

National Native Title Tribunal

REGISTRATION TEST

REASONS FOR DECISION

DECISION-MAKER: Brendon Moore

Application Name: Gingirana

Names of Applicants: Billy Atkins; Miriam Atkins; Slim Williams; Anthony Charles; Kate George; Stan Hill

Region: Central Desert

NNTT No: WC 06/2

Federal Court No: WAD 6002/2003

Date Application Made: 10 March 2006

The delegate has considered the application against each of the conditions contained in s.190B and s.190C of the Native Title Act 1993 (C'wlth).

DECISION

The application is ACCEPTED for registration pursuant to s190A of the Native Title Act 1993 (C'th).

Brendon Moore

13 April 2006
Date of Decision

Delegate of the Registrar pursuant to
s.190, 190A, 190B, 190C, 190D

Brief history of the application

The Gingirana Native Title Determination application is located in the Central Desert Representative Area approximately 200km north of Wiluna, and is currently represented by the Ngaanyatjarra Council. It was filed in the Federal Court on 20 February 2006 as an amended application. The National Native Title Tribunal received a copy of the application from the Federal Court on 17 March 2006 and it was allocated NNTT WC06/2 (Federal Court claim number WAD6002/03).

The amended application WC06/2 combines two claims:

- WC03/2 WAD6002/03 Gingirana which was filed in the Federal Court on 9 May 2003 and placed on the Register of Native Title Claims on 12 June 2003, and
- WC05/8 Gingirana # 2, WAD364/2005, was filed in the Federal Court on 30 November 2005. This application was made following an amendment to WC99/4 Nyiyaparli which withdrew its boundary northward to reflect current anthropological research. This left an area north of the existing Gingirana application WC03/2 vacant which subsequently became the claim area of WC05/8. The NNTT received a copy of the application from the Federal Court on 5 December 2005. On 7 December 2005 Ngaanyatjarra Council advised the National Native Title Tribunal that it intended to combine both applications, WC03/2 and WC05/8, and in accordance with the Registrar's decision where an application is subject to an amendment or combination the application of the registration test was suspended pending the amendment.

On 10 March 2006 the Ngaanyatjarra Council filed a Notice of Motion in the Federal Court to amend application WC03/2, Gingirana. Sub-section 190A(1) of the *Native Title Act* 1993 provides that the re-amended application must again be considered in accordance with s190A.

Information considered when making the decision

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

- The National Native Title Tribunal's Administration Files, and Registration Test File for WC 06/2

National Native Title Tribunal

- The National Native Title Tribunal Geospatial Database
- The Register of Native Title Claims and Schedule of Native Title Applications
- The National Native Title Register

Information provided for consideration by the Registrar's delegate in the application of the registration test in this application was provided to the State. This is in compliance with the decision in *State of Western Australia v Native Title Registrar & Ors* [1999] FCA 1591 – 1594.

Note: Information and materials provided in the context of mediation on any native title determination application by the claim group have not been considered in making this decision. This is due to the without prejudice nature of mediation communications and the public interest in maintaining the inherently confidential nature of the mediation process.

All references to legislative sections refer to the *Native Title Act 1993* unless otherwise specified.

NOTE TO APPLICANT:

To be placed on the Register of Native Title Claims, the application must satisfy *all* the conditions in sections 190B and 190C of the *Native Title Act*.

S190B sets out the merit conditions of the registration test (see pages 4 – 16).

S190C sets out the procedural conditions of the registration test (see pages 17– 34) .

In the following decision, the Registrar's delegate tests the application against each of these conditions. The procedural conditions are considered first; then I shall consider the merit conditions

Delegation Pursuant to Section 99 of the *Native Title Act 1993* (Cth)

On 5 May 2005, Christopher Doepel, Native Title Registrar, delegated to members of the staff of the Tribunal including myself all of the powers given to the Registrar under sections 190, 190A, 190B, 190C and 190D of the *Native Title Act 1993* (Cth).

This delegation has not been revoked as at this date.

SECTION 190C: PROCEDURAL CONDITIONS

Applications contains details set out in ss. 61 and 62: s. 190C(2)

Section 190C(2) first asks the Registrar to test the application against the registration test conditions at sections 61 and 62. If the application meets all these conditions, then it passes the registration test at s. 190C(2).

Native Title Claim Group: s. 61(1)

The application is made by a person or persons authorised by all of the persons (the native title claim group) who, according to their traditional laws and customs, hold the common or group rights and interests comprising the particular native title claimed, provided the person or persons are also included in the native title claim group.

Reasons relating to this sub-condition

Section 190C(2) of the Act provides that the Registrar must, amongst other matters, be satisfied that the application contains all details and other information required by s.61 of the Act.

I must consider whether the application sets out the native title claim group in the terms required by s.61. That is one of the procedural requirements to be satisfied to secure registration: s.190A(6)(b). If the description of the native title claim group in the application indicates that not all persons in the native title group were included, or that it was in fact a sub-group of the native title group, then the requirements of s.190C(2) would not be met and the claim cannot be accepted for registration (*Northern Territory of Australia v Doepel* [2003] FCA 1384 at para 36).

This consideration does not involve me going beyond the application, and in particular does not require me to undertake some form of merit assessment of the material to determine whether I am satisfied that the native title claim group is in

reality the correct native title claim group (*Northern Territory of Australia v Doepel* [2003] FCA 1384 at paras 16-17, 37).

Attachment A describes the claim group thus:

The native title claim group comprises those Aboriginal people who hold in common the body of traditional law and culture governing the area the subject of the claim and who:

(a) are descended from the following people, and who, in terms of traditional law and custom, are associated with the area covered by the application:

- Polly Wongi Telfer
- Tjurkur
- Yalwi
- Bluey Atkins
- Panapuru
- Yanangara
- Minmi

OR

(b) have a personal connection to the area covered by the application through their own birth and/or the birth of their ancestors on the area covered by the application or possession of traditional cultural knowledge of the area covered by the application, by which they claim the rights and interests and that claim is recognised by the wider native title claim group according to its traditional decision making processes. Claimants in this category include:

Descendants of Kunamin.

I understand this description to mean that the claim group is comprised of all the descendants of the named apical ancestors together with all the descendants of Kunamin.

In my view there is nothing in the application to indicate that the group described in Attachment A does not include, or may not include, all the persons who hold native title in the area of the application. Further there is no information in the application to indicate that the native title claim group has been assembled for administrative convenience, and is not a group as required by s.61(1). More significantly, however, the application is certified by both the relevant Native Title Representative Bodies for the area covered.

Result: Requirements met

Name and address of service for applicants: s. 61(3)

An application must state the name and address for service of the person who is, or persons who are, the applicant.

Reasons relating to this sub-condition

The address for service is given at Part B as:

Malcolm O'Dell

PLO Ngaanyatjarra Council

Level 2, 8 Victoria Ave

Perth WA

Result: Requirements met

Native Title Claim Group named/described sufficiently clearly: s. 61(4)

A native title determination application, or a compensation application, that persons in a native title claim group or a compensation claim group authorise the applicant to make must;

(a) name the persons; or

(b) otherwise describe the persons sufficiently clearly so that it can be ascertained whether any particular person is one of those persons.

Reasons relating to this sub-condition

For the reasons which led to my conclusion that the requirements of s.190B(3) have been met, it is my opinion that the application describes the persons sufficiently clearly so that it can be ascertained whether any particular person is one of those persons.

Result: Requirements met

Application is in prescribed form: s. 61(5)

An Application must be in the prescribed form, and be filed in the Federal Court, and contain such information in relation to the matters sought to be determined as is prescribed, and be accompanied by any prescribed documents and any prescribed fee

Reasons relating to this sub-condition

s.61(5)(a)

The application is substantially in the form prescribed by Regulation 5(1)(a) of the *Native Title (Federal Court) Regulations 1998*.

s.61(5)(b)

The application was filed in the Federal Court as required pursuant to s.61(5)(b).

s.61(5)(c)

The application meets the requirements of s.61(5)(c) and contains all information prescribed in s.62. I refer to my reasons in relation to s.62 below.

s.61(5)(d)

The application is accompanied by affidavits in relation to the requirements of s.62(1)(a) from the applicants. I am satisfied that the application has complied with s.61(5)(d) in relation to the requirement for affidavits pursuant to s.62(1)(a). See also my reasons in respect of s.62(1)(a) below.

s.62 (1)(b)

There has been compliance with the requirement to include a map pursuant to s.62(1)(b). See my reasons for decision under s.62(1)(a) and s.62(2)(b) below.

Result: Requirements met

Application is accompanied by affidavits in prescribed form: s. 62(1)(a)

An application must be accompanied by an affidavit sworn by the applicant which addresses the matters required by s. 62(1)(a)(i) – s. 62(1)(a)(v)

Reasons relating to this sub-condition

Affidavits sworn by each of the persons named as the applicant accompany the application. Refer to my reasons under s. 61(5)(d) above. The affidavits are signed, dated and competently witnessed. The affidavits are virtually identical in content and address the matters required by s.62(2)(1)(a) (ii) to (v).

The affidavits have the statement required by s.62(2)(1)(a) (i) that ‘the applicant believes that the native title rights and interests claimed by the native title claim group have not been extinguished in relation to any part of the area covered by the application’.

Result: Requirements met

Application contains details set out in s. 62(2): s. 62(1)(b)

Section 62(1)(b) requires the Registrar to make sure that the application contains the information required in s. 62(2). Because of this, the Registrar’s decision for this condition is set out under s. 62(2) below.

Details of physical connection: s. 62) (1)(c)

Details of traditional physical connection (information not mandatory) and prevention of access to lands and waters (where appropriate)

Reasons relating to this sub-condition

s.62(1)(c) of the Native Title Act says:

A claimant application (see section 253):

(c) **may** contain details of:

(i) if any member of the native title claim group currently has, or previously had, any traditional physical connection

with any of the land or waters covered by the application— that traditional physical connection; or
(ii) if any member of the native title claim group has been prevented from gaining access to any of the land or waters covered by the application—the circumstances in which the access was prevented.

There is no requirement for the delegate ‘to be satisfied’ under this section, as it does not make the provision of details mandatory. At s.190B(7), however, the

‘Registrar must be satisfied that at least one member of the native title claim group (a) currently has or previously had a traditional physical connection...’

Material provided is therefore relevant to the consideration of both s.190B(5) and s.190B(7.) The word ‘traditional’ as it is used here must be understood as it was defined in *Yorta Yorta*. That is, it is necessary to show that the connection is in accordance with the laws and customs of the group which have their origins in pre-contact society.

Comprehensive details are provided at Attachment G and are helpfully linked to the rights arising out of or underlying those activities, providing a solid factual base for the necessary assessments at s.190B(5) and (7). There is also some material in Attachments M and F which is relevant.

See my reasons at s.190B (5) and (7).

Result: Provided

Information about the boundaries of the application area: s. 62(2)(a)

Section 62(2)(a)(i): Information, whether by physical description or otherwise that enables the boundaries of the area covered by the application to be identified;

Reasons relating to this sub-condition

For the reasons which led to my conclusion that the requirements of s.190B(2) have been met, it is my opinion that the information and maps contained in the

application are sufficient to enable the area covered by the application to be identified with reasonable certainty.

Result: Requirements met

Section 62(2)(a)(ii): Information, whether by physical description or otherwise that enables the boundaries of any areas within those boundaries that are not covered by the application to be identified.

Reasons relating to this sub-condition

For the reasons which led to my conclusion that the requirements of s.190B(2) have been met, it is my opinion that the information contained in the application is sufficient to enable any areas within the external boundaries of the claim area which are not covered by the application to be identified.

Result: Requirements met

Map of the application area: s. 62(2)(b)

The application contains a map showing the external boundaries of the area covered by the application

Reasons relating to this sub-condition

For the reasons that led to my conclusion that the requirements of s.190B(2) have been met, it is my opinion that the maps contained in the application show the external boundaries of the claim area.

Result: Requirements met

Details and results of searches: s. 62(2)(c)

The application contains details and results of all searches carried out to determine the existence of any non-native title rights and interests in relation to the land and waters in the area covered by the application

Reasons relating to this sub-condition

These details are provided at Attachment G.

Result: Requirements met

Description of native title rights and interests: s. 62(2)(d)

The application contains a description of native title rights and interests claimed in relation to particular lands and waters (including any activities in exercise of those rights and interests), but not merely consisting of a statement to the effect that the native title rights and are all native title rights and interests that may exist, or that have not been extinguished, at law.

Reasons relating to this sub-condition

A description of the native title rights and interests claimed is found at Attachment E of the application. The description does not merely consist of a statement to the effect that the native title rights and interests are all native title rights and interests that may exist, or that have not been extinguished at law. See my reasons under s.190B(4) for details of this description.

Result: Requirements met

Description of factual basis: s. 62(2)(e)

The application contains a general description of the factual basis on which it is asserted that the native title rights and interests claimed exist and in particular that:

- (i) the native title claim group have, and the predecessors of those persons had an association with the area; and**

- (ii) there exist traditional laws and customs that give rise to the claimed native title; and**
- (iii) the native title claim group have continued to hold the native title in accordance with those traditional laws and customs.**

Reasons relating to this sub-condition

The decision in *Queensland v Hutchison* [2001] FCA 416 at [25] is authority for the proposition that the general description of the factual basis must be contained in the application, and can not be the subject of additional information provided separately to the Registrar or his delegate. It is my opinion that this information is found in Attachments F, G and M

See also my reasons at s.190B(5).

Result: Requirements met.

Activities carried out in application area: s. 62(2)(f)

If native title claim group currently carry on any activities in relation to the area claimed, the application contains details of those activities

Reasons relating to this sub-condition

The application provides details of the activities which the native title claim group carries out in relation to the application area at Attachment G and to a lesser extent in Attachments M and F.

Result: Requirements met

Details of other applications: s. 62(2)(g)

The application contains details of any other applications to the High Court, Federal Court or a recognised State/Territory body of which the applicant is

aware, that have been made in relation to the whole or part of the area covered by the application and that seek a determination of native title or a determination of compensation in relation to native title;

Reasons relating to this sub-condition

Schedule H notes that there are no other such applications which is confirmed by the Tribunal's Geospatial Unit's assessment dated 3 April 2006.

That assessment identifies a 'technical' overlap with WIA 2000/001 Nharnuwangga Wajarri and Ngarlawangga ILUA. The overlap is one of spatial data but not 'on the ground.'

Result: Requirements met

Details of s. 29 notices: s. 62(2)(h)

The application contains details of any notices under s. 29 (or under a corresponding provision of a law of a State or Territory) of which the applicant is aware, that have been given and that relate to the whole or a part of the area

Reasons relating to this sub-condition

A list of s.29 notices is provided at Attachment I

Result: Requirements met

Combined decision for s. 190C(2)

For the reasons identified above the application contains all details and other information, and is accompanied by the documents, required by ss. 61 & 62.

Result: Requirements met

Common claimants in overlapping claims: s. 190C(3)

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:

- (a) the previous application covered the whole or part of the area covered by the current application; and**
- (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**
- (c) the entry was made, or not removed, as a result of consideration of the previous application under s. 190A.**

Reasons relating to this condition

This application was filed in the Federal Court on 10 March 2006. For the purposes of s.190C(3)(b), the application is taken to have been “made” on that date.

As a first step, Section 190C(3) requires identification of any previous overlapping applications entered on the Register as a result of consideration of those applications under s.190A.

The applicants state at Schedule H of the application that there are no other applications over the area.

A search on the Tribunal’s Geospatial database confirms that there are no other applications that fall within the external boundary of the current application.

It is therefore not necessary for me to further consider the conditions of s.190C(3).

Result: Requirements met

Application is authorised/certified: s. 190C(4)

The Registrar must be satisfied that either of the following is the case:

- (a) the application has been certified pursuant to s. 203BE by each representative Aboriginal/Torres Strait Islander body that could certify the application in performing its functions under that Part: or**

- (b) 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.**

Note: s. 190C(5) – Evidence of authorisation:

If the application has not been certified as mentioned in s. 190C(4)(a), the Registrar cannot be satisfied that the condition in s. 190C(4) has been satisfied unless the application:

- (a) includes a statement to the effect that the requirement set out in s. 190C(4)(b) has been met; and**
- (b) briefly set out the grounds on which the Registrar should consider that it has been met.**

Reasons relating to this condition

Under this section, I am only required to be satisfied that one of the two conditions in s.190C(4) is met.

This application is certified by Ngaanyatjarra Council Aboriginal Corporation and Yamatji Land and Sea Council pursuant to s.203BE of the Act. I must therefore consider whether the requirements of s.190C(4)(a) in relation to certification are met.

A signed certificate dated 9 March 2006 has been provided at Attachment R1 by Ngaanyatjarra Council Aboriginal Corporation which refers to traditional laws and customs relating to authorisation of native title claim applicants by the native title claim group.

A signed certificate dated 16 February 2006 has been provided at Attachment R2 by Yamatji Land and Sea Council which refers to traditional laws and customs relating to authorisation of native title claim applicants by the native title claim group.

A search of the Tribunal's Geospatial database reveals that Ngaanyatjarra Council Aboriginal Corporation is the representative body for the major part of the region covered by the application and that there is a small overlap into the area covered by Yamatji Land and Sea Council.

The relevant provisions of Part 11 of the Act for the purposes of this condition are found in s.203BE (2) and (4);

- (2) A representative body must not certify under paragraph(1)(a) an application for a determination of native title unless it is of the opinion that:

National Native Title Tribunal

(a) all the persons in the native title claim group have authorised the applicant to make the application and to deal with matters arising in relation to it; and

(b) all reasonable efforts have been made to ensure that the application describes or otherwise identifies all the other persons in the native title claim group.

(4) A certification of an application for a determination of native title by a representative body must:

(a) include a statement to the effect that the representative body is of the opinion that the requirements in paragraphs (2)(a) and (b) have been met; and

(b) briefly set out the body's reasons for being of that opinion; and

(c) where applicable, briefly set out what the representative body has done to meet the requirements of subsection (3).

Both certificates comply with all the requirements of s.203BE(2) and (4). Section 203BE(3) is not relevant as there are no overlapping claims.

Result: Requirements met

MERITS CONDITIONS: s. 190B

Identification of area subject to native title: s. 190B(2)

The Registrar must be satisfied that the information and map contained in the application as required by ss. 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.

Reasons relating to this condition

Map and External Boundary Description:

The written description of the external boundaries is found in Attachment B of the application. Attachment B describes the application area, in general terms, in relation to the boundaries of other native title claims and determinations, tenures or land parcels such as Reserves and leases, natural formations such as creeks and by geographical co-ordinates.

The description includes notes relating to the source and currency of data used to prepare the description.

A map of the claim area is provided at Attachment C. The map was prepared by the Tribunal's Geospatial Unit on 3 October 2005 and clearly depicts the boundaries of the application area by an outline varying in shade according to the adjoining tenure; Native Title claim and Determination are also depicted. The map includes geographic co-ordinates and major topographic features, scale bar, north point and notes relating to the source and currency of data used to prepare the map.

The description and map were prepared by the Tribunal's Geospatial Unit and I am able to conclude that the map and area description are consistent and identify the application area with reasonable certainty.

I am satisfied that the information contained in the application is sufficient to identify the area covered by the application with reasonable certainty. Further, I am satisfied that the description of the claim area by reference to geographic coordinates, meets the requirements of s.62(2)(a)(i).

Internal Boundaries

At Attachment B at 2, the applicants have provided information identifying areas within the external boundaries of the area covered by the application that are **not** covered by the application. This is done by way of a formula that excludes a variety of tenure classes from the area covered by the application.

It is my view that the description of areas excluded as set out above 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 research of tenure data held by the particular custodian of that data, but nevertheless it is reasonable to expect that the task can be done on the basis of the information provided by the applicant.

I note that at Attachment B at 3 the applicants state:

For the purposes of the application of sections 61A(4) and 47B of the Act, the application covers the entirety of the unallocated Crown land, as identified in the map at Attachment C and in Attachment L, which is subject to section 47B.

Consistent with the reasoning set out above in respect of identifying areas excluded from the claim, I am of the view that identifying the areas so excepted from the exclusions in the manner done by the applicant does allow specific geographic location to be identified subject to tenure research.

I am satisfied that the information and maps contained in the application as required by sections 62(2)(a) and (b) are sufficient for it to be said with reasonable certainty whether the native title rights and interests are claimed in relation to the particular areas of land or waters.

The requirements of s.62(2)(a), s.62(2)(b) and s.190B(2) are met.

Result: Requirements met

Identification of the native title claim group: s. 190B(3)

The Registrar must be satisfied that:

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

Reasons relating to this condition

Section 190B(3) of the Act sets out the two ways in which a claim group may be described for the purposes of registration. It says:

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.

If the persons in the claim group are not named then they must be described under ss.(b). Subsection (b) requires a description from which it is possible to identify 'a particular person' as a member. I understand that as requiring there should be in the description some objective way of verifying the identity of members of the native title claim group.

Mansfield J in *Northern Territory v Doepel* [2003] FCA 1384, on considering the application of s.190B(3), held that the following important principles apply:

“Section 190B . . . has requirements which do not appear to go beyond consideration of the terms of the application: subs 190B(2), (3) and (4).” [16]

“Its focus is not upon the correctness of the description of the native title claim group, but upon its adequacy so that the membership of the identified native title claim group can be ascertained. It . . . does not require any examination of whether all the named or described persons do in fact qualify as members of the native title claim group.” [37]

“The focus of s 190B(3)(b) is whether the application enables the reliable identification of persons in the native title claim group. [51]

A description of the native title claim group in terms of 'all the descendants of [named] apical ancestors' may be acceptable under s.190B(3)(b), because although a factual inquiry as to who all those persons are may be necessary to determine if any one person is a member of the group, the description contains or constitutes an objective test.¹ The 'factual enquiry' of which Carr J spoke was the application of that objective test or rule, not some wider enquiry.

¹ *State of Western Australia v Native Title Registrar and Bellotti* [1999] FCA 1591 at [63]-[69] *State of Western Australia v Native Title Registrar and Dimer* [1999] FCA 1592 at [68]-[74], *State of Western Australia v Native Title Registrar and Evans* [1999] FCA 1594 at [63]-[69] and *State of Western Australia v Native Title Registrar and Harrington-Smith* [1999] FCA 1593 at [64]-[70] . per Carr J.

The Courts have rejected descriptions which rely on processes of self-identification.²

The present claim group is set out in Attachment A and the description is reproduced in my reasons at s.61(1). I said there that I understand the wording of the description to mean that the claim group is comprised of all the descendants of the named apical ancestors together with all the descendants of Kunamin.

Such a description satisfies the requirement for an objective test, as the group is described sufficiently clearly that it can be ascertained whether any particular person is in it.

Result: Requirements met

Native title rights and interests are readily identifiable: s. 190B(4)

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

Reasons relating to this condition

The requirements of the Act

Section 190B(4) requires the Registrar or his delegate to be satisfied that the description of the claimed native title rights and interests contained in the application is sufficient to allow the rights and interests to be readily identified. For the purposes of the condition, then, only the description contained in the application can be considered.

Section 62(2)(d) requires that the application contain "*a description of the native title rights and interests claimed in relation to particular land or waters (including any activities in exercise of those rights and interests) but not merely consisting of a statement to the effect that the native title rights and interests are all native title rights and interests that may exist, or that have not been extinguished, at law.*" This terminology suggests

². See: *Ridgeway on behalf of the Worimi People, in the matter of Russell v Bissett-Ridgeway*[2001] FCA 848, *Ford v NSW Minister for Land & Water Conservation* [2000]FCA 1913 and *Korewal People - Longbottom v NSW Minister for Land & Water Conservation (No. 2)* [2000] FCA 1237

that the legislative intent of the provision is to screen out claims that describe native title rights and interests in a manner which is vague, or unclear.

To meet the requirements of s. 190B(4), I need only be satisfied that at least one of the rights and interests sought is sufficiently described for it to be readily identified.

Native title rights and interests claimed

The rights and interests claimed are set out in Attachment E which is reproduced for convenience under my reasons at s.190B(6)

The right to possess, occupy, use and enjoy at 1 is broken into its incidents lettered (a) to (k). Those incidental rights are all readily identifiable.

A right to trade in resources is claimed at (j). I note here, although it might perhaps be better done at s. 190B(6), that the right to trade has been a contentious one but was recently considered by the Full Court in Northern Territory of Australia v Alyawarr, Kaytetye, Warumungu, Wakaya Native Title Claim Group [2005] FCAFC 135 where the Court said:

The right to trade is a right relating to the use of the resources of the land. It defines a purpose for which those resources can be taken and applied. It is difficult to see on what basis it would not be a right in relation to the land.[153]

Olney J in Yarmirr at first instance referred to evidence of exchange of goods. The evidence was that of Mary Yarmirr. It related to trade by way of exchange, between indigenous groups of items including spearheads, stone axes, bailer shells, cabbage palm baskets and turtle shells. His Honour said (at 587):

‘Whilst there can be no doubt that the trade here described related to objects which can properly be categorised as resources of the waters and land, the trading was constituted by the exchange of goods. The so-called "right to trade" was not a right or interest in relation to the waters or land. Nor were any of the traded goods "subsistence resources" derived from either the land or the sea.’[154]

Olney J’s observation does not involve the proposition that trade in the resources of the land can never be a ‘right’ in relation to the land. There the evidence was of an activity. It did not amount to evidence of the exercise of a right..... Yarmirr cannot be taken as authority for the proposition that

there cannot be a right to trade in the resources of the land as a right in relation to the land.[155]

Having come to this conclusion, however, the Court was of the opinion that there had been insufficient evidence before the Court at first instance for the right to survive on appeal. The finding by the Court was that the word 'trade' should be omitted from the lower Court's formulation, leaving as the right:

“the right to share or exchange subsistence and other traditional resources obtained on or from the land and waters.”(at [157])

By taking that view I believe that the Court has implicitly accepted that the right to trade is also a readily identifiable right in land which is capable of being established where satisfactorily evidenced over land where exclusive possession is not available.

The rights claimed at 2, being those where exclusive possession may not be able to be established, are appropriately described in terms of activities and are also readily identifiable as native title rights..

Result: Requirements met

Factual basis for claimed native title: s. 190B(5)

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**

Reasons relating to this condition

Section 190B(5) requires that the Registrar (or his delegate) must be satisfied that the factual basis provided in support of the assertion that the claimed native title

rights and interests exist is sufficient to support that assertion. In particular, the factual basis must be sufficient to support the assertions set out in subparagraphs (a), (b) and (c).

To satisfy the requirements of s.190B(5), the Registrar (or his delegate) is not limited to consideration of statements contained in the application (as for s.62(2)(e)) but may refer to additional material supplied to the Registrar under this condition: *Martin v Native Title Registrar* [2001] FCA 16. Regard will be had to the application as a whole; subject to s.190A(3), regard will also be had to relevant information that is not contained in the application. The provision of material disclosing a factual basis for the claimed native title rights and interests is the responsibility of the applicant. It is not a requirement that the Registrar (or his delegate) undertake a search for this material: *Martin v Native Title Registrar* per French J at [23].

In *Queensland v Hutchinson* (2001) 108 FCR 575, Kiefel J said that

‘[s]ection 190B(5) may require more than [s.62(2)(e)], for the Registrar is required to be satisfied that the factual basis asserted is sufficient to support the assertion. This tends to assert a wider consideration of the evidence itself, and not of some summary of it.’

For each native title right or interest claimed, there should be some factual material that demonstrates the existence of the traditional law and custom of the native title claim group that gives rise to the right or interest.³

In *Members of the Yorta Yorta Aboriginal Community v Victoria* [2002] HCA 58 (the *Yorta Yorta* decision), the majority of the High Court noted that the word ‘traditional’ refers to a means of transmission of law or custom, and conveys an understanding of the age of traditions. Their Honours said that ‘traditional’ laws and customs are those normative rules which existed or were “rooted in pre-sovereignty traditional laws and customs”: at [46], [79]. This normative system must have continued to function uninterrupted from the time of acquisition of sovereignty to the time when the native title group sought determination of native title. This is because s.223(1)(a) speaks of rights and interests as being ‘possessed’ under traditional laws and customs, and this assumes a continued “vitality” of the traditional normative system. Any interruption of that system which results in a cessation of the normative system would be fatal to claims to native title rights and interests because the laws and customs which give rise to the rights and interests would have ceased to exist and could not be effectively reconstituted even by a revitalisation of the normative system. Their Honours noted, however, that this does not mean that some change or adaptation of the laws and customs of a native

³ See *Ward* at [382].

title claim group would be fatal to a native title claim; rather that an assessment would need to be made to decide what significance (if any) should be attached to the fact that traditional law and custom had altered. In short, the question would be whether the law and custom was 'traditional' or whether it could "no longer be said that the rights and interests asserted are possessed under the traditional laws acknowledged and the traditional customs observed by the relevant peoples when that expression is understood in the sense earlier identified" - at [82] and [83].

I find these statements in the *Yorta Yorta* decision of assistance in interpreting the terms 'traditional laws' 'traditional customs' and 'native title rights and interests', as found in s.190B(5). However, I am also mindful that the 'test' in section 190A involves an administrative decision – it is not a trial or hearing of a determination of native title pursuant to s.225, and it is therefore not appropriate to apply the standards of proof that would be required at such a trial or hearing.

I believe that in respect of this condition I must consider whether the factual basis provided by the applicant is sufficient to support the assertion that claimed native title rights and interests exist. In particular this material must support the assertions noted in s.190B(5)(a), (b) and (c). I have formed the view that the information referred to above provides sufficient probative detail to address each element of this condition. I will now deal in turn with each of these elements.

The relevant factual information which I have considered, and all of which I accept as my findings of fact, is to be found in some detail in the application at Attachments F, G and M and in the valuable factual material from members of the claim group provided in the affidavits of Daisy Charles and Billy Atkins which detail the observation of the laws and customs in the lives of the deponents. What follows is drawn from that material. I will refer to those affidavits in more detail when considering s.190B(6).

I will now consider each subsection.

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

The claim is in the Little Sandy Desert area of the central desert region. This is an area which has not been subject to the levels of disruption which have occurred elsewhere and the claim group and their predecessors have been able, for the most part, to remain on or near their country.

There is a body of information drawing on historical, anthropological, archaeological and other scientific disciplines which supports the claimants' oral

histories of their early association with the claim area. In addition to the claimants oral accounts there are written accounts by the early settlers and explorers attesting to occupation.

There are also linguistic indicators which suggest long term occupation by the current group of language holders.

The claim group currently continues to have a strong religious and cultural life which is relevantly expressed in practices, ceremonies and activities concerning the land and its well-being. The claim group, through travel on country and knowledge of the Tjukurrpa, has both a physical and spiritual connection to the lands and waters.

It is reasonable to draw the necessary inferences from the evidence that the people first recorded in the area were there prior to sovereignty and are the predecessors of the claim group.

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

The traditional laws and customs acknowledged and observed by the claim group are based on, or perhaps more correctly are, the Tjurkapa, the body of laws and customs held throughout the Western Desert region and wider. The rights in land flow from and are dependant on the acknowledgement and observation of that law.

The application contains considerable detail about the intertwining of the claim group, the Tjukurrpa and the land at page 22 and there is no need to reproduce that material here. It should suffice to note that the Tjukurrpa involves:

- Ritual, managed transmission of the Law to the right people at the right times,
- Transmission of knowledge about the lands and waters and their management under the Law,
- The ordering of rights and responsibilities towards the land under the Law
- Transmission through ritual, ceremony and other activities of norms of social and cultural behaviour and the consequences of non-observation of those norms

I find that that the laws and customs have the required 'normative' quality and I am prepared to draw the necessary inferences from the evidence that the laws and

customs still in place are 'traditional', in that they have existed and been acknowledged and observed substantially uninterrupted since sovereignty.

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

The application expressly links the laws and customs of the claim group to the particular rights in land and waters claimed and the affidavits provide first-hand evidence. For the reasons expressed in (b) above I find that the requirements of this subsection are also met.

Result: Requirements met

Native title rights and interests claimed established prima facie: s.190B(6)

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 relating to this condition

The majority in the High Court in Ward noted that:

'It is necessary to recognise that the holder of a right, as against the whole world, to possession of land, may control access to it by others and, in general, decide how the land will be used.' [52]

I note at this point that there is a typographical error in the numbering of the paragraphs in the affidavit of Billy Atkins. The paragraphs are correctly numbered from 1 to 10 but then 'start again' at 8 and continue to 19. In order to avoid confusion I will refer to the paragraphs of the affidavit as though they had been correctly numbered throughout and there were no break in the numbering, so that the 'second' paragraph 8 will be corrected to 11 and so on to 22.

The rights are set out in Attachment E and are reproduced below, where I will consider each in turn.

1. The nature and extent of the native title rights and interests held by the native title claim group in relation to vacant Crown land, over which

there has not been any extinguishment, or areas which attract the benefit of section 47B of the NTA within the area covered by the application are:

The right to possess, occupy, use and enjoy the land and waters of that part of the area covered by the application to the exclusion of all others, including:

- (a) The right to speak for the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 4, 5, 10 and 12 and in the affidavit of Billy Atkins at paras 7, 18 and 21.

Established

- (b) The right to be asked permission to use the land and waters of the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at para 11 and in the affidavit of Billy Atkins at paras 14 and 21.

Established

- (c) The right to live on the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 4 and 5 and in the affidavit of Billy Atkins at paras 2, 3 and 4.

Established

- (d) The right to make decisions about the use, enjoyment and management of the land and waters of the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 5 and 12 and in the affidavit of Billy Atkins at para 21 and 22.

Established

- (e) The right to hunt and gather and to take water and other resources (including ochre) on the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 7, 8 and 9 and in the affidavit of Billy Atkins at para 8, 17, 18 and 19.

Established

- (f) The right to control the access to and activities conducted by others on the lands and waters of the area covered by the application;

National Native Title Tribunal

This right is evidenced in the affidavit of Daisy Charles at paras 11 and 12 and in the affidavit of Billy Atkins at para 14

Established

- (g) The right to use and enjoy resources of the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 7, 8 and 9 and in the affidavit of Billy Atkins at paras 8, 17, 18 and 19

Established

- (h) The right to maintain and protect areas of cultural significance to the native title claim group on the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 11 and 12 and in the affidavit of Billy Atkins at paras 14, 15 and 16.

Established

- (i) The right as against any other Aboriginal group or individual to be acknowledged as the traditional Aboriginal owners of the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 4 and 12 and in the affidavit of Billy Atkins at paras 14, 15 and 16.

Established

- (j) The right to trade in resources of the area covered by the application;

Although the application speaks of trading activities by the claim group as an element of sorry business at point 5 of Attachment G and at (a) in Attachment F, there is no further detail provided in the long form affidavits. Although I have found at s.190B(4) that such a right is readily identifiable, it would seem that for it to be established requires a strong evidential basis.

I do not think that is demonstrated here. There is not a sufficient factual basis shown in the affidavits or the application.

Not Established

- (k) The right to participate, engage in and conduct ceremonial activities and other cultural activities on the area covered by the application.

This right is evidenced in the affidavit of Billy Atkins at paras 9 and 11.

Established

The claim to rights where exclusive possession may not be established is described as:

2. The nature and extent of the native title rights and interests held by the native title claim group in the balance of the area covered by the application not covered by 1. above are:

I will now consider each of those rights.

- (a) The right to speak for the area covered by the application;

In WA v Ward it was said that 'the rights under traditional law and custom is the right to be asked for permission and to 'speak for country' that are expressed in common law terms as a right to possess, occupy, use and enjoy land to the exclusion of all others.' at [88]. However, since then a similar right has been found to be established over non-exclusive land in Wandarang, Alawa, Marr and Ngalakan Peoples v Northern Territory and Wik Peoples v State of Queensland.

This right is evidenced in the affidavit of Daisy Charles at paras 4, 5, 10 and 12 and in the affidavit of Billy Atkins at paras 7, 18 and 21.

Established

- (b) The right to camp in the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 7 and 8

Established

- (c) The right to make decisions about the use and enjoyment of the land and waters of the area covered by the application that are binding only on those governed by the traditional laws and customs of the native title claim group;

This right is evidenced in the affidavit of Daisy Charles at paras 5 and 12 and in the affidavit of Billy Atkins at paras 21 and 22.

Established

- (d) The right to hunt and gather and to take water and other resources (including ochre) on the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 7, 8 and 9 and in the affidavit of Billy Atkins at paras 17, 18 and 19.

Established

- (e) The right to use and enjoy resources of the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 7, 8 and 9 and in the affidavit of Billy Atkins at paras 17, 18 and 19.

Established

- (f) The right to control the access to and activities conducted on the land and waters of the area covered by the application that are binding only on those governed by the traditional laws and customs of the native title claim group;

This form of right was disallowed by the Full Court in *Northern Territory of Australia v Alyawarr, Kaytetye, Warumungu, Wakaya Native Title Claim Group* [2005] FCAFC 135 over land where exclusive possession can not be established. I do not think it can be established here for that reason.

Not Established

- (g) The right to maintain and protect areas of cultural significance to the native title claim group on the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 11 and 12 and in the affidavit of Billy Atkins at para 14.

Established

- (h) The right as against any other Aboriginal group or individual to be acknowledged as the traditional Aboriginal owners of the area covered by the application;

This right is evidenced in the affidavit of Daisy Charles at paras 4 and 12.

Established

- (i) The right to trade in resources of the area covered by the application; and

For the same reasons as expressed above I do not think the right can be established here .

Not Established

- (j) The right to participate, engage in and conduct ceremonial activities and other cultural activities on the area covered by the application.

This right is evidenced in the affidavit of Billy Atkins at para 9 and 11.

Established

The claim to rights and interests is expressed to be subject as follows:

3. The native title rights and interests are exercisable in accordance with the traditional laws and customs of the native title claim group.

Subject to the following:

- (a) To the extent that any minerals, petroleum or gas within the area of the claim are wholly owned by the Crown in the right of the Commonwealth or the State of Western Australia, they are not claimed by the applicant;
- (b) The claim area does not include any offshore areas;
- (c) In accordance with sub section 61A(3) of the NTA, the applicant does not make claim to native title rights and interests which confer possession, occupation, use and enjoyment to the exclusion of others in respect of any areas in relation to which a previous non-exclusive possession act, as defined in section 23F of the NTA, was done in relation to an area, and, either the act was an act attributable to the Commonwealth, or the act was attributable to the State of Western Australia and a law of that State has made provision as mentioned in section 23I in relation to that act;
- (d) In accordance with sub section 61A (4), paragraph 3 above is subject to such of the provisions of section 47B of the Act as apply to any part of the area in this application; and
- (e) The said native title rights are not claimed to the exclusion of any other rights or interests validly created by or pursuant to the Common law, a law of the State or a law of the Commonwealth.

Result: Requirements met

Traditional physical connection: s. 190B (7)

The Registrar must be satisfied that at least one member of the native title claim group:

- (a) **currently has or previously had a traditional physical connection with any part of the land or waters covered by the application; or**

- (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 the land or waters) by:
- (i) the Crown in any capacity; or
 - (ii) a statutory authority of the Crown in any capacity; or
 - (iii) any holder of a lease over any of the land or waters, or any person acting on behalf of such a holder of a lease.

Reasons relating to this condition

For the reasons and on the facts which led to my conclusion at s.190B (5), I am satisfied that many members of the claim group have a traditional physical connection to the land.

Result: Requirements met

No failure to comply with s. 61A: s. 190B (8)

The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that because of s. 61A (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.

Section 61A contains four sub-conditions. Because s. 190B (8) asks the Registrar to test the application against s. 61A, the decision below considers the application against each of these four sub-conditions.

Section 61A (1) - Native Title Determination

Reasons relating to this sub-condition

There have been no determinations of native title made over the subject area.

Result: Requirements met

Section 61A (2) - Previous Exclusive Possession Acts (PEPAs)

Reasons relating to this sub-condition

Areas within the external boundaries of the claim over which a Previous Exclusive Possession Act may have occurred are excluded from the claim area at Attachment B. 2

Result: Requirements met

Section 61A (3) – Previous Non-Exclusive Possession Acts (PNEPAs)

Reasons relating to this sub-condition

The applicant makes no claim to exclusive possession over any area subject to a PNEPA: see Attachment E 3 (c)

Result: Requirements met

Section 61A (4) – Areas to which sections 47, 47A or 47B may apply

Reasons relating to this sub-condition

A claim to the benefits of s47B is made at Attachment L and Attachment E 3 (d).

Result: Requirements met

No claim to ownership of Crown minerals, gas or petroleum: s. 190B (9) (a)

The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:

- (a) to the extent that the native title rights and interests claimed consist of or include ownership of minerals, petroleum or gas – the Crown in the right of the Commonwealth, a State or Territory wholly owns the minerals, petroleum or gas;**

Reasons relating to this sub-condition

No such claim is made and is formally excluded in Attachment E 3 (a).

Result: Requirements met

No exclusive claim to offshore places: s. 190B (9) (b)

The application and accompanying documents must not disclose, and the Registrar must not be otherwise aware, that:

- (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;**

Reasons relating to this sub-condition

The claim area is in the Central Desert and makes no claim to offshore places.

Result: Requirements met

Native title not otherwise extinguished: s. 190B (9) (c)

The application and accompanying documents must not disclose, and the Registrar must not be otherwise aware, that:

- (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 sections 47(2), 47A (2) or 47B (2)).**

Reasons relating to this sub-condition

The Geospatial Unit's assessment identifies a 'technical' overlap with the WIA 2000/001 Nharnuwangga Wajarri and Ngarlawangga ILUA. The overlap is one of spatial data but not 'on the ground' and is thus not relevant here.

The application otherwise specifically excludes any such areas from the application at Attachment B 2(e) and (f).

Result: Requirements met

[End of document]

Attachment A: Reasons for Decisions

ATTACHMENT A

The following is to be entered as contents of the Register of Native Title Claims pursuant to S186

S186 (1)

(a) whether the application was filed in the Federal Court or lodged with a recognised State/Territory body

The application was filed in the Federal Court on 10 March 2006

(b) if the application was lodged with a recognised State/Territory body – the name of that body

Not applicable.

(c) the date on which the application was filed or lodged

10 March 2006

(d) the date on which the claim is entered on the Register

13 April 2006

(e) the name and address for service of the applicant/s

Applicant/s:

Billy Atkins, Miriam Atkins, Slim Williams, Anthony Charles, Kate George and Stan Hill

Address for service:

Malcolm O'Dell
Ngaanyatjarra Council (Aboriginal Corporation)
Level 2, 8 Victoria Ave
Perth

(f) the area of land or waters covered by the claim

As detailed in Attachment B and Attachment L to the application

(g) a description of the persons who it is claimed hold the native title

The native title claim group comprises those Aboriginal people who hold in common the body of traditional law and culture governing the area the subject of the claim and who:

(a) are descended from the following people, and who, in terms of traditional law and custom, are associated with the area covered by the application:

- Polly Wongi Telfer
- Tjurkur
- Yalwi
- Bluey Atkins
- Panapuru
- Yanangara
- Minmi

OR

(b) have a personal connection to the area covered by the application through their own birth and/or the birth of their ancestors on the area covered by the application or possession of traditional cultural knowledge of the area covered by the application, by which they claim the rights and interests and that claim is recognised by the wider native title claim group according to its traditional decision making processes. Claimants in this category include:

Descendants of Kunamin.

(h) a description of the native title rights and interests in the claim that the Registrar in applying the subsection 190B(6); considered, prima facie, could be established.

Over lands and waters where there has not been any extinguishment, or areas which attract the benefit of section 47B of the NTA the rights which are established are:

- (a) The right to speak for the area covered by the application;
- (b) The right to be asked permission to use the land and waters of the area covered by the application;
- (c) The right to live on the area covered by the application;
- (d) The right to make decisions about the use, enjoyment and management of the land and waters of the area covered by the application;
- (e) The right to hunt and gather and to take water and other resources (including ochre) on the area covered by the application;
- (f) The right to control the access to and activities conducted by others on the lands and waters of the area covered by the application;

- (g) The right to use and enjoy resources of the area covered by the application;
- (h) The right to maintain and protect areas of cultural significance to the native title claim group on the area covered by the application;
- (i) The right as against any other Aboriginal group or individual to be acknowledged as the traditional Aboriginal owners of the area covered by the application;
- (k) The right to participate, engage in and conduct ceremonial activities and other cultural activities on the area covered by the application.

Where exclusive possession can not be found the rights established are:

- (a) The right to speak for the area covered by the application
- (b) The right to camp in the area covered by the application;
- (c) The right to make decisions about the use and enjoyment of the land and waters of the area covered by the application that are binding only on those governed by the traditional laws and customs of the native title claim group;
- (d) The right to hunt and gather and to take water and other resources (including ochre) on the area covered by the application;
- (e) The right to use and enjoy resources of the area covered by the application;
- (g) The right to maintain and protect areas of cultural significance to the native title claim group on the area covered by the application;
- (h) The right as against any other Aboriginal group or individual to be acknowledged as the traditional Aboriginal owners of the area covered by the application;
- (j) The right to participate, engage in and conduct ceremonial activities and other cultural activities on the area covered by the application.

The rights are subject to the following:

- (a) To extent that any minerals, petroleum or gas within the area of the claim are wholly owned by the Crown in the right of the Commonwealth or the State of Western Australia, they are not claimed by the applicant;
- (b) The claim area does not include any offshore areas;
- (c) In accordance with sub section 61A(3) of the NTA, the applicant does not make claim to native title rights and interests which confer possession,

occupation, use and enjoyment to the exclusion of others in respect of any areas in relation to which a previous non-exclusive possession act, as defined in section 23F of the NTA, was done in relation to an area, and, either the act was an act attributable to the Commonwealth, or the act was attributable to the State of Western Australia and a law of that State has made provision as mentioned in section 23I in relation to that act;

- (d) In accordance with sub section 61A (4), paragraph 3 above is subject to such of the provisions of section 47B of the Act as apply to any part of the area in this application; and
- (e) The said native title rights are not claimed to the exclusion of any other rights or interests validly created by or pursuant to the Common law, a law of the State or a law of the Commonwealth.

S186 (2)

The Registrar may include in the Register such other details about the claim as the Registrar thinks appropriate.

Note: The claim group description is read as: 'all the descendants of the named apical ancestors, together with all the descendants of Kunamin.'

Map annexed at Attachment C