

National Native Title Tribunal

NATIONAL NATIVE TITLE TRIBUNAL

REGISTRATION TEST
REASONS FOR DECISION

DELEGATE: Monica Khouri

Application Name: Wuthathi People

Names of Applicant(s): Mr Gordon Pablo, Johnson Chippendale, Jean Mosby,
Douglas Wilson, Phillip Wallis, Cecil Macumboy

Region: Far North Queensland NNTT No.: QC97/43

Date Application Made: 09/10/1997 Federal Court No.: QG6150 of 1998

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'th).

DECISION – Wuthathi People

The application IS ACCEPTED for registration pursuant to s.190A of the *Native Title Act* 1993 (C'th).

Monica Khouri
Delegate of the Registrar pursuant to
sections 190, 190A, 190B, 190C, 190D

10 November 2000
Date of Decision

Brief History of the Application

The original application was lodged with the Tribunal on 9 October 1997.

A notice of motion to amend, together with an amended application was filed in the Federal Court on 3 March 2000. On 15 March 2000, Deputy District Registrar Robson of the Federal Court in Brisbane granted leave to the applicants to amend the application.

A further notice of motion to amend, and a further amended application was filed in the Federal Court on 23 August 2000. On 30 August 2000, Deputy District Register Robson of the Federal Court in Brisbane granted leave to the applicants to further amend the application.

Information considered when making the Decision

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

- The National Native Title Tribunal's Working/Personnel Files, Legal Services Files, Party Files and Registration Testing Files for QC97/43 (including the original application and amended applications with attachments, as received from the Federal Court).
- Tenure information acquired by the Tribunal in relation to the area covered by this application (if any).
- The National Native Title Tribunal Geospatial Database;
- The Register of Native Title Claims and Schedule of Native Title Applications;
- The Native Title Register;
- Original Form 1 lodged 09/10/97;
- Affidavit by **[name deleted to protect the privacy of an individual]** sworn 09/11/99;
- Affidavit by **[name deleted to protect the privacy of an individual]** sworn 10/11/99;
- Affidavit by **[name deleted to protect the privacy of an individual]** sworn 09/11/99;
- Amended Form 1 filed 03/03/00;
- Amended Form 1 filed 23/08/00;
- Anthropological materials entitled "Attachment E Description of Native Title Rights and Interests" and "Attachment F General Description of Native Title Rights and Interests Claimed" (I note that these materials although originally provided to me separately are now found at attachments E and F to the amended application filed in March 2000);
- Letters and Email communication from Cape York Land Council ("CYLC") dated 02/11/99, 18/02/00, 07/08/00, 15/08/00, 07/09/00, 10/11/00;
- Affidavits of **[names deleted to protect the privacy of an individual]** sworn 1/3/2000 and 29/02/00 respectively

Copies of the affidavits, anthropological materials, and letters provided directly by the applicants for my consideration in the application of the registration test in QC97/43 have been 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.

The State has not provided any comments in response to the contents of this material.

Note: I have not considered any information and materials provided in the context of mediation of the group's native title application. This is due to the without prejudice nature of mediation

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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.

A. Procedural Conditions

s.190C(2)

Information, etc., required by section 61 and section 62:

The Registrar must be satisfied that the application contains all details and other information, and is accompanied by any affidavit or other document, required by sections 61 and 62.

Details required in section 61

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

Reasons relating to this sub-condition

The names of the applicants and their address for service are detailed at the commencement and at Part B of the application. I note that [applicants legal representative] have confirmed that the reference to [reference to incorrectly named applicant deleted to protect privacy of an individual] in Part B of the application is a typographical error and that the name should read [applicant's name deleted to protect privacy of an individual].

Result: Requirements met

s.61(4) *Names the persons in the native title claim group or otherwise describes the persons so that it can be ascertained whether any particular person is one of those persons*

Reasons relating to this sub-condition

Schedule A of the application describes the native title claim group. For the reasons which led to my conclusion (below), that the requirements for s.190B(3) have been met I am satisfied that the persons in the native title claim group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group.

Result: Requirements met

s.61(5) *Application is in the prescribed form, lodged with the Federal Court, contains prescribed information, and is accompanied by any prescribed documents*

Reasons relating to this sub-condition

The application is in the form prescribed by Regulation 5(1)(a) of the *Native Title (Federal Court) Regulations* 1998. The application was filed in the Federal Court as required pursuant to s.61(5)(b) of the Act.

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 those sections. As required by s.61(5)(d) the application is accompanied by an affidavit as prescribed by s.62(1)(a) and a map as prescribed by s.62(2)(b). I refer to my reasons in relation to those sections of the Act.

I note that s.190C2 only requires me to consider details, other information and documents required by sections 61 and 62. I am not required to consider whether the application has been

accompanied by the payment of a prescribed fee to the Federal Court. For the reasons outlined above, it is my view that the requirements of s.61(5) have been met.

Result: Requirements met
Details required in section 62(1)

s.62(1)(a) Affidavits address matters required by s.62(1)(a)(i) – s.62(1)(a)(v)

Reasons relating to this sub-condition

Affidavits by the 6 applicants accompanied the first amended application in March 2000. I note that the applicants have not provided fresh affidavits to accompany the re-amended application filed 23 August 2000. I do not require fresh s62(1)(a) affidavits to be sworn by each applicant, given the circumstances surrounding the re-amendment of the application. In making this decision, I have had regard to these circumstances:

- the applicants have already sworn affidavits that meet the requirements of s62(1)(a);
- the further amendment of the application relates to matters of a technical nature, concerning clarification of the description of a section of the external boundary, attachment of an additional map showing the coastal boundary of the claim area and re-wording the claimed native title rights and interests. In this latter respect, the applicants have removed from the application examples of how the claimed rights and interests of “the fullest beneficial ownership, including possession, occupation, use and enjoyment” are exercised. The extent of the rights and interests claimed has not been amended. (see schedules B and E of the application respectively);
- 5 of the 6 applicants reside in remote areas of Far North Queensland which make it difficult and expensive for them to re-swear their s62(1)(a) affidavits;
- the applicants’ legal representative has sworn an affidavit accompanying the notice of motion to amend ([**name deleted to protect the privacy of an individual**], 21/08/00), stating that the legal representative has been instructed by the native title claim group to amend the application, and the proposed amendments are in accordance with those instructions.

Result: Requirements met

s.62(1)(c) Details of traditional physical connection (information not mandatory)

Comment on details provided

The application contains some details relating to ‘traditional physical connection’ at Schedules G and M.

Result: Provided

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

s.62(2)(a)(i) Information identifying the boundaries of the area covered

Reasons relating to this sub-condition

For the reasons that led to my conclusion that the requirements of s.190B(2) have been met, I am satisfied that the information and maps contained in the application and provided by the applicant

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

Result: Requirements met

s.62(2)(a)(ii) Information identifying any areas within those boundaries which are not 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, I am satisfied 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

s.62(2)(b) 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, I am satisfied that the maps contained in the application sufficiently identify the boundaries of the claim area.

Result: Requirements met

s.62(2)(c) Details/results of searches carried out by the applicant to determine the existence of any non-native title rights and interests

Reasons relating to this sub-condition

The requirements of s.62(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 applicant in order to be satisfied that the application complies with this condition. It would be unreasonably onerous to expect the applicant to have knowledge of, and obtain details about all searches carried out by every other person or body. Details and copies of searches conducted by the applicant are found at A7 and A8 of the original application. There is no information on the Tribunal files to indicate that the applicant has conducted searches other than those disclosed in the original application.

Result: Requirements met

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

Reasons relating to this sub-condition

An adequate description of the native title rights and interests claimed by the applicant is contained in Schedule 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. I have outlined these rights and interests in my reasons for decision under s.190B(4).

Result: Requirements met

s.62(2)(e)(i) Factual basis – claim group has, and their predecessors had, an association with the area

Reasons relating to this sub-condition

This information is contained at schedule F and attachment F of the application (as amended in March 2000). Schedule A also contains information relevant to this section. It is my view that this information amounts to a general description of the factual basis so as to comply with the requirements of s.62(2)(e)(i). Further information about the claim group's association with the area, and that of their predecessors, is contained in affidavits provided to the Tribunal on a confidential basis.

Result: Requirements met

s.62(2)(e)(ii) Factual basis – traditional laws and customs exist that give rise to the claimed native title

Reasons relating to this sub-condition

This information is contained at schedule F and attachment F of the application (as amended in March 2000). It is my view that this information amounts to a general description of the factual basis so as to comply with the requirements of s.62(2)(e)(ii). Further information about the existence of traditional laws and customs that give rise to the claimed native title is contained in affidavits provided to the Tribunal on a confidential basis.

Result: Requirements met

s.62(2)(e)(iii) Factual basis – claim group has continued to hold native title in accordance with traditional laws and customs

Reasons relating to this sub-condition

This information is contained at schedule F and attachment F of the application (as amended in March 2000). It is my view that this information amounts to a general description of the factual basis so as to comply with the requirements of s.62(2)(e)(iii). Further information about the claim group continuing to hold native title in accordance with traditional laws and customs is contained in affidavits provided to the Tribunal on a confidential basis.

Result: Requirements met

s.62(2)(f) If native title claim group currently carry on any activities in relation to the area claimed, details of those activities

Reasons relating to this sub-condition

The application provides general details of the activities which the native title claim group carries out in relation to the area claimed at schedule G of the application. It is my view that this description of activities is sufficient to comply with the requirements of s.62(2)(f).

Result: Requirements met

s.62(2)(g) *Details of any other application 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)*

Reasons relating to this sub-condition

Schedule H of the application states '*Not Applicable*' in response to the request for these details. A search of the Tribunal's geospatial data confirms that there are no 'overlapping' applications. I am satisfied that the application complies with the requirements of s 62(2)(g).

Result: Requirements met

s.62(2)(h) *Details of any s.29 notices given pursuant to the amended Act (or notices given under a corresponding State/Territory law) in relation to the area, which the applicant is aware of*

Reasons relating to this sub-condition

The application at Schedule I states that '*None*' in response to the request for these details.

Result: Requirements met

Reasons for the Decision

For the reasons identified above the application contains all the details and other information, and is accompanied by the affidavits and other documents, required by ss61 and 62 of the NTA. I am satisfied that the application meets the requirements of this condition.

Aggregate Result: Requirements met

s.190C(3)

Common claimants in overlapping claims:

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 section 190A.***

Reasons for the Decision

Section 190C3 requires me to be satisfied that any person who is a member of the Wuthathi native title claim group (as defined in this native title determination application - “the Wuthathi application”) is not also a member of the native title claim group for any previous native title determination application (“the previous application”), where:

- (a) the previous application overlaps in whole or part the claim area covered by the Wuthathi application (cf. s190C3(a)); and
- (b) an entry relating to the claim in the previous application was on the Register of Native Title Claims when the Wuthathi application was made (cf. s190C3(b)); and
- (c) the entry in the Register was made, or not removed, as a result of consideration of the previous application under s190A (cf. s190C3(c)).

The Wuthathi application was lodged with the National Native Title Tribunal on 09/10/97 - this is the date it was “made” for the purposes of s190C3(b).

A search of the Geospatial Database and Register of Native Title Claims reveals that:

1. no applications were entered on the Register when the Wuthathi application was lodged with the Tribunal on 09/10/97; and
2. no applications have been made since 09/10/97 that cover any part of the area covered by the Wuthathi application.

To conclude, there are no applications made either before or after 09/10/97 that overlap with the area of the Wuthathi application. Therefore the section has no application to this claim.

Result: Requirements met

s.190C(4)(a) or s.190C(4)(b)

Certification and authorisation:

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

(a) the application has been certified under Part 11 by each representative Aboriginal/Torres Strait Islander body that could certify the application in performing its functions under that Part; or

Note: An application can be certified under section 203BE, or may have been certified under the former paragraph 202(4)(d)

(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 paragraph 4(a), the Registrar cannot be satisfied that the condition in subsection (4) has been satisfied unless the application:

(a) includes a statement to the effect that the requirement set out in paragraph (4)(b) has been met; and

(b) briefly set out the grounds on which the Registrar should consider that it has been met.

Reasons for the Decision

The application has not been certified pursuant to s. 190C(4)(a). I must therefore be satisfied that the applicants are members of the native title claim group and are 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 pursuant to s190C4(b).

There are two limbs to s190C(4)(b):

1. the applicants must be members of the native title claim group;
2. the applicants must be authorised to make the application and deal with matters arising in relation to it by all other persons in the claim group.

Each of the 6 applicants have sworn affidavits pursuant to s62(1)(a) that they are authorised to make the application and deal with matters arising in relation to it by all the persons in the claim group and stating the basis on which they are so authorised. Further information about the authorisation of the applicants is found in the application at schedule R and attachment R. Additionally, the applicants have provided directly to me the following information in relation to their authorisation pursuant to s190C4(b):

1. Affidavit by **[name deleted to protect the privacy of an individual]** dated 29/02/00 (principal legal officer with the applicants' legal representative);
2. Affidavit by **[name deleted to protect the privacy of an individual]** dated 01/03/00 (an anthropologist employed by the applicants' legal representative).

The First Limb

Each of the 6 applicants swears in their s62(1)(a) affidavit (refer para. (v)) that they are senior members of the native title claim group. Additionally, 2 of the applicants swear, in confidential affidavits provided separately to the Registrar for the purposes of s190A registration, that they are

descended from **[name deleted to protect the privacy of an individual]**, one of the Wuthathi ancestors named in schedule A of the application.

I note also that the 6 applicants all share surnames with a descent group or family name listed in schedule A as being part of the native title claim group.

I am satisfied therefore that the six applicants are members of the native title claim group on the basis of their sworn testimony to this effect, supported by the information referred to above in schedule A of the application describing the native title claim group.

The Second Limb

At schedule R of the amended application, it is stated that:

“The Applicants are members of the native title claim group and are authorised to make the Application and to deal with matters arising in relation to it by all the other persons in the native title claim group in accordance with their traditional laws and customs, and as set out in the attached affidavits.”

The affidavits attached to the application by each of the 6 applicants provide further information as to their authorisation (refer para. (v)). They all state that the basis of their authorisation as applicants is:

- as senior members of the native title claim group;
- nominated by unanimous agreement of the members of the native title claim group present at a series of meetings in Lockhart on 15 September 1999;
- to which all known members of the native title claim group had been invited; and
- in accordance with their traditional laws and customs.

The Act, at s251B, recognises that applicants may be authorised using a decision making process that is either:

- (a) under traditional laws and customs of the group; or
- (b) agreed to and adopted by the native title claim group.

The s62(1) affidavits by the applicants and the information in Attachment R illustrate that the claim group has utilised a traditional decision making process to authorise the applicants to make the application and to deal with matters arising in relation to it. As a consequence I am treating the authorisation as having been carried out under s251B(a).

I have found the information in attachment R probative in reaching my decision under s190C4(b). It usefully describes the group’s traditional decision making processes. I note that this information was prepared by the applicants’ legal representative’s anthropologist (**[name deleted to protect the privacy of individual]** (01/03/00) para. 11). Relevantly, it is stated in attachment R that:

- the group’s traditions and customs dictate that the descent group (commonly referred to as the family) is the principal structural unit through which decision-making takes place;
- the authorisation process involves the group coming to a collective decision through a process of consultation, discussions and meetings in which each family is given the opportunity to be involved, with the final decision being one of consensus among those present;
- key members of families have the opportunity to participate (acting on behalf of their family) to come to a collective decision on behalf of the wider group;

- this process involves several levels of authorisation:
- firstly, there are internal processes within the families to select the person or persons with authority to participate in the authorisation process and to decide to what extent the person or persons may speak for the family or part of it. This may be a complex and contested process, depending on the number of people claiming authority and the claimed extent of the authority to speak for the family. However there are a number of customary principles entailed in this process, including looking at the person's seniority, specialist knowledge, experience or skills; looking at whether they will or have acted in the interests of the group; the transparency of the process; and ultimately reaching a decision through consensus;
- secondly, there is the collective decision by families and their spokespersons to authorise the claim and the applicants. This does not involve any one single or formally constituted procedure, nor is it a process that is necessarily separate from or subsequent to the family representation process;
- the final authorisation of a claim is one reached by consensus among those who, through the process itself, come to be accepted as holding authority. This process is characteristically flexible and evolves over time to a point at which there is a consensus that the process itself has been sufficient and that there is a commonly accepted decision.
- ultimately, the emphasis is on the process and the application of customary principles relevant to group representation and decision making, rather than on normative rules about representation and individual authority.

It can be seen from the applicants' affidavits that their authority to act as applicants stems from:

1. their seniority in the group – all applicants depose that they are authorised "*as a senior member of the group*";
2. the unanimous agreement of members of the group that they be so nominated, this taking place at a series of meetings in Lockhart on 15 September 1999, to which all known members of the group had been invited; and
3. their traditional laws and customs.

The evidence of **[name deleted to protect the privacy of an individual]** (29/02/00), the principal legal officer employed by the group's legal representative (and, at the time, the sole Native Title Representative Body for the area in which the claim is located), is that:

- she was present at a meeting of the group at Lockhart River on 10 December 1997;
- all known members of the group had been invited to attend that meeting; and
- representatives of the majority of families who constitute the group were present at the meeting.

[name deleted to protect the privacy of an individual] deposes that at this meeting she advised the people present of the requirements of the Act to nominate an individual or individuals who are authorised to make the application and deal with matters arising in relation to it; of the role that person would play at law; and what this would mean in practical terms for the named applicants. **[name deleted to protect the privacy of an individual]** also deposes that in the course of this meeting the members of the native title claim group present nominated and authorised the named applicants as the applicants and to deal with matters arising from it.

[name deleted to protect the privacy of an individual] evidence relates to a meeting of the claim group on 10 December 1997, at which she was present. The applicants' evidence refers to later meetings on 15 September 1999.

It is apparent that this group has an ongoing process of consensual consultation in relation to the making of decisions in relation to their native title claim – this is supported by the information in attachment R. Although **[name deleted to protect the privacy of an individual]** does not refer to the 1999 meetings related by the applicants, her evidence does not contradict the applicants' evidence but merely corroborates the consultative form of traditional decision-making adopted by this group.

[name deleted to protect the privacy of an individual], in his affidavit sworn 01/03/00, explains that he is an anthropologist employed by the applicants' legal representative. This position requires **[name deleted to protect the privacy of an individual]** to liaise with, coordinate and supervise all anthropologists who are engaged as consultants by the land council, and in this position he has been involved with the work of the anthropologist working on the claim (paras. 3 & 7). **[name deleted to protect the privacy of an individual]** has been in the position since **[year deleted to protect the privacy of an individual]** and is personally familiar with many of the systems of Aboriginal traditional law and custom on Cape York through his work (para. 4). He prepared the description of the authorisation processes under traditional law and custom on Cape York at attachment R of the amended application (para. 11).

[name deleted to protect the privacy of an individual] states that to the best of his knowledge, the information at Attachment R is a true representation of decision making processes under the current system of traditional laws and custom relating to the authorisation of family representatives to deal with their native title lands and waters, which is recognised and followed by members of the native title claim group (para. 12). The evidence of **[name deleted to protect the privacy of an individual]** lends further weight to the evidence in attachment R of the amended application.

I am therefore satisfied that the decision making process referred to in the affidavits is evidence of the proper authorisation of the application, as defined in s251B of the Act.

To conclude I am satisfied that:

1. this group has a process of decision-making that, under the traditional laws and customs of the persons in the native title group, must be complied with in authorising the applicants;
2. the process involves the group coming to a collective decision through consultation, discussions and meetings in which representatives from family or descent groups are given authority to speak for their family; the families and their representatives are given the opportunity to be involved in the decision-making; and the final and collective decision is a consensual one involving those accepted by the group (through consensus and application of customary principles) as having authority for the families comprised in the group. The emphasis is on the process and the application of customary principles relevant to group representation and authority.
3. the applicants are so authorised by the persons in the group in accordance with this traditional decision making process.

It follows that I am satisfied that the requirements of s190C5 are met as:

- the statement at schedule R, as elaborated upon in attachment R and the affidavits of the applicants constitute the requisite statement under s190C5(a);
- the information in attachment R and in the affidavits referred to herein adequately set out the grounds on which I should consider that s190C4(b) has been met.

Result: Requirements met

B. Merits Conditions

s.190B(2)

Description of the areas claimed:

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 and waters.

Reasons for the Decision

External Boundaries and Map

External Boundaries

Specific Land Parcels

The two land parcels are described with an official real property description and the State's unique identifying reference, namely, the lot and plan number by which the land is officially known, and also by reference to their current or former tenure identification. The tenure identifiers refer to a pastoral holding and occupational licence identifier respectively.

The description by lot/plan number and tenure references is an official real property description and the State's unique identifying reference. The area may therefore be located from the State's land identification and tenure record system. I am satisfied that the written description of the two specific parcels making up the claim area in the application sufficiently identifies the land according to the State's public record system.

Area between the coastal boundaries of the 2 specific land parcels and the low water mark (including an esplanade)

In addition to the two described parcels of land, it is claimed at attachment B that "*the area covered by the application extends from the coastal boundary of Lot 5117 on CP857658 and Lot 73 on OL343 to the low water mark. This area includes the Esplanade adjacent to Lot 5117 on Plan PH576 and Lot 73 on Plan OL343. The esplanade commences at the northwest corner of the coastal boundary of Lot 5117 on Plan CP857658 and follows the coastal boundary of Lot 5117 on Plan CP857658 and Lot 73 on Plan OL343, east. The esplanade ends at the southern corner of the coastal boundary of Lot 73 on Plan OL343.*

I am satisfied that the written description of area out to the low water mark is sufficient to locate this area on the surface of the earth with reasonable certainty, particularly when read in conjunction with the maps of the claim area, at attachment C of the application. It is apparent that this area runs contiguous to the coastal boundary of Lot 5117 on Plan CP857658¹ and Lot 73 on Plan OL343, and includes an esplanade area, also contiguous to these two land parcels. Lot 5117 on Plan CP857658 is the subject of a plan certified as being accurate by a licensed surveyor (refer attachment C). Lot 73 on Plan OL343 is the subject of a plan prepared by the State's Department

¹ The reference in attachment B at dot point 3 to 'Lot 5117 on Plan PH576' is an obvious typographical error. PH576 is the old pastoral holding plan reference for Lot 5117 on Plan CP857658 – refer letter from CYLC dated 7/8/00; email from Geospatial dated 31/05/00 and maps at attachment C. I direct that the Register entry for this application refer, in this instance, to Plan CP857658 and not to Plan PH576.

of Lands (refer attachment C). Both land parcels are the subject of a map prepared by the Tribunal's Geospatial Analysis & Mapping Branch ("Geospatial") (see again at attachment C), on which the low water mark adjacent to each parcel is clearly shown. The two land parcels forming the landward boundary of the area out to the low water mark are land parcels that are defined and described in the State's land identification and tenure record system. Given these circumstances, I have formed the view that the boundaries of the area out to the low water mark are clearly described and ascertainable.

Map

There are three maps of the claim area in attachment C of the application, namely a copy of crown plan 857658, a copy of the plan of occupational licence OL343 and a map prepared by Geospatial. The external boundaries of each of the 2 specific parcels are shown clearly on each of the three maps in attachment C.

The Geospatial map also depicts the coastal boundary of each land parcel and the low water mark adjacent to each parcel. The external boundary lines are finely drawn in black ink. This map is drawn to a scale and contains a series of numerical geographic co-ordinate references.

I am satisfied that the maps submitted with the application meet the requirements of s62(2)(b) as the boundaries of the areas covered by the application can be identified.

On this basis, I am also satisfied that the physical description of the external boundaries meets the requirements of s62(2)(a)(i).

Internal Boundaries

The internal boundaries are described at schedule B and attachment B of the application. The effect of the description of the internal boundaries is the exclusion from the claim area of land subject to the classes of tenure defined in s23B and s23G of the Act (refer paras. A & C of schedule B).

The statement in schedule B of the application about the areas within the boundaries of the claim area that are not covered by the application is in these terms:

- A. The claim area does not include any land or waters subject to validly granted Previous Exclusion Possession Acts, as defined by s23B of the Native Title Act, except to the extent that sections 47, 47A or 47B of the Native Title Act may apply.*
- B. To the extent that any area of the claimed area is or has been the subject of a Previous Non-Exclusive Possession Act, as defined by s23F of the Native Title Act, the native title claim group do not claim possession, occupation, use and enjoyment of the area of the exclusion of all others.*
- C. For any land or waters in the claim area subject to a validly granted Previous Non-Exclusive Possession Act, as defined by s23G of the Native Title Act, then the native title rights and interests claimed in relation to such land and or waters do not include any native title rights or interests which were extinguished by that validly granted Previous Non-Exclusive Possession Act, except to the extent that sections 47, 47A or 47B may apply.*
- D. In respect of the areas listed in Attachment B, the validity of any grants that, if valid, would constitute Previous Exclusion Possession Acts as defined by s23B of the Native Title Act is contested. If those grants were valid, then the claimed area does not include those areas*

subject to those validly granted Previous Exclusive Possession Acts, in accordance with A above.

- E. *No tenure history searches have been undertaken (see schedule D). The applicants are not aware of any land or waters which may have been subject to PEPAs (in accordance with paragraph (A), above) within the area covered by this application. One possible exception to this is the esplanade described in paragraph (3) of attachment B, however, the validity of that esplanade is not conceded.*

This class exclusion amounts to information that enables the internal boundaries of the application area to be adequately identified. This may require considerable research of tenure data held by the State of Queensland, but nevertheless it is reasonable to expect that the task can be done on the basis of the information provided by the applicants.

In the event that the tenure information is obtained, the stated exclusions referred to above should make it possible to identify the areas within the external boundaries of the claim area that are excluded.

I note that para. B in this section of the application does not amount to the exclusion from the claim area of any land that may have been covered by a Previous Non-Exclusive Possession Act (“PNEPA”). It is relevant only if any part of the claim area is or has been the subject of a PNEPA, and in that circumstance the native title claim group does not claim exclusive possession of PNEPA area.

I am satisfied that the approach adopted by the applicants of:

- contesting the validity of any PEPA areas (including the dedication of the esplanade area); and
- only excluding from the claim area those PEPA areas which were the subject of valid grants;

does not contravene either the provisions of s190B2 or s62(2)(a)(ii) (see paras. D and E of schedule B).

I am satisfied that the physical description of the internal boundaries meets the requirements of s62 (2)(a)(ii).

To conclude, I am satisfied that the information and the maps 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 or interests are claimed in relation to particular areas of land or waters.

Result: Requirements met

s.190B(3)

Identification of the native title claim group:

The Registrar must be satisfied that:

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

Reasons for the Decision

To meet this condition of the registration test, I must be satisfied as to either s190B3(a) or (b).

The applicants have not named all of the persons in the native title claim group. Consequently, the requirements of s.190B(3)(a) are not met.

The applicants have provided a description of the persons in the native title claim group. To meet the requirements of s190B3(b), the persons in the group must be described sufficiently clearly, so that it can be ascertained whether any particular person is a member of the native title claim group.

A description of the persons in native title claim group is found at schedule A of the application.

Schedule A contains this description of the native title claim group:

- the native title claim group is the Wuthathi People;
- Wuthathi is the name by which the group identify themselves and by which they are identified by other Aboriginal people and groups in the Northeast Cape York region;
- The Wuthathi People are continuous both in terms of biological descent and of continuous transmission of the Wuthathi identity from the group of the same name recorded in and around the claim area from late 19th century and in various written sources since;
- current membership of the group is primarily through the principle of cognatic descent (ie. descent traced through both male and female Wuthathi ancestors) - sometimes also called “ambilineal descent”;
- members trace descent from a limited set of persons recognised in the regional Aboriginal community as associated with Wuthathi identity and with the claim area, soon after European occupation;
- current membership of the group “consists of the descent groups listed below (comprehensively but not necessarily exhaustively) by their main surnames, together with the apical ancestors from whom they trace their descent cognatically:

The [name of family(s)] being descendants of [name of apical ancestor(s)]”; or

Any descendants of [name of apical ancestor(s)].

There are 7 descent groups described in this fashion.

Finally in schedule A is a description of how membership of the group “*includes recruitment by adoption into the group, in accordance with traditional laws and customs.*”

It is apparent from the information in schedule A that a person may be reckoned as a member of the native title claim group through either being:

- descended by cognatic descent (ie. through one’s father or one’s mother) from the ancestors named in schedule A, and consequently, as a member of the named family descent group (this, as stated in schedule A, is the primary method of determining whether a person is a member); or
- adopted into the group, in accordance with traditional laws and customs.

Members Descended Cognatically from Named Ancestors

I am satisfied that the descendants of the named persons (described in the listed descent groups in schedule A) could be identified with minimal inquiry and as such, ascertained as part of the native

title claim group. By referencing the identification of members of the native title claim group as descendants of named ancestors, it is possible to objectively verify the identity of members of the native title claim group, such that it can be clearly ascertained whether any particular person is in the group.

I note that it is stated in schedule A that the listed cognatic descent groups (and the ancestors from whom descent group members are descended) is a comprehensive but not exhaustive list. I have formed the view that s190B3(b) does not require an exhaustive list. What is required under s190B3 is a sufficiently clear description so that it can be ascertained whether any particular person is in the group.

I find that the information in schedule A is a sufficiently clear description for the purposes of s190B3(b). I make this finding because of the information in schedule A to the effect that:

1. claim group members trace their descent from a *'limited set of persons recognised in the regional Aboriginal community as associated with Wuthathi identity, and with the claim area, soon after European occupation'*;
2. the group is continuous both in terms of biological descent and of continuous transmission of the Wuthathi identity from the group of the same name recorded in and around the claim area dating back to 1896 (Meston) and in various written sources since.

I have also had regard to express statements in the application that current membership of the group is determined primarily according to principles of cognatic descent from the group's ancestors, and less commonly, through adoption. That is, membership of the group is determined exclusively either cognatically or by adoption. I also find that there exists a comprehensive anthropological and genealogical record in relation to this group. This, in my view, is apparent from the precise identification in schedule A of the named descent groups and of the ancestor or ancestors that head each group. I note also the references in schedule A to other land claims prosecuted by this group over their traditional country pursuant to state legislation.

Accordingly, if there are other descent groups within the Wuthathi people that have not been listed in schedule A, a determination as to whether or not persons within the previously unidentified descent groups are in fact descended from ancestors of the group would be possible on an objective inquiry, having regard to:

- the obvious anthropological record that exists in relation to this group;
- information in schedule A, describing the constitution of the native title group, and, the group's recognised descent from the occupants in and around the claim area.

To conclude I am satisfied that a person could establish identity as a member of the claim group through the principle of cognatic descent from the group's ancestors (as named and otherwise described in schedule A) and that this is a sufficiently clear description for the purposes of s190B3(b).

Members Recruited by Adoption

Schedule A also sets out what is meant by *'recruitment by adoption into the group, in accordance with traditional laws and customs'*.

Adoption is described as arising by similar means and having much the same meaning and status as it does in the general Australian community. The application refers to the following features

by which it can be objectively tested whether a person has been adopted according to traditional law and custom:

- was the person taken as a child into one of the Wuthathi descent groups by an adult who raised the child as one of their own (commonly called “growing up” that person);
- whilst growing up, did the child come to identify as a member of that family, and were they commonly identified as such by the other members;
- were they given the same rights within the family as other members – this would be expected to flow on to rights in land as well;
- as the child matured did they become recognised as a member of the adopting adult’s descent group by a significant number of descent groups and eventually by a majority of the senior people in the wider Wuthathi community;
- has the adopted person closely associated with the applicants’ community throughout their life, and held an active association with, knowledge of, etc. the traditional country of the applicants’ group, comparable to the rest of the group and prior to the native title application.

These are all clearly understandable ideas and I am satisfied that the principles of recruitment by adoption is described sufficiently clearly in the application, so that it can be said whether a person is a member by this process. I note particularly the statements in schedule A that the incidence of adoption is low, it is not an open-ended or casual process, and cases of adoption do not alter the fact that descent is the primary principle for recruitment to the Wuthathi people.

I am satisfied therefore that the overall description of the claim group is sufficiently clear to ascertain whether any particular person is in the group.

Result: Requirements met

s.190B(4)

Identification of claimed native title:

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

Reasons for the Decision

Under this limb, I must be satisfied that the native title rights and interests detailed in Schedule E of the application can be readily identified.

The description of the native title rights and interests claimed must not merely consist of a statement to the effect that the native title rights and interests are “all native title interests that may exist, or that have not been extinguished at law”[see s62(2)(d) of the Act].

The description contained in schedule E of the application of the claimed the native title rights and interests is in these terms:

The native title in the lands and waters covered by the application (“the claim area”) is equivalent to the fullest beneficial ownership, including possession, occupation, use and enjoyment to the exclusion of all others subject to:

- a) the valid laws of the State of Queensland and the Commonwealth of Australia; and*
- b) any valid rights and interests conferred upon non-native title holders, or the subject of an agreement made under the Native Title Act 1998 (Cth.), or by the principles of Aboriginal law and custom.*

I find that the claimed rights and interests described in schedule E are clearly and readily identifiable.

I need only be satisfied pursuant to s190B4 that at least one of the rights and interests sought is sufficiently described for it to be readily identified. As I am satisfied that all of the rights and interests named in schedule E can be readily identified, the application meets the requirements of this section and s62(2)d.

Result: Requirements met

s.190B(5)

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.*

Reasons for the Decision

There are three criteria to consider in determining over all whether or not I am satisfied that there is a sufficient factual basis to support the applicants' assertion about the existence of the native title rights and interests listed at Schedule E of this application.

(a) An association with the area;

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

In considering this condition, I have had regard to the following information:-

- Schedules A & G of the application;
- anthropological material at attachments E and F. This information was prepared by the anthropologist, [name deleted to protect the privacy of an individual] (refer letter from [applicants legal representative] dated 02/11/99). [name deleted to protect the privacy of an individual] anthropological qualifications and his working relationship with the Wuthathi people is outlined in the affidavit by [name deleted to protect the privacy of an individual] (the anthropologist at [applicants legal representative] responsible to supervise the council's consultant anthropologists). On the basis of the information from [name deleted to protect the privacy of an individual], I accept that [name deleted to protect the privacy of an individual] is an authoritative source in relation to the Wuthathi People and the issues arising under this section; and
- the affidavits of [names deleted to protect the privacy of an individual], members of the native title claim group.

It is clear from the confidential affidavits that they have an association with the claim area and are descended (in accordance with Wuthathi traditional laws and customs) from Wuthathi people who also had an association with the claim area. See:

- [name deleted to protect the privacy of an individual], paras 3, 4, 5, 10-13, 15, 16
- [name deleted to protect the privacy of an individual], paras 3-5, 8-12, 14, 16, 19, 22-23
- [name deleted to protect the privacy of an individual], paras 2-4, 6-11, 15-16, 18-33, 37-38, 40-43

See also the following anthropological references relevant to this section:

- Information at p.24 of attachment E describing how the group exercise management and control of Wuthathi country, including a reference to evidence by one of the applicants

[name deleted to protect the privacy of an individual] in Aboriginal Land Act proceedings by the Wuthathi over their traditional country that there was a responsibility to look after country coming ‘from our ancestors’ and that it had been passed ‘from generation to generation, from one family to another family’ [Land Tribunal Report 1998:p.92:para 288])

- Information at p.24 of attachment E telling how the Wuthathi take both water and sand from a major site on Shelburne Bay (the coastal waters adjacent to the claim area)
- References at p.25 of attachment E to statements in the Land Tribunal Report relating to the Wuthathi People’s serious attitude to their responsibilities for their land, including actions to stop commercial development on their land; the training and employment of Wuthathi men as rangers in areas including traditional Wuthathi country; the establishment of the Wuthathi Council Aboriginal Corporation and the establishment of an outstation on country
- P.30, Attachment F under the heading “The native title claim group has, and the predecessors of those persons had, an association with the area”

(b) existence of traditional laws acknowledged by, and traditional customs observed by, the native title claim group

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

I have had regard to information contained at Schedules F & G of the application, the anthropological material at attachment F and the affidavits of **[names deleted to protect the privacy of an individual]**, members of the native title claim group. It is clear from their affidavits that there exist traditional laws and customs observed by the native title claim group that gives rise to the claim to native title rights and interests. The laws and customs include:

- rights to occupy, possess, use and enjoy the claim area, described eloquently by the deponents as having ‘the language for the country. We are the only ones who have stories for the country and who can introduce others to the area’;
- elders taking younger Wuthathi people on country and also teaching them about their ancestors, bush medicine, traditional land and resource management (eg. how to fish, hunt, when to burn grass, where to camp), sacred stories and places, how to behave at these sacred places
- establishment of an outstation on country, and taking Wuthathi children there to teach them about Wuthathi country and traditional laws and customs (eg. language, stories, sacred places, the spirits of the old people, how to use the land and its resources);
- observing traditional laws and customs at sacred places and the telling of stories, such as those who are not initiated not going on to certain places, elders introducing visitors to the spirit of the place in language, not repeating certain of their sacred stories;
- requiring outsiders to seek permission to come onto and use the claim area and exercising responsibility for Wuthathi country. This has found expression in the Wuthathi establishing their own aboriginal corporation to protect Wuthathi traditional country and culture; to prosecute land claims under State legislation (which have been successful) and to protest and lobby against commercial/mineral development which would destroy a sacred story place
- repatriation and burial of remains found on country to ‘return it to its rightful country and so that the spirit will rest;
- observance of initiation ceremonies and the role this plays in the Wuthathi peoples’ spiritual connection to land (See:
 - **[name deleted to protect the privacy of an individual]**, paras 8-9, 12-14, 16-17, 20-21
 - **[name deleted to protect the privacy of an individual]**, paras. 6, 7, 9-10, 12, 16, 23-25

- **[name deleted to protect the privacy of an individual]**, paras. 2, 7, 9, 16, 18-19, 20, 22-24, 26-28, 30-33, 36-38, 40-43
- p.26, Attachment F, under the heading “(b) There exist traditional laws and customs that give rise to the claimed native title”

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

Under this criterion, I must be satisfied that the native title claim group continues to hold native title in accordance with their traditional laws and customs. For the reasons set out in 190B(5)(b) and having regard to the same material I am satisfied that there is a factual basis for the claim group continuing to hold native title in accordance with those traditional laws and customs.

Result: Requirements met

s.190B(6)

Prima facie case:

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

Reasons for the Decision

Under s190B6 I must consider that, prima facie, at least some of the native title rights and interests claimed can be established.

‘Native title rights and interests’ are defined at s223 of the Native Title Act. This definition specifically attaches native title rights and interests to land and water, and in summary requires:

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

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

I have adopted the ordinary meaning referred to by their Honours when considering this application and relied on the information contained in schedule G of the application, the confidential affidavits referred to in my reasons under s190B5 and the anthropological information at attachments E and F of the application.

I note that the applicants do not claim exclusive possession, where such a claim cannot be made out because of the existence of a previous non-exclusive possession act. This is clearly stated in Schedule B of the amended application:

“To the extent that any area of the claimed area is or has been the subject of a Previous Non-Exclusive Possession Act, as defined by s23F of the Native Title Act, the native title claim group do not claim exclusive possession, occupation, use and enjoyment of the area to the exclusion of all others.”

In addition the applicants have framed their claimed rights and interests to be subject to the valid laws of the State and Commonwealth and any valid rights or interests conferred upon non-native title holders (refer schedule E).

The rights and interests claimed by the native title claim group are set out in schedule E of the application. The applicants claim *‘the fullest beneficial ownership, including possession, occupation, use and enjoyment to the exclusions of all others’*

The deponents of the confidential affidavits refers to members of the group:

- having the language for their country, and being the only ones who have the stories for the country and who can introduce others to the area
- establishing an outstation, being on the land to prevent commercial/mineral development that threatens their land,
- taking young Wuthathi people on country to teach them about the land and their traditions and customs
- owning the land under traditional laws and customs
- successfully prosecuting claims to their land under State legislation

- requiring permission from outsiders to enter their land
- living near the claim land
- visiting and camping in traditional ways on the claim land,
- hunting, fishing and gathering on the land
- exercising management responsibilities over the land eg. burn offs, resource protection
- looking after the land and being responsible for the land, its stories and sacred places, according to traditional laws and customs
- burial of remains on their land and feeling a spiritual connection to the land when visiting it

This is supported by the anthropological information at attachments E and F of the application

Based on this information, I am satisfied that the claimed native title rights of the *'fullest beneficial ownership, including possession, occupation, use and enjoyment to the exclusions of all others'* with the stated qualifications, are established prima facie, within the limits of that recognised by the common law. The stated qualifications to this claim (see schedules B and E) satisfy me that rights are not claimed where these are not recognised at law.

Result: **Requirements met**

s.190B(7)

Traditional physical connection:

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 for the Decision

Under s190B(7)(a) I must be satisfied that at least one member of the native title claim group currently has or previously had a traditional physical connection with any part of the land or waters covered by the application.

The confidential affidavit material provided by the applicants satisfies me that a number of members of the native title claim group currently have and have had traditional physical connection to parts of the claim area. I refer specifically to:

- [name deleted to protect the privacy of an individual], paras 10, 12, 13, 16
- [name deleted to protect the privacy of an individual], paras 11, 12, 14, 16, 19, 23
- [name deleted to protect the privacy of an individual], paras 2, 8, 10-11, 18-19, 28-31

Result: Requirements met

s.190B(8)

No failure to comply with s.61A:

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.

Reasons for the Decision

For the reasons that follow I have concluded that there has been compliance with s61A.

S61A(1)- Native Title Determination

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

S61A(2)- Previous Exclusive Possession Acts

See para A, Schedule B - any area that is covered by a previous exclusive possession act, as defined in s23B of the Native Title Act, is excluded from the claim area.

S61A(3) – Previous Non-Exclusive Possession Acts

The applicants do not seek exclusive possession over areas the subject of previous non-exclusive possession acts – refer para. B of schedule B.

Refer also to my reasons under s190B4 and s190B6.

S61A(4) – s47, 47A, 47B

No claim is made in the application to the benefit of one or more of these sections – refer schedule L.

Conclusion

For the reasons identified above the application and accompanying documents do not disclose and it is not otherwise apparent that because of Section 61A the application should not have been made.

Result: Requirements met

s.190B(9)(a)

Ownership of minerals, petroleum or gas wholly owned by the Crown:

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 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 for the Decision

At Schedule Q of the amended application it is stated: “*The native title rights and interests of possession, occupation, use and enjoyment in relation to the claim area also apply to natural resources within the claim area. These include minerals, petroleum, gases and fauna, but only to the extent to which native title has not been affected or extinguished by the valid operation of laws of the Commonwealth of Australia or the State of Queensland.*”

By letter dated 18 February 2000 the applicants’ legal representative has advised that the wording employed in schedule Q means that the rights and interests claimed do not consist of ownership of minerals, petroleum or gas where native title has been wholly extinguished in relation to these things and that this wording is intended to allow the position at law to apply, when the matter is determined by the High Court.

I accept that the reference to “*affected or extinguished by the valid operation of laws of the Commonwealth of Australia or the State of Queensland*” covers the situation where the Crown “wholly owns” the resources over which native title is claimed, and conversely, that ownership of minerals, petroleum or gas “wholly” by the Crown would only arise in the event of extinguishment by valid laws of native title in such things. Accordingly, as the application only claims ownership to the extent to which native title has not been affected or extinguished by such laws, I am satisfied that the applicants do not claim ownership of minerals, petroleum or gas wholly owned by the Crown.

Result: Requirements met

s.190B(9)(b)

Exclusive possession of an offshore place:

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 for the Decision

The area claimed does not include any offshore area. It is therefore not necessary for me to consider this section further as it is not relevant.

Result: Requirements met

s.190B(9)(c)

Other extinguishment:

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 subsection 47(2), 47A(2) or 47B(2)).***

Reasons for the Decision

The application does not disclose, and I am not otherwise aware of, any other extinguishment of native title rights and interests in the area claimed. I am satisfied that the requirements of this section have been met.

Result: Requirements met

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