 1998. Therefore, at the time that the current application was made, none of the single overlapping applications, nor any or the pre-combination applications making up the combined overlapping applications, had an entry on the Register as a result of consideration under s190A. Accordingly, none of these applications could prevent compliance by the current application with s190C(3).

**Conclusion**

The application passes this requirement of the test.



<p><b>190C4(a)</b> <b>and</b> <b>190C4(b)</b></p>	<p><b>Certification and authorisation:</b></p> <p><b><i>The Registrar must be satisfied that either of the following is the case:</i></b></p> <p><b>(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></b></p> <p><b>(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></b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

In applying this condition I have had regard to the certificate provided by the Applicants, attached to the application as Attachment R1, and the gazetted representative body boundaries.

The applicants seek to rely upon certification of the application, pursuant to s190C(4)(a), by the Aboriginal Legal Rights Movement Inc (hereafter referred to as “the ALRM”). The certificate is dated 10 March 1999 and has been signed by the Director of the ALRM.

In accordance with the requirements of s202(5) the certificate states that, on behalf of all the persons in the Barngarla native title claim group, the Applicants have the authority to make the application and deal with matters arising in relation to it. The certificate also states that all reasonable efforts have been made to ensure the application describes or otherwise identifies all the other persons in the native title claim group. The certificate outlines the reasons through which the ALRM has reached these conclusions.

The certificate also details what the representative body has done to meet the requirements of s202(6).

In meeting the requirements of s202(5) and s202(6) the certificate meets all the requirements of s202(7).

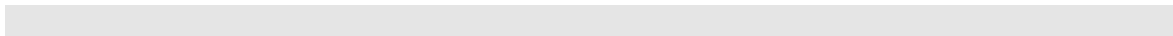
The ALRM has determined representative body status for the whole of the State of South Australia, except for those areas determined as Anangu Pitjantjatjara or Maralinga Tjarutja. I note that the Barnjarla application does not extend into either of these areas. As such, I find that the ALRM certificate is sufficient to comply with the requirements of the condition contained in s190C(4)(a).

**Conclusion**

The certificate provided by the ALRM meets the requirements of s190C(4)(a).

There is no other information before me to which I must have regard that contradicts the certification.

I am satisfied the application meets this condition.



<b>190C5</b>	<p><b>Evidence of authorisation:</b></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"> <li><i>(a) includes a statement to the effect that the requirement set out in paragraph (4)(b) has been met; and</i></li> <li><i>(b) briefly sets out the grounds on which the Registrar should consider that it has been met.</i></li> </ul>
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I have not considered the application against this condition and set out my reasoning as follows:

**Reasons for the Decision**

The application has been certified by the ALRM in accordance with the requirements of s190C(4)(a). Consequently, I am not required to consider this condition.

**B. Merits Conditions**



<b>190B2</b>	<p><b>Description of the areas claimed:</b></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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I am satisfied that the application meets this condition and set out my reasoning as follows:

### **Reasons for the Decision**

In applying this condition I have given primary consideration to the Barngarla application and the prescribed accompanying map.

In order for the application to meet the requirements of this section I must be satisfied that the information and map contained in the application, as required by s62(2)(a) and s62(2)(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.

At Schedule B the application contains the following:

#### ***Map and External Boundary Description***

Information identifying the area covered by the application is provided at Schedule B and Attachments A and B.

A written description of the application's external boundaries is provided in the application at Schedule B. The description references recognised land marks and towns. The description is consistent with the map attached to the application as Attachment A. For clarity, a set of coordinates are attached as Attachment B. The coordinates were produced by the Tribunal's Geospatial Information Unit on 1 September 1999 as part of approved s78 Assistance to Applicants.

I am satisfied that the description and map meet the requirements of s62(2)(a)(i).

The map attached to the application at Attachment A, showing the external boundary of the application, was also produced by the Tribunal's Geospatial Information Unit as part of approved s78 Assistance to Applicants. The map includes latitude and longitude points, based on Australian Geodetic Datum 1966. All line work on the map is finely drawn and easy to follow, the external boundary of the application being depicted by a fine blue line. Recognised land marks, such as towns are also discernible.

I am satisfied the map meets the requirements of s62(2)(b).

I am satisfied the requirements of s62(2)(a)(i) have been met in that the application contains information, by physical description and otherwise, enabling the boundaries of the area covered by the application to be identified. I am similarly satisfied the requirements of s62(2)(b) have been met in that the map shows the boundaries of the area mentioned in s62(2)(a)(i).

#### ***Internal Boundary Description***

The internal boundaries of the application are detailed at Schedule D of the amendments filed on 21 December 1999:

*....the Barngarla Native Title Claim exclude all those areas of land which have been subject to previous exclusive possession acts as defined by Section 23B of the Native Title Act, being previously excluded acts which are attributable to the Commonwealth and State Governments.*

The Applicants then specifically recognised the existence of other non-native title interests in relation to the area claimed.

The Applicants have not identified, parcel by parcel, the areas of land and waters that are excluded from the claim area. In my view that is not necessary to satisfy the requirements of s62(2)(a)(ii) or s190B(2).

The internal boundaries are described by way of identifying classes of land tenure that are not covered by the application. The description of areas excluded can be objectively applied to establish whether any particular area of land or waters within the external boundary of the application is within the claim area or not. This may require considerable research in relation to tenure data held by the particular custodian of that data. Nevertheless, it is reasonable to assume that the task can be done on the basis of the information provided by the applicants.

Whether the exclusions identified by this formula are sufficient to meet the conditions at s190B(8) and s190B(9) is not considered here. I refer to my reasons for decision with respect to those sections.

I am satisfied the requirements of s62(2)(a)(ii) have been met in that the application contains information enabling the identification of any areas within the boundaries, as mentioned in s62(2)(a)(i), that are not covered by the application.

**Conclusion**

I am satisfied that, taken together, the information and map contained in the application, as required by s62(2)(a) and s62(2)(b), are sufficient for it to be said with reasonable certainty whether native title rights and interests are claimed with respect to a particular area.

It is my view that the application meets the requirements of this condition.



<b>190B3</b>	<p><b>Identification of the native title claim group:</b></p> <p><b>The Registrar must be satisfied that:</b></p> <p>(a) <i>the persons in the native title claim group are named in the application; or</i></p> <p>(b) <i>the persons in that group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group.</i></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

An exhaustive list of names of the persons in the native title claim group has not been provided and so the requirements of s190B(3)(a) are not met.

In the alternative, pursuant to s190B(3)(b), the application must describe the persons in native title claim group sufficiently clearly so that it can be ascertained whether any particular person is in that group.

Schedule A of the application sets out the description of the Barngarla native title claim group.



Essentially, membership of the Barngarla native title claim group is derived from two means:

1. biological descent from named ancestors; or
2. incorporation, in accordance with traditional Barngarla law and custom.

The description at Attachment A, paragraph (1), specifically names the group’s antecedents. I note that where one of those persons has been known by more than one name, the alias has been provided. I therefore consider the names provided sufficient to identify the relevant person and that, with minimal inquiry, it is possible to ascertain whether a person is descended from one of those named. I am satisfied this limb of the description is sufficient.

At paragraphs (2) and (3), the traditional Barngarla principles of incorporation are described. Paragraph (3) identifies two persons incorporated into the Barngarla native title claim group through a custom other than biological descent.

Finally, paragraph (4) of the description identifies those persons who are specifically excluded from the claim group. The description acknowledges the potential for common membership with overlapping applications and makes provision for the exclusion of those persons while the overlap remains. Those persons excluded are named.

***Conclusion***

In my view there is no information to which I must have regard pursuant to s190A(3) of the Act that indicates the description is deficient in any way. Thus, I consider the description provides a sound mechanism through which it can be ascertained whether any particular person is a member of the Barngarla native title claim group.

The requirements of this condition are met.



<b>190B4</b>	<p><b><i>Identification of the native title rights and interests claimed:</i></b></p> <p><b><i>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.</i></b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

In applying this condition I have had regard to the amended Barngarla application. Schedule E of the application contains a description of native title rights and interests as follows:

*The native title rights and interests in relation to the area covered by the application include:*

- (a) *the right to possess, occupy, use and enjoy the area;*
- (b) *the right to make decisions about the use and enjoyment of the area;*
- (c) *right of access to the area;*
- (d) *the right to control the access of others to the area;*
- (e) *the right to use and enjoy the resources of the area;*
- (f) *the right to control the use and enjoyment by others of resources of the area;*
- (g) *the right to trade in resources of the area;*
- (h) *the right to receive a portion of any resources taken by others from the area;*
- (i) *the right to maintain and protect places of importance under traditional laws, customs and practices in the area;*
- (j) *the right to maintain, protect and prevent the misuse of cultural knowledge associated with the area;*
- (k) *the right to conduct burial ceremonies on the area.*

I refer to my reasons for decision in relation to s62(2)(d). In accordance with the requirements of that section the rights and interests claimed are not merely a statement to the effect that 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.

I note that the right to possession, occupation, use and enjoyment are rights identified in *Mabo v Queensland (No 2) (1992) 175 CLR 1*. These rights are known to the law and have been regarded by the High Court of Australia as capable of identification.

In addition, I note that the Applicants have sought to limit the claimed native title rights and interests. Specific tenures have been excluded from the application by virtue of the internal boundary description at Schedule B. The Applicants further qualify the rights and interests claimed at Schedule D of the amendments filed on 21 December 1999 by recognising and identifying some of the non-native title interests held by persons other than the Applicants in relation to the area claimed.

Further, Schedules P and Q of the application respectively state:

*The native title rights and interests claimed do not purport to exclude any other rights and interests in relation to the whole or part of any offshore place.*

*No claim is made for ownership of minerals, petroleum or gas wholly owned by the Crown under the valid law of the Commonwealth of Australia or the State of South Australia.*

Essentially, these limitations qualify the Applicants' claim to exclusive possession of the application area where such a claim cannot be made; the effect of this being 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 the application meets the requirements of this condition.

**190B5**

**Sufficient factual basis:**

**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:**

- (a) that the native title claim group have, and the predecessors of those persons had, an association with the area;**
- (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;**
- (c) that the native title claim group has continued to hold the native title in accordance with those traditional laws and customs.**

I am satisfied that the application meets this condition and set out my reasoning as follows:

### Reasons for the Decision

In making this decision I have had specific regard to affidavits attached to the "fair copy" application, anthropological papers, provided to the Tribunal by the Applicants as further information, and the amended Barnarla application.

Schedule F of the application consists of three statements which seek to address the assertions set out in s190B(5):

*The factual basis of the claim is as follows:*

- (a) The native title claim group and their ancestors have, since British sovereignty was asserted over the area, possessed, occupied, used and enjoyed the area the subject of the native title claim;*
- (b) The native title claim group's right to such possession, occupation, use and enjoyment derive from and are currently held in accordance with traditional laws and customs acknowledged and observed, including as they relate to the transmission of such rights and interests by descent.*
- (c) The native title has been held and continues to be held in accordance with those traditional laws and customs by the native title claim groups.*

Schedule G also contains details of activities currently carried out by members of the native title claim group in relation to the claim area. (Refer to these reasons for decision at s62(2)(f).)

Affidavits from six members of the Barngarla native title claim group were also attached to the “fair copy” application and filed in the Federal Court. These affidavits contain specific detail about the factual basis which support the claimed rights and interests. I am satisfied that each of the deponents are members of the Barngarla native title claim group. Various anthropological papers, provided as additional information, also substantiate the affidavit material.

This section requires that I be satisfied that there is sufficient factual basis to support three specific assertions. They are considered in turn.

***s190B(5)(a) – the native title claim group have, and the predecessors of those persons had, an association with the area***

To be satisfied of this criterion it must be evident that the native title claim group have and their predecessors had an association with the area which was and remains communal, that is, shared by members of the native title claim group.

The statements contained at Schedule F of the application assert an association with the application area as required. Further, Schedule G provides details of activities members of the native title claim group currently carry out in relation to the land and waters subject of the claim including residing, hunting, gathering bush foods, fishing, using, maintaining and preserving the natural environment.

The Applicants also assert that the members of the claim group protect and preserve Barngarla culture through conducting meetings and gatherings, the education of children and others and the care of sites.

In addition, at Schedule M the Applicants assert that members of the claim group currently have, and have continuously maintained, a traditional physical connection with the claim area.

These assertions are supported by the aforementioned affidavits.

The affidavit evidence provides details of association across the area of the application. The deponents refer to having resided in and travelled throughout Barngarla country during their lives both with their forebears and descendants. The deponents also refer to having been taught about features of the land.

Further, the anthropological studies also provide evidence of the native title claim group having a historical and continued association with the area, in particular *Barngalla (sic) People from Lower Eyre Peninsula*. This document details the traditional area of the Barngarla and neighbouring groups, including maps. I note this information roughly coincides with the area the subject of this application.

Ms Pamela Ditton, representing the Nukunu (SC96/5) native title claim group, contended in a submission dated 13 March 1999 that there is “...*strong historical evidence against the Barngarla having the exclusive native title rights to use, possess, occupy and enjoy that part of its claim that overlaps with the Nukunu*”. However, I note that the Barngarla peoples are not purporting to claim exclusive possession over any area of their application. I am satisfied that the Barngarla have established the requisite association required by this section.

On the basis of the above considerations I find that the factual basis upon which it is asserted that the native title claim group have, and their predecessors had, an association with the area is sufficient to support the assertion.

The requirements of s190B(5)(a) are met.

***s190B(5)(b) – 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.***

To be satisfied of this criterion it must be evident that traditional laws and customs exist, that those laws and customs are acknowledged and observed by the native title claim group and that those laws give rise to the claim to native title rights and interests.

The information contained at Schedules F and G of the amended application asserts the existence, acknowledgment and observation of traditional laws and customs as required and provides general details of activities undertaken by members of the Barngarla native title claim group in exercise of those laws and customs. These activities are, in turn, linked to the claimed native title rights and interests.

Further evidence supporting the assertion is contained in the affidavits and anthropological papers, referred to above.

The deponents refer to a body of traditional laws and customs that exist and which are duly acknowledged and observed by the native title claim group. As mentioned above, the deponents state that their knowledge about features of the application area has been passed to them by their forebears, along with the associated spiritual meanings of those places.

The affidavit evidence suggests that Barngarla laws and customs impact on all aspects of life. The deponents' affidavits include several examples of traditional laws and customs informing activities, including the collection and preparation of foods, access to particular areas and in the performance of certain ceremonies. The affidavit evidence clearly establishes that the deponents and other members of the Barngarla native title claim group acknowledge and observe traditional laws and customs.

For instance, the deponents make reference to strict rules governing the passing of knowledge to younger generations and recount instances in their childhoods when their fathers and uncles restricted their access to particular areas. The deponents also state that they were taught rules about the collection and preparation of foods obtained from the land and waters. One of the deponents also deposes to there being rules governing the distribution of foods. I note that each of the deponents states that they have similarly passed on this information to their own children and other younger members of the native title claim group.

The report, *Barngalla People from Lower Eyre Peninsula*, also includes traditional stories about the formation of geographic features within the area of the application. Further evidence of the existence of a body of traditional law and custom is contained in *Ngauwalla Barngalla (Barngalla Dialect)*. This report details the traditional means through which laws and customs were communicated to younger generations.

On the basis of the above considerations I find that the factual basis on which it is asserted that there exist traditional laws and customs, acknowledged and observed by the native title claim group, that give rise to the claim to native title rights and interests is sufficient to support the assertion.

The requirements of s190B(5)(b) are met.

***s190B(5)(c) – the native title claim group have continued to hold the native in accordance with those traditional laws and customs.***

To be satisfied of this criterion it must be evident that the native title claim group have continued to hold native title in accordance with their traditional laws and customs.

The information contained at Schedules F, G and M of the amended application assert the continuing practice of activities in relation to the area of the application according to the doctrines of traditional laws and customs.

Further evidence supporting the assertion is contained in the affidavits and anthropological papers referred to above.

The deponents refer to activities undertaken, in accordance with traditional law and custom, with younger members of the native title claim group and through which knowledge of the country is passed on.

The deponents also refer to their involvement in the maintenance and protection of Barngarla country and sites of significance. Specific examples of this are detailed in the affidavits, including for example, participation in work area clearances.

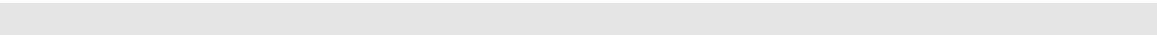
On the basis of the above considerations I find that the factual basis upon which it is asserted that the native title claim group have continued to hold the native title in accordance with their traditional laws and customs is sufficient to support the assertion.

The requirements of s190B(5)(c) are met.

***Conclusion***

For the reasons set out above I am satisfied that the factual basis upon which the three assertions contained at s190B(5) are made is sufficient to support the assertions.

The requirements of this section are met.



<b>190B6</b>	<p><b><i>Prima facie case:</i></b></p> <p><b><i>The Registrar must consider that, prima facie, at least some of the native title rights and interests claimed in the application can be established.</i></b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

In applying this condition I have had specific regard to the Barngarla application and the affidavits and anthropological studies referred to in relation to s190B(5).

Native title rights and interests are defined at s223 of the Act. The definition specifically attaches

rights and interests to land and waters and requires that:

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

The definition is closely aligned with the issues I have considered in relation to s190B(5). I will therefore draw on conclusions made under that section here.

Under s190B(6) I must be satisfied that, prima facie, at least some of the rights and interests claimed can be established.

The term 'prima facie' was considered in *North Ganalanja 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 the Oxford English Dictionary (2<sup>nd</sup> ed 1989)]

I have adopted the ordinary meaning referred to by their Honours when considering this application.

The native title rights and interests claimed are described at Schedule E of the application. I note that there has been no claim to exclusivity. I am satisfied that the rights and interests claimed are not inconsistent with the rights and interests granted to others with respect to the area of the application.

Schedule G contains details of activities undertaken by the Barngarla native title claim group in relation to the application area which also relate to the claimed rights and interests. I note that Schedule G does not include specific instances where members of the native title claim group have carried out these activities. Whilst the information is useful I do not consider it sufficient evidence for the prima facie establishment of the specific native title rights and interests claimed.

However, further information addressing the prima facie establishment of the claimed native title rights and interests is located in the affidavits and anthropological papers referred to above. It is this information upon which I have relied in deciding which rights and interests can be established.

As I have noted previously, I am satisfied that each of the deponents are members of the Barngarla native title claim group.

The affidavit material and anthropological papers provide various examples of the exercise of the rights and interests claimed at Schedule E. For example, the deponents refer to:

- residing in and travelling throughout the area the subject of the application;
- collecting and preparing foods obtained from the land, waters and sea the subject of the application;
- the restriction of access to particular places within the area the subject of the application. This includes restriction to members of the native title claim group who do not have the appropriate knowledge, children for instance, and also to persons who are not members of the

native title claim group;

- using and enjoying the resources of the area, through camping, collection and preparation of bush foods and the preparation of bush medicines;
- trading in the resources of the area with neighbouring peoples;
- caring for and maintaining the land and waters the subject of the application, including places of importance in accordance with traditional law and custom;
- maintaining and protecting cultural knowledge through teaching younger generations about the land and waters of the Barngarla people and their associated stories;
- conducting burial rituals in accordance with traditional law and custom.

On the basis of this information I have formed the view that the following rights and interests claimed can be established on a prima facie basis:

*(a) the right to possess, occupy, use and enjoy the area;*

*(b) the right to make decisions about the use and enjoyment of the area;*

*(c) right of access to the area;*

*(d) the right to control the access of others to the area;*

*(e) the right to use and enjoy resources of the area;*

*(f) the right to control the use and enjoyment by others of resources of the area;*

*(g) the right to trade in resources of the area;*

*(i) the right to maintain and protect places of importance under traditional laws, customs and practices in the area;*

*(j) the right to maintain, protect and prevent the misuse of cultural knowledge associated with the area;*

*(k) the right to conduct burial ceremonies on the area.*

I have, however, been unable to find prima facie evidence of :

*(h) the right to receive a portion of any resources taken by others from the area.*

### **Conclusion**

Section 190B(6) requires I be satisfied that at least some of the claimed native title rights and interests can be established on a prima facie basis. I am satisfied that all but one of the rights and interests claimed can be established on a prima facie basis.

The requirements of this condition are met.



<b>190B7</b>	<p><b>Traditional physical connection:</b></p> <p><b>The Registrar must be satisfied that at least one member of the native title claim group:</b></p> <p>(a) <b>currently has or previously had a traditional physical connection with any part of the land or waters covered by the application; or</b></p> <p>(b) <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:</b></p> <p style="padding-left: 20px;">(i) <b>the Crown in any capacity; or</b></p> <p style="padding-left: 20px;">(ii) <b>a statutory authority of the Crown in any capacity; or</b></p> <p style="padding-left: 20px;">(iii) <b>any holder of a lease over any of the land or waters, or any person acting on behalf of such holder of a lease.</b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

The requirements of this section are such that I must be satisfied that at least one member of the Barngarla 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.

In applying this condition I have had regard to the affidavits and anthropological papers referred to in relation to s190B(5) and s190B(6), in addition to information contained in the application itself.

As I have noted previously, I am satisfied that all deponents are members of the native title claim group.

In summary:

The application and affidavits of the deponents satisfy me that they have had and continue to maintain a traditional physical connection with the Barngarla application area. The deponents demonstrate knowledge of the application area and provide details of the exercise of traditional laws and customs. Furthermore, the deponents state that they and other members of the native title claim group continue to visit areas of significance within the claim area where they conduct activities in accordance with traditional laws and customs. These activities include:

- the hunting, collection and preparation of foods;
- visiting and maintaining places of cultural significance;
- teaching younger members of the Barngarla claim group about features within the claim area, their spiritual meaning and traditional laws and customs.

The traditional physical connection of the Barngarla native title claim group is supported by the anthropological studies.

I am satisfied that the deponents and other members of the native title claim group have the requisite connection required by this section.

I therefore find that the application meets the condition contained in s190B(7).

**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.***

I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

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

**s61A(1) – Native Title Determination**

A search of the Native Title Register reveals 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 D of the amendments filed on 21 December 1999 confirms that the application excludes:

*all those areas of land which have been subject to previous exclusive possession acts as defined by Section 23B of the Native Title Act, being previously excluded acts which are attributable to the Commonwealth and State Governments*

I am satisfied this exclusion clause meets the requirements of s61A(2).

**s61A(3) – Previous Non-Exclusive Possession Acts**

Schedule D of the amendments filed on 21 December 1999 makes provision for the exclusion of previous non-exclusive possession acts:

*The Barngarla claimants recognise other non-native title interests in relation to the area claimed, which interests are held by persons other than the applicants and other persons with whom they claim to hold Native Title, which interests are as follows:*

1. Pastoral Leases;

*The Barngarla claimants have not sought, and do not seek, exclusive possession of any Pastoral Lease.*

2. Mining Tenements;

3. Exploration Licence Applications (“ELA’s”);

4. Freehold Land;

5. Crown Leases;

6. Unallocated Crown Land;

7. Reserves, Parks and Conservation Zones/areas;

8. Those areas held by Western Mining Corporation (ODC) under the Olympic Dam Special Mining Lease and all interests held by ODC pursuant to the Roxby Downs (Indenture Ratification) Act 1982.

Further, I note that the applications have not sought the native title rights and interests claimed to the exclusion of any other party.

I am satisfied that the Applicants are not seeking exclusive possession over areas the subject of previous non-exclusive possession acts. The application therefore complies with s61A(3).

**s61A(4) – s47, s47A, s47B**

The application also states at Schedule L:

*The applicants are not presently able to provide particulars of land or waters (if any) covered by the Application which conform with sections 47(a)(b) and 47A(a)(b) and (c) of the Native Title Act*

*The Applicants assert that prior extinguishment of native title rights and interests in relation to any such land or waters should be disregarded in accordance with the provisions of either section 47 or section 47A of the Native Title Act*

I am required to ascertain whether this is an application that should not have been made because of the provisions of s61A. In my opinion, the applicants’ express statements with respect to the provisions of that section are sufficient to meet the requirements of s190B(8). Subsection 61A(4) of the Act provides that an application may be made in these terms. Whether the applicants have provided sufficient information to bring any area of land and waters covered by the application within the ambit of s47, 47A or s47B is a matter to be settled in another forum.

The application satisfies this condition.

***Conclusion***

The application complies with s61A. The requirements of s190B(8) are thus met.



<b>190B9</b> <b>(a)</b>	<p><b><i>Ownership of minerals, petroleum or gas wholly owned by the Crown:</i></b></p> <p><b><i>The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:</i></b></p> <p><b><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></b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

In applying this condition I have relied upon information contained at Schedule Q of the Barngarla application.

Schedule Q states:

*No claim is made for ownership of minerals, petroleum or gas wholly owned by the Crown under the valid law of the Commonwealth of Australia or the State of South Australia.*

I am satisfied this statement adequately addresses the requirements of s190B(9)(a).

The limitation of the claim contained in the application, as set out in Schedule Q, is not contradicted by any other information or other documents.

The requirements of this section are met.



<p><b>190B9</b> <b>(b)</b></p>	<p><b><i>Exclusive possession of an offshore place:</i></b></p> <p><b><i>The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:</i></b></p> <p><b><i>(b) 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></b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

**Reasons for the Decision**

In applying this condition I have relied upon information contained at Schedule P of the Barngarla application.

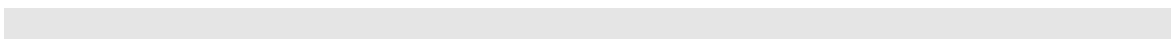
Schedule P states:

*The native title rights and interests claimed do not purport to exclude any other rights and interests in relation to the whole or part of any offshore place.*

I am satisfied this statement adequately addresses the requirements of s190B(9)(b).

The limitation of the claim contained in the application, as set out in Schedule P, is not contradicted by any other information or other documents.

The requirements of this section are met.



<p><b>190B9</b> <b>(c)</b></p>	<p><b><i>Other extinguishment:</i></b></p> <p><b><i>The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:</i></b></p> <p><b><i>(c) 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></b></p>
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I am satisfied that the application meets this condition and set out my reasoning as follows:

## Reasons for the Decision

In applying this condition I have had regard to the amended Banrgarla application.

This condition requires the consideration of whether there are any native title rights and interests claimed by the applicants that have been otherwise extinguished.

At Schedule D of the amendments filed on 21 December 1999 the Applicants provide for the exclusion of “all those areas of land which have been subject to previous exclusive possession acts as defined by Section 23B of the Native Title Act”. Further, the Applicants have specifically recognised the existence of other non-native title interests in the area the subject of the application.

I am satisfied that, together, this clause covers all areas where native title rights and interests may have been otherwise extinguished.

I note that the Australian Government Solicitor contended in their submission of 12 February 1999 that the Commonwealth hold leases that equate to “public works” and “previous exclusive possession acts” pursuant to s23(7) of the *Native Title Act*. However, this submission was made prior to the amendment of the application and is made redundant by the amendments.

The application and accompanying documents do not disclose and I am not aware of any additional extinguishment of native title rights and interests in the area claimed.

I am satisfied the requirements of this section have been met.

**End of Document**