

National Native Title Tribunal

**REASONS FOR DECISION COVER SHEET
REGISTRATION TEST**

(EDITED REASONS FOR RELEASE VIA NNTT WEBSITE)

DECISION MAKER	Russell Trott
APPLICATION NAME	Balangarra #3
APPLICANTS	Delores Cheinmora, Kenny Morgan, Vernon Gerrard, Dudley Bambra, Elaine Johnstone, Eric Johnstone, Mary Teresa (Taylor), May Smith, Mona Williams, Raymond Williams, Laurie Waina, Jeff Clark, James Taylor, Victor Martin, Roy Martin, Tom Birch, Frank Chulung, Luvey Weaver, Jean Leyland and Jennifer Eura
NNTT NO. FEDERAL COURT NO.	WC 00/6 W 6004/00
NNTT REGION	North West/Goldfields WA
DATE APPLICATION MADE DATE APPLICATION AMENDED	3 July 2000 8 August 2000

I have considered the application against each of the conditions contained in s190B and 190C of the *Native Title Act 1993*.

DECISION

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

Written notice of the decision and the reasons for the decision, are to be provided to the applicants.

Russell Trott
Delegate of the Registrar pursuant to
sections 190, 190A, 190B, 190C, 190D.

28 August 2000
DATE

Brief History of the application

The Balangarra #3 native title determination application was lodged with the Federal Court on 3 July 2000. A copy of the application was given to the Tribunal pursuant to s63 of the *Native Title Act* 1993 on 5 July 2000.

The State of Western Australia issued a notice under s29 of the *Native Title Act* 1993 (the “Act”) affecting land in the area covered by the application on 4 April 2000. As is required by s190A(2) of the Act the Native Title Registrar or delegate was required to use best endeavours to finish considering this application for registration by the end of four months after 4 April 2000. The four-month period expired on 4 August 2000. After due consideration I decided, on 4 August 2000, to accept this application for registration pursuant to s190A of the Act.

Prior to the expiry of the four-month period, the applicants’ representative applied to the Federal Court for leave to amend the application. The applicants’ representative swore an affidavit in support of the amendment application on 1 August 2000. This was filed with the Court on 4 August 2000. The application to amend was listed for hearing on 8 August 2000. The main purpose of the amendment was to reduce the external boundary of the application from that as described in the original application filed on 3 July 2000. This was effected by substitution of the map and external boundary description at Schedules B and C of the application. Amendments were also made to Schedules K and R. On 8 August 2000, the Court ordered that:

1. The application be amended in the form of the document being annexure “A” to the affidavit of Paul Sheiner sworn on 1 August 2000 and filed on 4 August 2000 as amended on 8 August 2000.
2. The Applicant [Applicants] file and serve a fresh amended application together with a coloured copy of the requisite map by 18 August 2000.

A copy of the amended application was given to the Native Title Registrar pursuant to s64(4) of the Act on 9 August 2000. A copy of the amended Form 1 that was filed on 18 August 2000, pursuant to the orders made on 8 August 2000, was given to the Native Title Registrar on 23 August 2000.

Pursuant to s190A(1) of the Act, the amended application must be considered for registration in accordance with the provisions of the Act and it is the amended application that I now consider.

Format of Reasons for Decision

In some instances the amendments made to the application on 8 August 2000 do not vary in any way the content of the documentation and other information that I considered on 4 August 2000.

When this is the case, I have not altered my decision about those relevant conditions unless otherwise indicated. Consequently, I have chosen to rely wholly on my earlier reasons where these remain accurate and I have only expanded on or changed such reasons when necessary, as indicated in these reasons for decision. These reasons for decision should be read together with my earlier ‘reasons for decision’ dated 4 August 2000 when so indicated.

Information considered when making the Decision

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

- Registration Test File, Legal Services File and Federal Court Application File for native title determination application WC00/6.
- National Native Title Tribunal Geospatial Database
- Register of Native Title Claims
- Schedule of Native Title Claimant Applications
- s190A Register
- The Native Title Register
- Determination of Representative ATSI Bodies: their gazetted boundaries

Consistent with the decision of the Federal Court (Carr J.) in *State of Western Australia v Native Title Registrar & Ors* [1999] FCA 1591 – 1594, information provided by the applicants directly to the Native Title Registrar was provided to the State. On 1 August 2000 the State advised that it had no comments to make in relation to the additional material. I note that no other additional material has been provided directly to the Native Title Registrar since my previous decision of 4 August 2000.

Note:

1. All references to the application are references to the application as amended on 8 August 2000 by leave of the Federal Court.
2. All references to legislative sections refer to the *Native Title Act 1993* unless otherwise specified.
3. Information considered relevant to the application of the registration test is identified under each condition or sub-condition in these Reasons for Decision.

A. Procedural Conditions

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

190C2

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

61(3) Name and address for service of applicant(s)

Reasons relating to this sub-section:

Twenty persons are named as applicants in the application: Delores Cheinmora, Kenny Morgan, Vernon Gerrard, Dudley Bambra, Elaine Johnstone, Eric Johnstone, Mary Teresa (Taylor), May Smith, Mona Williams, Raymond Williams, Laurie Waina, Jeff Clark, James Taylor, Victor Martin, Roy Martin, Tom Birch, Frank Chulung, Luvey Weaver, Jean Leyland and Jennifer Eura.

The address for service is provided at Part B of the application.

I am satisfied there has been compliance with the procedural requirements of s61(3).

Result: Requirements are met

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

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied there has been compliance with the procedural requirements of s61(4).

Result: Requirements are met

61(5) Application is in the prescribed form, lodged in the Federal Court, contain prescribed information, and accompanied by prescribed documents¹ and fee

Reasons relating to this sub-section:

The application meets the requirements of s61(5)(a) in that it is in the form prescribed by Regulation 5(1)(a) *Native Title (Federal Court) Regulations* 1998.

As required under s61(5)(b), the amended application was filed in the Federal Court.

The application meets the requirements of s61(5)(c) in that it contains all information as prescribed in s62. I refer to my reasons for decision in relation to those sections.

As required by s61(5)(d), the application is accompanied by affidavits as prescribed by s62(1)(a). I refer to my reasons for decision in relation to that section of the Act. The application is also accompanied by a map as prescribed by s62(1)(b). I refer to my reasons for decision in relation to s62(2)(b) of the Act.

I note that s190C(2) only requires me to consider details, other information, and documents required by s61 and s62. I am not required to consider whether the application has been accompanied by the payment of a prescribed fee to the Federal Court.

I am satisfied there has been compliance with the procedural requirements of s61(5).

Result: Requirements are met

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

Details required in section 62(1)

62(1)(a) Affidavits address matters required by s62(1)(a)(i) – s62(1)(a)(v)

Reasons relating to this sub-section:

Affidavits of identical content have been received that are sworn/affirmed by the applicants and witnessed by qualified witnesses. Thirteen were affirmed on 28 June 2000, one affirmed on 30 June 2000, three affirmed on 3 July 2000, one affirmed on 10 July 2000, one affirmed on 3 August 2000 and one affirmed on 4 August 2000.

I note that the latter three affidavits were filed after the original application was lodged on 3 July 2000. The affidavit of [name deleted] that was filed on 19 July 2000 does not specify the date on which it was sworn/affirmed. However a further affidavit sworn/affirmed by [same name deleted] on 3 August 2000 was also filed with the Federal Court on 3 August 2000.

The affidavits were sworn for the purpose of lodging the original application. The Federal Court granted leave to amend the application on 8 August 2000. The same affidavits were relied upon to support this, although I note that no orders were sought or made to dispense with any requirement to file further affidavits.

I note that, in *Drury and Ors v State of Western Australia* [2000] FCA 132, French J. considered that s62 does not convey the requirement that fresh affidavits need to be filed every time an application is amended. The circumstances behind the decision in *Drury* also concerned a situation where the applicants wished to amend their application in order to reduce the external boundary of the original application. His Honour held that s62A provides that applicants may deal with all matters arising in relation the application, and that, in His Honour's opinion, such matters included the amendment of the application from time to time. His Honour concluded that the specific cases in which amendments to an application did require the filing of fresh affidavits were ultimately within the discretion of the Court.

All of the affidavits address the requirements of s62(1)(a)(i) – (v).

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

Result: Requirements are met

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

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000.

Result: Provided

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

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

Reasons relating to this sub-section:

Schedule B of the application states that the external boundaries of the claim are as set out in the map and description that are attached to the application.

For the reasons set out in my reasons for decision in relation to s190B(2), I am satisfied that the application complies with the procedural requirements of s62(2)(a)(i).

Result: Requirements are met

62(2)(a)(ii) Information identifying any areas within those boundaries which are not covered

Reasons relating to this sub-section:

Schedule B of the application contains a written description of the areas within the external boundary of the area claimed which are not covered by the application

For the reasons set out in my reasons for decision in relation to s190B(2), I am satisfied that the information provided is sufficient to meet the procedural requirements of s62(2)(a)(ii).

Result: Requirements are met

62(2)(b) A map showing the external boundaries of the area covered by the application

Reasons relating to this sub-section:

Schedule C of the application refers to a map that is attached to the application that shows the external boundaries of the area covered by the application.

For the reasons set out in my reasons for decision in relation to s190B(2), I am satisfied that there has been compliance of the procedural requirements of s62(2)(b).

Result: Requirements are met

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

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000. I am not aware of any searches that have been carried out by the applicants subsequent to this date to determine the existence of any non-native title rights and interests in relation to the land or waters in the area covered by the application.

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

Result: Requirements are met

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

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied there has been compliance with the procedural requirements of s.62(2)(d).

Result: Requirements are met

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

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000.

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

Result: Requirements are met

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

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000.

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

Result: Requirements are met

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-section:

I rely on my earlier reasons for decision dated 4 August 2000.

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

Result: Requirements are met

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-section:

I rely on my earlier reasons for decision dated 4 August 2000.

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

Result: Requirements are met

62(2)(g) Details of any other applications to the High Court, Federal Court or a recognised State/Territory body the applicant is aware of (and where the application seeks a determination of native title or compensation)

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000.

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

Result: Requirements are met

62(2)(h) Details of any S29 Notices (or notices given under a corresponding State/Territory law) in relation to the area, and the applicant is aware of

Reasons relating to this sub-section:

I rely on my earlier reasons for decision dated 4 August 2000. I am not aware of any further notices made under s29 of the Act subsequent to this date.

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

Result: Requirements are met

Reasons for the Decision

I refer to the individual reasons for decision in relation to sections 61 and 62, set out above. For the reasons outlined I find that the procedural requirements of sections 61 and 62 have been met. Accordingly, the application meets the requirements of s190C(2).

Aggregate Result: Requirements are met

Common claimants in overlapping claims:

190C3

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

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied that the application complies with the requirements of s190C3.

Result: Requirements are met

Certification and authorisation:

190C4(a) *The Registrar must be satisfied that either of the following is the case:*

and

190C4(b)

(a) the application has been certified under Part II 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.

Reasons for the Decision

In my earlier reasons for decision dated 4 August 2000 I found that the application met the requirements of s190C(4)(a). The application, as amended on 8 August 2000 now includes, as an attachment to Schedule R, a certificate issued on 1 August 2000 by the Kimberley Land Council pursuant to s203BE of the Act.

This is the same certificate that I considered in my earlier reasons for decision dated 4 August 2000. For the reasons set out in my earlier reasons for decision dated 4 August 2000, it is my view that the certificate complies with s203BE(4)(a) and (b). I note that s203BE(4)(c) has no relevance.

I am satisfied that the application has been certified by the Kimberley Land Council pursuant to s203BE(1)(a) and in accordance with s203BE(4).

This certification satisfies the requirements of s190C(4)(a) of the Act.

I am satisfied that the application complies with s190C(4).

Result: Requirements are met

Evidence of authorisation:

190C5

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 sets out the grounds on which the Registrar should consider that it has been met.

Reasons for the Decision

This requirement is not applicable as the application meets the requirements of s190C(4)(a). I refer to my reasons in relation to s190C(4) above.

B. Merits Conditions

Description of the areas claimed:

190B2

The Registrar must be satisfied that the information and map contained in the application as required by paragraphs 62(2)(a) and (b) are sufficient for it to be said with reasonable certainty whether native title rights and interests are claimed in relation to particular land or waters.

Reasons for the Decision

In order for the application to meet the requirements of this section I must be satisfied that the information and map contained in the application, as required by s62(2)(a) and s62(2)(b), are sufficient for it to be said with reasonable certainty whether native title rights and interests are claimed in relation to particular land or waters.

In applying this condition I have relied upon the information provided at Schedule B and the map referred to in Schedule C of the application.

Map and External Boundaries

The applicants have provided a written technical description of the external boundaries of the application in the attachment to the application. The description is dated 19 July 2000.

Also attached to the application is a map showing the boundaries of the area covered by the application. The map was compiled by the Land Claims Mapping Unit and is dated 18 July 2000. The map displays sufficient co-ordinates to enable the position of sites or localities within them to be identified. The map shows a scale allowing distances and areas to be ascertained and identifies unallocated Crown land, reserves, leases and various rivers. The line indicating the external boundary is finely marked and easy to follow. A locality diagram indicates generally the position of the application within the state of Western Australia, and forms part of the map provided.

The Tribunal's Geospatial Unit has conducted an assessment of this information. I am guided by this assessment and note that it confirms that the map shows the boundaries of the area as described in the attachment. I am satisfied that the information provided enables the boundaries of the area covered by the application to be identified, and therefore, that the requirements of s62(2)(a)(i) are met. I am similarly satisfied that the map submitted with the application meets the requirements of s62(2)(b).

Internal boundaries

The internal boundaries, described at Schedule B of the application, exclude a variety of tenure classes from the claim area in written form. The written description of the internal boundaries is:

Internal Boundaries

- a) *The Applicants exclude from the claim any areas covered by valid acts which occurred on or before 23 December 1996 comprising such of the following as are included as extinguishing acts within the Native Title Act 1993, as amended, or Title (Validation) and Native Title (Effect of Past Acts) Act 1995, as amended, at the time of the Registrar's consideration:*
 - (i) *Category A past acts, as defined in NTA s228 and s229;*
 - (ii) *Category A intermediate period acts as defined in NTA s232A and s232B.*

- (b) *The Applicants exclude from the claim any areas in relation to which a previous exclusive possession act, as defined in section 23B 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 23E NTA 1993 in relation to the act.

- (c) *The Applicants exclude from the claim area any areas in relation to which native title rights and interests have otherwise been extinguished. To avoid any uncertainty, the Applicants particularly exclude from the claim area:*
- (i) *any areas covered or previously covered by pastoral leases which are enclosed or improved where such enclosure or improvement extinguishes native title;*
 - (ii) *any area covered by a mining or general purpose lease granted under the Mining Act 1978 (WA) where such leases extinguish native title.*
- (d) *Where section 47, 47A or 47B of the NTA applies to any part of the area covered by this application, that part of the area is not excluded from the claim. Particulars of such areas will be provided prior to the hearing but include such areas as may be listed in Schedule L.*

Section 62(2)(a)(ii) requires that I must be satisfied that this information is sufficient for it to be said with reasonable certainty whether native title rights and interests are claimed in relation to particular land or waters.

The applicants have not identified, parcel by parcel, the areas of land and waters that are excluded from the claim area. In my view, they are not required to do so in order to satisfy the requirements of s62(2)(a)(ii) and s190B(2). The internal boundaries are described by way of identifying classes of land tenure that are not covered by the application. Such class exclusions amount to information that enables the internal boundaries of the application area to be adequately identified. This may require research by the State of Western Australia and other custodians, but nevertheless it is reasonable to expect that the task could be done on the basis of the information provided by the applicants. I find that the information enables the boundaries of any areas within the external boundaries of the application that are not covered by the application to be identified.

I am therefore satisfied that the exclusion clauses set out in the paragraphs above are sufficient to meet the requirements of s62(2)(a)(ii).

Conclusion

I find that the information and map submitted with the application meet the requirements of s62 (a) and (b). I am satisfied that the information and the map provided by the applicants are sufficient for it to be said with reasonable certainty that native title rights and interests are claimed in relation to the areas specified. The criteria set out in s190B(2) are met.

I am satisfied that the application complies with s190B(2).

Result: Requirements are met

Identification of the native title claim group:

190B3

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

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied that the application complies with s190B(3).

Result: Requirements are met

Identification of the native title rights and interests:

190B4

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

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied the application complies with s190B(4).

Result: Requirements are met

Sufficient factual basis:

190B5

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

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied that the application complies with s190B(5).

Result: Requirements are met

Prima facie case:

190B6 *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

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied that the application complies with s190B(6).

Result: Requirements are met

Traditional physical connection:

190B7 *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 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 holder of a lease.*

Reasons for the Decision

I rely on my earlier reasons for decision dated 4 August 2000.

I am satisfied that the application complies with s190B(7).

Result: Requirements are met

No failure to comply with s61A:

190B8

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

Reasons for the Decision

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

s61A(1) – Native Title Determination

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

s61A(2) – Previous Exclusive Possession Acts

At Schedule B, paragraph 2 of the application, the applicants exclude areas in relation to which the State of Western Australia or the Commonwealth has done previous exclusive possession acts. Therefore, the application complies with s61A(2).

s61A(3) – Previous Non-Exclusive Possession Acts

The exclusion clause at paragraph 2(iii) of Schedule E of the application states that the applicants do not make a claim to exclusive native title rights and interests in relation to areas where a previous non-exclusive possession act has been done by either the State of Western Australia or the Commonwealth. Therefore, the application complies with s61A(3).

s61A(4) – s47, s47A, s47B

The applicants claim the benefit of ss47, 47A and 47B at Schedules B and E, providing particulars at Schedule L of the application. Whether or not the applicants have provided sufficient information to bring any area of land and waters covered by the application within the ambit of sections 47, 47A and 47B is a matter to be settled in another forum. The outcome of such an inquiry is immaterial here, as I have already found that the application does not offend s61A.

Conclusion

The application complies with s190B(8).

Result: Requirements are met

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

190B9 *The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:*

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

Reasons for the Decision

I rely on my earlier reasons for decision dated 4 August 2000.

The application complies with s190B(9)(a).

Result: Requirements are met

Exclusive possession of an offshore place:

190B9 *The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:*

- (b)** (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

I rely on my earlier reasons for decision dated 4 August 2000.

The application complies with s190B(9)(b).

Result: Requirements are met

Other extinguishment:

190B9 *The application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that:*

- (c)** (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

I rely on my earlier reasons for decision dated 4 August 2000.

The application complies with s190B(9)(c).

Result: Requirements are met

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