

Registration Decision

Application name	Iman People #4
Name of applicant	Harold Doyle & Ors on behalf of Iman People #4
Federal Court of Australia No.	QUD413/2017
NNTT No.	QC2017/008
Date of Decision	2 March 2018

Claim not accepted for registration

I have decided that the claim in the Iman People #4 application does not satisfy all of the conditions in ss 190B and 190C of the *Native Title Act 1993* (Cth).¹ Therefore the claim must not be accepted for registration.

For the purposes of s 190D(3), my opinion is that the claim does satisfy all of the conditions in s 190B. Nevertheless I cannot accept the claim for registration because the claim does not satisfy all of the conditions in s 190C.

Lisa Jowett

*Delegate of the Native Title Registrar*²

¹ All legislative sections are from the *Native Title Act 1993* (Cth) (the Act), unless stated otherwise.

² Delegate of the Native Title Registrar pursuant to sections 190, 190A, 190B, 190C, 190D of the *Native Title Act 1993* (Cth) under an instrument of delegation dated 23 August 2017 and made pursuant to s 99 of the Act

Reasons for Decision

CASES CITED

Banjima People v State of Western Australia (No 2) [2015] FCAFC 171 (*Banjima FFC*)

Dann v Yamera [2017] FCA 513 (*Dann*)

Griffiths v Northern Territory (2007) 243 ALR 7 (*Griffiths FFC*)

Gudjala People #2 v Native Title Registrar [2007] FCA 1167 (*Gudjala 2007*)

Gudjala # 2 v Native Title Registrar [2008] FCAFC 157 (*Gudjala FC*)

Gudjala People #2 v Native Title Registrar [2009] FCA 1572 (*Gudjala 2009*)

Lawson on behalf of the 'Pooncarie' Barkandji (Paakantyi) People v Minister for Land and Water Conservation for the State of New South Wales [2002] FCA 1517 (*Lawson*)

Northern Territory of Australia v Doepel (2003) 133 FCR 112; [2003] FCA 1384 (*Doepel*)

Strickland v Native Title Registrar (1999) 168 ALR 242; [1999] FCA 1530 (*Strickland*)

Western Australia v Ward (2002) 213 CLR 1; (2002) 191 ALR 1; [2002] HCA 28 (*Ward HC*)

BACKGROUND

- [1] The application is filed on behalf of the Iman People #4 native title claim group (#4 application). It covers three discrete areas of land and waters in South East Queensland, covering approximately 16,202.49 square kilometres in total. The three areas lie to the east, north and south of the determined Iman People #2 area (QUD6162/1998). Area A (to the north) overlaps the currently registered Wadja People native title determination application (QUD422/2012) (Wadja People application).
- [2] The application was filed in the Federal Court of Australia (the Court) on 21 August 2017. On 23 August 2017, the Registrar of the Court gave a copy of the application and accompanying documents to the Native Title Registrar (Registrar) pursuant to s 63 of the Act. This has triggered the Registrar's duty to consider the claim made in the application for registration in accordance with s 190A³.

Registration conditions

- [3] Sections 190A(1A), (6), (6A) and (6B) set out the decisions available to the Registrar under s 190A. Subsection 190A(1A) provides for exemption from the registration test for certain amended applications and s 190A(6A) provides that the Registrar must accept a claim (in an amended application) when it meets certain conditions. Section 190A(6) provides that the Registrar must accept the claim for registration if it satisfies all of the conditions of s 190B (which deals mainly with the merits of the claim) and s 190C (which deals with procedural and other matters). Section 190A(6B) provides that the Registrar must not accept the claim for registration if it does not satisfy all of the conditions of ss 190B and 190C.
- [4] Given that the claimant application was made on 21 August 2017 and has not been amended, I am satisfied that neither subsection 190A(1A) nor subsection 190A(6A) apply.

³ See 190A(1).

[5] I have decided that the claim in the application must not be accepted for registration because and this document sets out my reasons for that decision.

Information considered

[6] Section 190A(3) sets out the information to which the Registrar must have regard in considering a claim and provides that the Registrar 'may have regard to such other information as he or she considers appropriate'.

[7] I have had regard to information in the application and additional material provided by the applicant directly to the Registrar on 12 September 2017, 17 November 2017 and 8 December 2017:⁴

(a) The Iman People, Final Historical Report, Rosalind Kidd, December 2012 (Kidd Report);

(b) Anthropological Reports of Dr Fiona Powell: Stage 2 filed 12 April 2012; Stage 3 filed 1 June 2012; Stage 4 filed 20 July 2012; Stage 5 filed 9 November 2012; Stage 6 filed 28 June 2013; Stage 7 filed 1 July 2013 (Powell Reports).

(c) Connection affidavits:—

- [name deleted] filed 31 July 2012
- [name deleted] filed 31 August 2012
- [name deleted] filed 2 August 2013
- [name deleted] filed 9 January 2014
- [name deleted] filed 28 June 2013
- [name deleted] filed 21 December 2012
- [name deleted] filed 5 March 2013
- [name deleted] filed 31 August 2012
- [name deleted] filed 23 August 2013
- [name deleted] filed 9 January 2014

(d) Statement of [name deleted], Just Us Lawyers, 13 September 2017, including Attachments:

- Attachments 1 – 3, Public notices advertising the authorisation meeting
- Attachments 4 and 5, correspondence in relation to publishing the notice
- Attachment 6 – copy of mailing list
- Attachment 7 – Attendance Sheets

(e) Anthropologist's Report: Alice Dutton and Harriet Dutton, Dr Fiona Powell, dated 17 November 2017.

(f) Applicant's submission and accompanying Anthropologists Report: Sarah Dodd, Dr Fiona Powell, dated 8 December 2017.

[8] I note there is no information before me obtained as a result of any searches conducted by the Registrar of State/Commonwealth interest registers.⁵

[9] The State of Queensland has not provided any submissions in relation to the application of the registration test.⁶

⁴ See s 190A(3)(a).

⁵ See s 190A(3)(b).

- [10] I may also have regard to such other information as I consider appropriate.⁷ I have considered it appropriate to have regard to a submission from a third party as it relates to the current application's capacity to meet the requirements for registration at s 190C(3).
- [11] I was the delegate who considered the claim made in the Iman People #2 application (QUD6162/1998) (#2 application) as it was amended on 16 March 2012 and again on 13 June 2014.⁸ The additional information provided by the applicant in support of this #4 application is the same material provided by the applicant in support of the #2 application. I consider it appropriate to have regard to my reasons for decision in relation to both the #2 amended applications as the same facts and law apply, making them relevant to consider in relation to the area covered by the #4 application.
- [12] I have also considered information contained in an overlap analysis and geospatial assessment by the NNTT's Geospatial Services dated 5 September 2017 (the geospatial report).

Procedural fairness

- [13] As noted above, I have considered the additional material provided by the applicant on 12 September 2017. On 31 January 2018 the State of Queensland was provided an opportunity to comment on this material and confirmed on 31 January 2018 that it would not be making any submissions in relation to my consideration of that material.
- [14] I have requested and received information from the applicant and from a third party which is relevant to my consideration of the registration condition at s 190C(3):
- (i) On 10 November 2017 I wrote to the applicant providing an opportunity to comment on the possible existence of claimants in common with the earlier registered overlapping Wadja People application. On 17 November 2017, the applicant provided submissions in response.
 - (ii) On 16 November 2017 I received an unsolicited submission from [name deleted] in relation to the existence of claimants in common between the Iman and Wadja native title claim groups. I wrote to [name deleted] on 17 November 2017 advising that, if she wished me to consider her submission, she would need to consent to me to providing it to the applicant for the #4 application, which she gave.
 - (iii) On 24 November 2017 I provided the applicant with a copy of [name deleted]'s submission, including an opportunity to comment by 8 December 2017. On this date I received a submission in reply from the applicant.
 - (iv) I have not provided [name deleted] with an opportunity to respond to the applicant's reply to her submission, as in my view, she was not a person or party to whom procedural fairness is owed.
 - (v) I have found that the #4 application does not meet the condition at s 190C(3)⁹ and as a result cannot be registered. On this basis it was my view that the state government was not aggrieved by my decision and therefore not owed procedural fairness. I did

⁶ See s 190A(3)(c).

⁷ See s 190A(3).

⁸ The claim made in each amended application was accepted for registration on 3 August 2012 and 8 August 2014 respectively.

⁹ See my reasons at [104]-[128].

not provide it with copies of the applicant's submissions or [name deleted]'s submissions made in respect of the condition at s 190C(3).

[15] This concluded the procedural fairness process.

Merits of the claim (s 190B) – Conditions met

Identification of area subject to native title – s 190B(2) condition met

[16] The Registrar must be satisfied that 'the information and map contained in the application as required by s 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'. It is therefore necessary to examine:

- (a) the external boundary of the area where native title rights and interests are claimed; and
- (b) any areas within the external boundary over which no claim is made.

Does the information about the external boundary meet this condition?

[17] The application area is made up of three parts, areas A, B and C. Attachment B is a written description prepared by the NNTT's Geospatial Services which states 'the application area covers all the land and waters within the external boundary of the following areas...'. It goes on to provide a detailed description inclusive of coordinate points and other reference points for areas A, B and C.

[18] Attachment C is a map of the application area, entitled 'Iman People 4', also prepared by the NNTT's Geospatial Services, dated 14 August 2017. The map includes a legend showing the three distinct parts comprising the claim area, topography and place names, with the external boundary depicted by a thick blue line.

[19] Within Attachment B, the commencement point for Area A is described with the latitude entry but it is also described in terms of the external boundary of the Wulli Wulli determination (WCD2015/009) and with further geographic coordinates provided. I note that the geospatial report identifies that there were two typographical errors in the written description in respect of Area A as follows:

- the latitude point for the commencement point description should have read 24.897572 instead of 24.895724; and
- a latitudinal coordinate point regarding the south westerly passing should have read 149.975860 instead of 149.945860.

[20] The geospatial report states "It is noted that for these typographical errors, the description refers to these as being located on the external boundary of the Wulli Wulli determination (QUD6006/2000 WCD2015/009) which contains the correct coordinates". Despite those typographical errors, the geospatial report concludes that there is reasonable certainty as to the identification of the application area.

[21] I have considered the description as a whole and the fact that the geographic points subject to the typographical errors can be understood in terms of the Wulli Wulli determination's external boundary, such that I am satisfied that there is sufficient information to identify the area.

[22] I am satisfied the information about the external boundary meets this condition.

Does the information about excluded areas meet this condition?

[23] Schedule B of the application describes the areas within the external boundary which are excluded from the claim area. A list of general and categorical exclusion clauses is provided, generally relating to areas over which native title is extinguished. Within Attachment B there is a list of other claims and determinations (identified by name, Tribunal number and Federal Court number) which are excluded from the application area. The Tribunal number for the Iman People #2 matter contained a typographical error (it should have read QCD2016/015 instead of QCD2016/005), however this is not considered fatal as the Federal Court number and name of the proceeding is included to allow sufficient identification. My view is that the general and categorical clauses and the list of excluded claims and determinations provide sufficient information such that it is possible to work out the excluded areas with tenure searches and further analysis.

[24] My view is that the information about the excluded areas is sufficient.

Conclusion

[25] The geospatial report concluded that the description and map are consistent and identify the application area with reasonable certainty. I agree with that assessment. The information provided about the external boundary and internally excluded areas are sufficient to identify with reasonable certainty the particular land or waters over which native title rights and interests are claimed.

[26] I am satisfied the claim meets the requirements of s 190B(2).

Identification of the native title claim group – s 190B(3) condition met

[27] For the application to meet the requirements of s 190B(3), the Registrar must be satisfied that:

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

[28] The only question for this condition is ‘whether the application enables the reliable identification of persons in the native title claim group’.¹⁰ It does not require assessment of whether the claim has been made on behalf of the *correct* native title claim group.¹¹

[29] Schedule A of the application describes the native title claim group as follows:

The Native Title Claim Group comprises the descendants of:

1. Mary Arwa;
2. Jim Waterton;
3. Ada Robinson;
4. Maggie Palmtree;
5. Lizzie Palmtree;
6. Eliza Shields;

¹⁰ *Doepel* at [51].

¹¹ See *Doepel* at [37] and *Gudjala 2007* at [33].

7. Mary Ann (mother of Maggie Dunn);
8. Fanny Waddy/Sandy;
9. Dick Bundi/Bundai and Alice Dutton; or
10. The mother of John Serico (known as Aggie).

- [30] In my view, the description of the native title claim group is capable of being readily understood and is sufficiently clear such that it can be ascertained whether any particular person is in that group. I understand that membership of the native title claim group is regulated by descent from an Iman ancestor(s). The description names the apical ancestors through which members of the native title claim group will claim descent.
- [31] It may be that some factual inquiry is required to establish a person's descent from any of the named ancestors, but that would not mean that the group has not been sufficiently described.
- [32] I am satisfied the claim meets the requirements of s 190B(3).

Identification of claimed native title – s 190B(4) condition met

- [33] For the application to meet the requirements of s 190B(4), the Registrar must be satisfied that the application's description of the claimed native title rights and interests is sufficient to allow the rights and interests to be readily identified. The question for this condition is whether the claimed rights are described clearly, comprehensively and in a way that is meaningful and understandable, having regard to the definition of the term 'native title rights and interests' in s 223 of the Act.¹²
- [34] Schedule E of the application describes the exclusive and non-exclusive rights claimed in the application. The description includes a general qualifier and definitions. The description as a whole is clear and has meaning such that the native title rights and interests can be readily identified.
- [35] I am satisfied that the description of 'native title rights and interests' meets the requirements of s 190B(4).

Factual basis for claimed native title – s 190B(5) condition met

- [36] For the application to meet this condition for registration, the Registrar must be satisfied that a sufficient factual basis is provided to support the assertion that the claimed native title rights and interests exist. The material also needs to support the particular assertions in paragraphs (a) to (c) of s 190B(5). In *Doepel*, Mansfield J states that:

Section 190B(5) is carefully expressed. It requires the Registrar to consider whether the 'factual basis on which it is asserted' that the claimed native title rights and interests exist 'is sufficient to support the assertion'. That requires the Registrar to address the quality of the asserted factual basis for those claimed rights and interests; but only in the sense of ensuring that, if they are true, they can support the existence of those claimed rights and interests. In other words, the Registrar is required to determine whether the asserted facts can support the claimed conclusions. The role is not to test whether the asserted facts will or may be proved at the hearing, or to assess the strength of the evidence which may ultimately be adduced to establish the asserted facts.¹³

¹² *Doepel* at [99]-[123].

¹³ *Doepel* at [17].

[37] The decisions of Dowsett J in *Gudjala 2007* and *Gudjala 2009* also give specific content to each of the elements of the test at ss 190B(5)(a) to (c). The Full Court in *Gudjala FC*, did not criticise generally the approach that Dowsett J took in relation to these elements in *Gudjala 2007*,¹⁴ including his assessment of what was required within the factual basis to support each of the assertions at s 190B(5) and his approach in *Gudjala 2009* was in accord with this.

[38] The above authorities establish clear principles that guide the Registrar when assessing the sufficiency of a claimant's factual basis. In summary, they are:

- The applicant is not required 'to provide anything more than a general description of the factual basis'.¹⁵
- The nature of the material provided need not be of the type that would prove the asserted facts.¹⁶
- The Registrar is not to consider or deliberate upon the accuracy of the information/facts asserted.¹⁷
- The Registrar is to assume that the facts asserted are true, and to consider only whether they are capable of supporting the claimed rights and interests. That is, is the factual basis sufficient to support each of the assertions at ss 190B(5)(a) to (c).¹⁸

[39] I note in particular that the registration test involves an administrative decision - it is not a trial or hearing of a determination of native title pursuant to s 225. It is therefore not appropriate to apply the standards of proof that would be required at such a trial or hearing. It is not the task of the Registrar (or his delegate) to make findings about whether or not the claimed native title rights and interests exist. Nor is it the role of the delegate to reach definitive conclusions about complex anthropological issues pertaining to the applicant's relationship with their country, as that is a judicial enquiry.

[40] However, Dowsett J held in *Gudjala 2009* that the asserted factual basis should provide more than mere restatements of the claim:

... it would not be sufficient for an applicant to assert that the claim group's relevant laws and customs are traditional because they are derived from the laws and customs of a pre-sovereignty society, from which the claim group also claims to be descended, without any factual details concerning that pre-sovereignty society and its laws and customs relating to land and waters. Such an assertion would merely restate the claim. There must be at least an outline of the facts of the case.¹⁹

The factual basis material

[41] The applicant has provided extensive additional material in support of the factual basis for the claim made in the application. As listed above at [7], it comprises of anthropological reports and connection affidavits, all of which relate to the #2 application, determined by the Court on 23 June 2016, and pre dates the making of the #4 application. Schedule F provides summaries of and references to those parts of the material that pertain to the area covered by the Iman #4 application. In particular, it is asserted that traditional Iman country extended beyond the boundaries of the area covered by the #2 application.

¹⁴ See *Gudjala FC* at [90] to [96].

¹⁵ *Gudjala FC* at [92].

¹⁶ *Gudjala FC* at [92].

¹⁷ *Doepel* at [47].

¹⁸ *Doepel* at [17].

¹⁹ *Gudjala 2009* at [29].

[42] I have therefore based my assessment of the factual basis for the claim made in this application and on the material filed in the #2 application.

[43] As referred to earlier, it is my view that it is appropriate to have regard to my reasons for decision in relation to the amended #2 applications. I have considered my reasons specifically in relation to the factual basis that supports a continuing Iman society and its acknowledgement and observance of traditional laws and customs (at ss 190B(5)(b) and (c)). The fact that the #4 application covers a different area is relevant to my consideration of the factual basis material, however, all three areas which make up the claim area are proximate (and contiguous) to the areas referred to in the material provided in support of the #2 claim and its subsequent determination by the Court. The description of the #4 native title claim group is the same as that of the #2 native title claim group and native title holders.

s 190B(5)(a)

[44] This subsection requires that the Registrar be satisfied that the factual basis is sufficient to support the assertion that:

- (a) the native title claim group currently has an association with the area covered by the application, and
- (b) the predecessors of the native title claim group also had an association with the area.

[45] While it is not necessary for the factual basis to support an assertion that all members of the native title claim group have an association with the area all of the time, it is necessary to show that the claim group as a whole has an association with the area.²⁰ Further, the facts alleged must 'support the claim that the identified claim group (and not some other group) held the identified rights and interests (and not some other rights and interests)'.²¹ In other words, for the purposes of the assertion at s 190B(5)(a), the factual basis should provide information pertaining to the identity of the native title claim group, the predecessors of the group and the nature of the association with the area. For example:

- showing the history of the association that those members of the claim group have, and that their predecessors had, with the application area;²²
- demonstrating that a link exists between the current claim group and its predecessors' and their association with the application area.²³

[46] Further, Dowsett J also observed:

Similarly, there must be evidence as to such an association between the predecessors of the whole group and the area over the period since sovereignty.²⁴

Traditional territory of the Iman People

[47] Attachment F summarises Dr Powell's findings in relation to the traditional territory of the Iman people:²⁵

²⁰ *Gudjala 2007* at [51] and [52].

²¹ *Gudjala 2007* at [39].

²² *Gudjala 2007* at [51].

²³ *Gudjala 2007* at [66].

²⁴ *Gudjala 2007* at [52].

²⁵ Stage 4 Anthropological Report, July 2012.

Referring to the existing determination area for the Iman People #2 Native Title Claim, Dr Powell found that the Application Area covers country associated with the landholding group distinguished in the records as Iman. She found that the maps and representations of Iman country in the ethno-historical materials were valid representations of country associated with Iman people but they did not individually represent the full extent of the country associated with the Iman people (100). She postulates a compilation which puts the southern boundary of the country associated with the Iman people in the region drained by the tributaries of the upper Dawson catchment, extends the north and north eastern boundaries to around Banana and situates the western boundary to include all the headwaters of the Upper Dawson River [101]. In section 7 of her report she discusses the connection of the members of four Iman descent groups to the Upper Condamine Region.²⁶

- [48] [Name deleted] asserts that her parents told her that Iman people lived in the Dawson basin, Palm Tree Creek and north to Banana and Conciliation Creek. She knows that Iman territory extends towards the Auburn Range in the south east (Area B) along the Great Dividing Range to the Arcadia Valley in the north west (Area C). The Upper Dawson area belonged to her grandfather Jim Waterton, 'Jiman country went southwards and stopped just north of Miles but also went westwards to Injune.²⁷ This largely describes the geography of Area C. [Name deleted] speaks of her grandfather's and others' association with the Carnarvon Range (north west boundary of Area C); her father worked at Theodore (just west of Area A), she worked with her father on properties around Moura (on the north eastern border of Area A) and remembers being taken out to Kiddle Plains (in the center of Area A). Much of her evidence is relevant to the association of her parents and grandparents had with the Taroom and Palm Tree Creek areas (in the now determined area of Iman territory) and their life and travels along the Dawson River.²⁸
- [49] [Name deleted] has also been told the extent of Iman country by his grandmother – along the Upper and Middle Dawson River, east from the Arcadia Valley and Injune to the Dawson River, just west of Theodore, south to Miles and the Upper Condamine and north to Banana and Moura.²⁹
- [50] [Name deleted] and [name deleted] too speak of the traditional boundaries that are consistent with those above. This knowledge was passed to them by their parents and grandparents. [Name deleted] was told by his father and grandfather that Jiman country took in all of the upper Dawson drainage basin, south to the Condamine, as far west as Injune, the Expedition and Bigge Ranges and north to Moura and Banana to around Conciliation Creek.³⁰ [Name deleted] was told the same by his father.³¹

Association of the predecessors of the native title claim group with the application area

- [51] Dr Powell's reports and the Kidd Report document the evidence of Aboriginal occupation in Iman territory as detailed by early explorers, archaeologists and anthropologists. Archaeological evidence, including scarred trees, bora rings, rock art, stone and ochre

²⁶ Schedule F at p.2.

²⁷ At [5]-[6].

²⁸ At [14], [17], [19], [20], [32].

²⁹ At [7].

³⁰ At [37].

³¹ At [11].

quarries, stone artefacts and burials have been recorded within Iman territory, including locations within parts of the claim area.

- [52] It is Dr Powell's view that the named Iman apical ancestors were likely to have been born around or before the date of effective sovereignty in the area of the application (asserted to be 1845). The stage 2 report includes a table setting out the birth dates of known Iman ancestors showing that the majority of these people were born between the 1840s and 1860s. All appear to have resided and died within the area of the #2 application, at Taroom or surrounding pastoral leases. Dr Powell concludes that each of the persons listed in the claim group description have traditional as well as a historical connection to the traditional lands of the Iman people.³²
- [53] Members of the native title claim group speak of their genealogy, their knowledge of the boundaries and significant features of Iman country. All attest to the association of their predecessors with the claim area through working, travelling and living in the area. Forebears of the group worked on the pastoral leases as stockmen, drovers and domestic staff. [Name deleted] relates the association of her grandmother with Jiman country, through many areas that fall outside the claim area but within determined Iman country – Isla George, Taroom Palm Tree Creek, the Dawson Valley.³³ [Name deleted] speaks of her and her family's association with the Dawson River, Palm Tree Creek which are not in the claim area but she knows through the stories of her father the association of her predecessors with areas and sites that fall within Areas A and C.
- [54] [Name deleted] speaks of the lives of his grandfather's generation in the Taroom region. His grandfather talked to him about the extent and importance of Yiman country – at the center and lifeblood is the Dawson River and the creeks that fed into it from the surrounding mountain ranges. [Name deleted] was taught the stories of his country by his grandfather including those of areas within the claim area (Area C). His grandfather's father was born at Woleebee Creek (eastern portion of Area C) around 1860.³⁴
- [55] [Name deleted]'s father and his brother were born on the Dawson River around 1904, his great grandmother was from Juandah Creek. He speaks of his family's association with Woleebee Creek and other creeks that flowed into the Dawson River, the Aboriginal camps along the Dawson River as shown to him by his father – Juandah, Palm Tree, Eurombah, Spring Creek Station and outside the township of Taroom (areas along and to the north the northern boundary of Area C). These are the areas of his great grandmother's country.³⁵ [Name deleted] also speaks of the camps along the creeks that fed into the Upper Dawson River told to him by his Granny [name deleted] – at Palm Tree Creek, Eurombah, Mud, Woleebee, Sandy and Spring Creeks (in and north of Area C).
- [56] [Name deleted]'s grandfather's connection with Iman country was maintained through his work on the pastoral stations of the upper Dawson, this way he became familiar with the important places and practices of Jiman people and this knowledge he has passed on to his

³² Stage 3 report.

³³ At [10], [12], [20].

³⁴ At [10]-[11], [27]-[29]

³⁵ At [66]-[70].

son and grandson. His father was an Iman person because his ancestors belong to that country.³⁶

- [57] [Name deleted]'s parents and grandparents were born and lived in the Taroom area – their association with country determined by their work on the stations until they were deleted to Woorabinda.³⁷ [Name deleted]'s grandfather is buried at Palm Tree Creek, his father was born on Eurombah Creek (Area C) in 1905 and also worked on the pastoral stations along the Dawson River.³⁸

Current association of the native title claim group with the application area

- [58] Members of the native title claim group continue to travel and camp in the claim area, taking their children and grandchildren out to teach them about Yiman country and pass on their cultural knowledge. [Name deleted] speaks of her family's association with Dawson River, camping along the river at Moura, Theodore and Taroom.³⁹ [Name deleted] speaks of her connection to areas predominantly outside the claim area, some in traditional Iman country (determined areas) and others, due to the government policies that resulted in the removal of Iman people from their country.⁴⁰ [Name deleted] too speaks of his connection and association with the determined area, his affidavit providing little information in relation to those areas that fall within the claim area.
- [59] [Name deleted] speaks of areas in the eastern region of Area C – Kowguran, Guluguba, that his father told him that the Great Dividing Range going west from Gurrulmundi was the southern border of Yiman country.⁴¹ [Name deleted]'s grandfather took him back to the Upper Dawson to see his parent's country when he was a young man and he continues to visit many of these places throughout his life, many of which fall within the Area C. He has lived outside of the claim area in Kingaroy (east of Area C) which he knows is not Iman country but his association with Iman country has been through his work, principally in areas that fall within the determined area of Iman country.⁴²
- [60] [Name deleted] was born in 1950 in Miles (Area C). He speaks of his father having spent some of his life in the eastern reaches of Area C – around Miles and areas along the railway line north to Wandoan (outside of Area C). Although his family has lived away from the claim areas in Memerambi and Kingaroy (east of Area C) he would go with his father to most of the places between Miles and Wandoan, learning about his country, collecting bush tucker and camping. [Name deleted] continues to visit with his family and children areas throughout his country – the pastoral stations along the Dawson River, the national parks that fall within determined Iman country, and across the extent of Area C - Carnarvon Gorge, Injune, Miles, Wandoan, Taroom, Cockatoo Creek.⁴³
- [61] [Name deleted] lived away from his parents' country when he was a child but visited during the school holidays, camping between Taroom and Chain Lagoons, Robinson Gorge, Palm Tree

³⁶ At [4], [8], [10]-[11], [37]

³⁷ At [13]-[16].

³⁸ At [12]-[14].

³⁹ At [10], [12], [20].

⁴⁰ At [4], [5], [18]-[20].

⁴¹ At [27]-[29].

⁴² At [20]-[21].

⁴³ At [71]-[73], [90]-[94].

Creek, Lake Murphy (in the determined area). Although he now lives in Mackay he continues to visit these areas and the places along the Dawson River where his grandfather and ancestors were born.⁴⁴ As an Iman elder he has responsibility for Iman country and the rights and obligations in relation to it.

- [62] [Name deleted] grew up in a camp at the junction of Lonesome Creek and Dawson River, outside Theodore. His parents travelled for work throughout the 60s and 70s between Wandoan, Taroom and Theodore and are now buried at Theodore. He has lived and worked all his life on or near Iman country.⁴⁵
- [63] [Name deleted] (apical ancestors Jim Waterton and Mary Arwa) also worked on the pastoral stations on Jiman country for considerable periods of his life, as his father and grandfather did before him. This allowed him to access Iman country – he has visited the burial caves of his ancestors that can be found in the Great Dividing Range – Pony Hills, along Spring Gully, Robinson Gorge, Isla Gorge, the Expedition and Bigge Ranges, the massacre sites at Palm Tree Creek, Bungaban and Wandoan, the old Iman camps on Juandah, Spring and Palm Tree Creeks. He knows the songline that travels from south of Wandoan past Miles up the Condamine River. Although many areas fall within the Iman determined area, [name deleted] has knowledge and association with locations in Area C and demonstrates his knowledge and understanding of the extent of Iman traditional country. [Name deleted] is a Jiman elder with knowledge and responsibility for his country which is passing onto his children and grandchildren.⁴⁶

Consideration

- [64] In *Gudjala 2007* Justice Dowsett considered the requirements of s 190B(5) generally and, in particular, the necessity for the Registrar to address 'the relationship which all members claim to have in common in connection with the relevant land'.⁴⁷ This should be considered in conjunction with His Honour's statement that the facts alleged must 'support the claim that the identified claim group (and not some other group) held the identified rights and interests (and not some other rights and interests)'.⁴⁸ That is, the factual basis material needs to provide information pertaining to the identity of the native title claim group, the predecessors of the group and the nature of the association with the area of the application.
- [65] As is to be expected, the majority of areas of association referred to in the connection affidavits are found in the determined area of Iman country. Sites and locations within the three areas that comprise the area covered by the application are rarely the subject of claimant's discussion about their association with Iman country. Reference to association with country that does fall within the claim area is largely evidencing knowledge of the extent of Iman country as told to some of the claimants by their predecessors.
- [66] There is however sufficient breadth of information in the connection affidavits to illustrate a knowledge of the traditional Iman boundaries and a continuity of association born of living and working on or proximate to the three areas that comprise the claim area.

⁴⁴ At [23], [34], [38].

⁴⁵ At [16], [18], [38].

⁴⁶ At [18]-[21], [28].

⁴⁷ *Gudjala 2007* at [40].

⁴⁸ *Gudjala 2007* at [39].

[67] I consider that the factual basis material is sufficient to demonstrate the association that members of the claim group have and its predecessors had with the area covered by the application. The extensive personal detail in the affidavits of the members of the native title claim group provides particular evidence to illustrate the claim group's connection to the land and waters of the application area through birth, descent, long term association and/or ancestral connection to that area. In this way it is clear that this current association has its origins in the preceding generations' association with the area.

[68] For these reasons I am satisfied that the native title claim group has, and its predecessors had, an association with the area.

s 190B(5)(b)

[69] This subsection requires that the Registrar be satisfied that the factual material is sufficient to support the assertion that there exist traditional laws acknowledged and customs observed by the native title claim group. These are the traditional laws and customs that give rise to the native title rights and interests claimed in the application. As noted earlier in these reasons, the test at this condition requires the delegate to 'address the quality of the asserted factual basis for those claimed rights and interests; but only in the sense of ensuring that, if they are true, they can support the existence of those claimed rights and interests'.⁴⁹

[70] In *Gudjala 2007*, Dowsett J considered that the factual basis materials for this assertion must demonstrate:⁵⁰

- that the laws and customs currently observed by the claim group have their source in a pre-sovereignty society and have been observed since that time by a continuing society;⁵¹
- the identification of a society of people living according to a system of identifiable laws and customs, having a normative content, which existed at the time of sovereignty;⁵² and
- the link between the claim group described in the application and the area covered by the application, 'identifying some link between the apical ancestors and any society existing at sovereignty'.⁵³

[71] In the context of the registration test (and explicitly for the task at s 190B(5)(b)), there must be factual material capable of supporting the assertion that there are 'traditional' laws and customs acknowledged and observed by the native title claim group, and that they give rise to the claimed native title rights and interests.⁵⁴

[72] I have considered my 2012 and 2014 reasons for decision accepting for registration the claim in the Iman People #2 amended applications, and specifically the reasons I provided for this condition.

[73] Schedule F summarises Dr Powell's key findings in each of the reports, Stages 2 to 7. Relevant to the area covered by this application, she finds that the historical evidence indicates that the

⁴⁹ *Doepel* at [17].

⁵⁰ At [71], [72] and [96]. This was not criticised by the Full Court in *Gudjala FC*.

⁵¹ *Gudjala 2007* at [63].

⁵² *Gudjala 2007* at [65] and see also at [66].

⁵³ *Gudjala 2007* at [66].

⁵⁴ *Gudjala 2007* at [62] and [63].

area covered by the #2 claim 'does not include all the country of the Iman landholding group'.⁵⁵ The available ethnographic literature leads Dr Powell to conclude that the name Iman (including its variant spellings) is one given to a territorial group associated with the upper and middle Dawson region, Yeeman is also a name associated with the upper Condamine region; and the Barunggam language variety is the principle language association with those regions. Specifically in relation to the pre sovereignty society, Dr Powell concludes that evidence exists 'of the presence of the 'Kabi-Type' system of social organisation (which is the defining feature of the 'Dippel Nation') in the upper and middle Dawson River catchment area from Westgrove Station in its headwaters to as far as Banana'. Further, the #2 claim area falls within the western part of an area in which the lives of the Aboriginal inhabitants were regulated by a regional system of laws and customs. The areas which make up the #4 claim appear to fall within that same region.

- [74] It was my view in relation to the 2012 and 2014 amended applications that, based on the information before me, Iman society continues to be governed by a normative system that observes and acknowledges traditional laws and customs that have existed since before the acquisition of sovereignty in the area of the application. In this respect, I continue to be of the view that it is not the purpose of the registration test to come to definitive conclusions about what in fact was the society at sovereignty, only whether the factual basis can support the assertion that the society at sovereignty has continued a vital existence (largely uninterrupted) since that time to the present. I decided that the material provided by the applicant in relation to both amended applications supported the assertion that there was a society at sovereignty in respect of the #2 claim area, defined by its recognition of laws and customs, and from which the claim group's current traditional laws and customs are derived.⁵⁶
- [75] I considered the material in the (earlier listed) connection affidavits provided for the purposes of registration of the 2014 amended application which is the same as that which has been provided to me in relation to this application. I was satisfied that they demonstrated 'how the claim group has handed down its laws and customs from generation to generation, in the sense defined in *Yorta Yorta*' and that the claimants each spoke about 'the ongoing exercise of rights and interests by the claim group, the practice of which has been passed down to them by their elders'.⁵⁷ My conclusion in relation to all of the material (Dr Powell's reports and the connection affidavits) was as follows:

... the factual material in the reports (those provided to me then and now) is supported by the claimant statements that illustrate aspects of the groups' traditional law and custom in respect of the area of the application. All of the material together relays information pertaining to family and ancestors, rules and responsibilities in relation to land and belonging to the area, special places and stories, spirits and the religious life, hunting, fishing and foraging and the passing on of traditional and cultural knowledge. In this way the factual basis then supported and in my view continues to support the asserted existence of traditional laws and customs in relation to such things as the native title claim group's kinship ties and identity, its stories and cultural knowledge, its rights and responsibilities in relation to country and places of significance.⁵⁸

⁵⁵ Schedule F, page 6; Stage 2 at [37].

⁵⁶ *Gudjala 2009* at [66].

⁵⁷ Reasons for decision, 18 August 2014 at [48].

⁵⁸ Reasons for decision, 18 August 2014 at [48].

[76] The totality of the factual basis material before me supports the proposition that the territory for the Iman landholding group extends beyond the #2 claim area and that claimants (persons descended from the same apical ancestors) continue to acknowledge and observe traditional laws and customs in relation to the combined areas. Specifically, it supports the existence of a relationship between the present laws and customs of the native title claim group and those laws and customs acknowledged and observed by a body of Iman People at the time of sovereignty. The factual basis supports the assertion that the laws and customs acknowledged and observed by the native title claim group are those which have their origins in a society existing at and before the time of sovereignty in relation to the area covered by the #4 application.

[77] I am therefore satisfied that the factual basis is sufficient to support the assertion that there exist traditional laws acknowledged and customs observed by the native title claim group and that these give rise to the native title rights and interests it claims.

s 190B(5)(c)

[78] This subsection requires that I be satisfied that there is sufficient factual basis to support the assertion that the native title claim group continues to hold native title in accordance with its traditional laws and customs. In my view, the assertion relates to the continued holding of native title through the continued acknowledgement and observance of the traditional laws and customs of the group.

[79] Dowsett J, in *Gudjala 2007*, held that this requirement ‘implies a continuity of such tenure going back to sovereignty, or at least European occupation as a basis for inferring the position prior to that date’. The factual basis material is therefore required to illustrate or demonstrate how the native title claim group ‘have continued to hold Native Title in accordance with traditional laws and customs’.⁵⁹

[80] I decided in relation to the 2012 and 2014 amended applications that the historical and anthropological material then before me demonstrated that the native title claim group has continued in such matters as its cultural practices and use of the natural resources of the land and that this knowledge has been and continues to be passed down to successive generations.⁶⁰ I was of the view that this material was sufficient to support the assertion that the Iman community continues as ‘one society’ and adheres to ‘the law and custom of their ancestors’. Further, it was my view that the connection affidavits illustrated how the laws and customs of Iman society have been passed from generation to generation and also supported the assertion that they continue to be acknowledged and observed today amongst the current generations of the claim group. In my view, as per my reasons above in relation to the condition of s 190B(5)(b), these contentions are relevant to the areas covered by the #4 application.

[81] I am therefore satisfied that the factual basis is sufficient to support the assertion that the native title claim group continues to hold native title in accordance with its traditional laws and customs.

⁵⁹ *Gudjala 2007* at [82].

⁶⁰ Reasons for decision, 18 August 2014 at [51].

Prima facie case – s 190B(6): condition met

[82] Under s 190B(6) I must be satisfied that at least one of the native title rights and interests claimed by the native title group can be established, prima facie. I refer to the comments made by Mansfield J in *Doepel* about the nature of the test at s 190B(6):

- (a) it involves some ‘measure’ and ‘weighing’ of the factual basis and imposes ‘a more onerous test to be applied to the individual rights and interests claimed’,⁶¹ and
- (b) it is a prima facie test and ‘if on its face a claim is arguable, whether involving disputed questions of fact or disputed questions of law, it should be accepted on a prima facie basis’.⁶²

Consideration

[83] In my view, as set out above at s 190B(5), the application provides a sufficient factual basis to support the assertion that there exist traditional laws and customs acknowledged and observed by the native title claim group that give rise to the claimed native title rights and interests. What follows is my consideration of each of the rights and interests claimed in the application as to whether they can be prima facie established to exist under the native title claim group’s traditional laws and customs.

Exclusive Rights

1. *In areas where exclusive rights can be recognised:*

- (a) *other than in relation to Water, the right to possession, occupation, use and enjoyment of the area to the exclusion of all others; and*
- (b) *in relation to Water, the non-exclusive rights to:*
 - (i) *hunt, fish and gather from the Water of the area;*
 - (ii) *take and use the Natural Resources of the Water in the area; and*
 - (iii) *take and use the Water of the area,**for personal, domestic and non-commercial communal purposes.*

[84] The majority decision of the High Court in *Ward HC* considered that ‘[t]he expression “possession, occupation, use and enjoyment ... to the exclusion of all others” is a composite expression directed to describing a particular measure of control over access to land’. Further, it considered that the expression (as an aggregate) conveys ‘the assertion of rights of control over the land’ which necessarily flow ‘from that aspect of the relationship with land which is encapsulated in the assertion of a right to speak for country’.⁶³ *Ward HC* is authority that, subject to the satisfaction of other requirements, a claim to exclusive possession, occupation, use and enjoyment of lands and waters can be established, prima facie.

[85] The decisions of the Full Court in *Griffiths FFC* and *Banjima FFC* indicate that for this right to be established, it must be accompanied by evidence that the practice of seeking permission to go onto another’s country is grounded in a spiritual imperative that gives the practice normative force. This may be expressed by way of ‘spiritual sanction visited upon unauthorised entry’ and as the ‘gatekeepers for the purpose of preventing harm and avoiding injury to country’.⁶⁴

⁶¹ *Doepel* at [126], [127] and [132].

⁶² *Doepel* at [135].

⁶³ *Ward HC* at [89] and [93].

⁶⁴ *Griffiths FFC* at [127].

In the more recent case of *Banjima FFC*, the Full Court referred to these statements from *Griffiths FFC* and held that ‘controlling access to country, expressed by the need to obtain permission to enter under pain of spiritual sanction ... is readily recognisable as a right of exclusive possession’.⁶⁵

[86] I considered the claimed right to exclusive possession when I considered the 2014 Iman People #2 amended application for registration. I have the same material before me now as then and I have concluded that this material is sufficient to support the existence, in relation to the three claim areas, of traditional laws acknowledged and customs observed by the native title claim group. The claim to exclusive possession is framed differently, to exclude an exclusive right in relation to water (where it falls within areas where exclusive possession can be recognised). I have considered the factual basis material afresh and the claim to exclusive possession in relation to the #4 areas. I am of the view that the right is evidenced in the material before me and can be established prima facie. As the same facts and law apply, I adopt my 2014 reasons in relation to the exclusive right:⁶⁶

The right to possess, occupy, use and enjoy the lands and waters of the application area by the Iman landholding group is considered to in the anthropological and historical reports and illustrated in some of the connection affidavits. In my view, I have sufficient information before me that refers to the existence of protocols and group structures as they relate to decision-making about access to country. Whilst there is a general assertion of ownership rights of the land holding group (at [28] of the Regional Report and [91] of the Stage 2 Report) the material addresses the rights of the native title claim group to control access to land and to speak for that country.

Dr Powell’s Stage 6 report covers matters relating to continuity of laws and customs pertaining to rights to country and the knowledge of Iman elders and their speaking for country—at [123], part 7.4. It is those senior people who hold the most knowledge of country, acquired by their forbears and through their own experiences, and therefore command the respect of the native title claim group and the authority to speak for Iman country. Dr Powell’s Stage 4 report includes discussion of pre-sovereignty landholding groups which ‘were entitled to exercise what are termed core proprietary/beneficial rights in relation to the territory ... and to particular places and resources within that area’. Three of these core rights would appear to fall within the ambit of exclusive possession: ‘occupation and economic rights, control and management rights, rights concerned with speaking for the country and maintaining the cultural estate’. Dr Powell refers to an example of the ‘actualisation’ of such rights: ‘conferring temporary rights on members of other land holding groups to travel through and/or access for a particular purpose, such as regularly occurred during the summer Bunya festivals’—at [115], Part 8. At the contemporary level, the connection affidavits from members of the claim group attest to matters relating to access rights and permission protocols that in my view are sufficient to show that there exists traditional laws and customs that pertain to the claim group’s right to possess, occupy, use and enjoy the land and waters of the application area as against the whole world. For example, [name deleted] speaks in his affidavit of access to country and the permissions and protocols Iman people afford Wakka Wakka people and the expectation that ‘outsiders would do the same for us’—at [65]. [Name deleted] speaks in his affidavit of asking permission to hunt on somebody else’s country—‘When somebody comes onto our country I expect them to do the same. If people who are not Jiman come onto our country, they must ask permissions and offer me a share of what they catch. If they do not, I will not vouch to my ancestors for their safety’—at 18. Knowledge of the extent of one’s country and the entry into their neighbours’ country are matters well regulated by the native title claim group and this has been passed onto them

⁶⁵ *Banjima FFC* at [38].

⁶⁶ Reasons for decision, 18 August 2014 at [60]-[64].

by their ancestors. [Name deleted] speaks of his grandfather telling him how their ancestors accessed the country of their neighbours—before entering, ‘the visitor had to wait until he was met and escorted by a person from that country that was related (such as in law) or had the same totem ... Yiman people were able to travel all over their own country without having to send a message stick or wait to be escorted’—at [29]. This version is also attested to by [name deleted]: ‘Dad said that as long as a person is Iman, that person can do things on Iman country without having to get permission, but if that person is not, they must get permission from the Iman tribal elders. In the old days, they used to send a message stick asking permission to enter. Today, they should still ask permission from our Elders if they want to go onto our country for fishing or hunting’—at [7].

[87] The right to exclusive possession is evidenced in the material before me and as such, I consider that it can be established, prima facie, over areas covered by the application where it can be recognised.

Non-exclusive Rights

[88] The non-exclusive rights claimed in the application are evidenced in the material, suggesting the rights exist under the traditional laws and customs of the native title claim group. It is apparent in Dr Powell’s anthropological and historical evidence and in the interviews with members of the claim group referred to in her reports that the native title claim group continue practices and activities in exercise of these rights. The connection affidavits further illustrate how these rights are held under the traditional laws and customs of Iman people. While the material and affidavits have been compiled in relation to the #2 area, there is, in my view, sufficient reference to areas that fall within the #4 areas.

[89] Claimants actively travel through, camp in, reside and visit the application area for the purposes of gathering resources, conducting ceremonies, maintaining sites and protecting areas of significance. Members of the claim group continue to conduct activities in relation to the area that necessarily involve being present on the area covered by the application and areas proximate to it. Such activities include clearing bora rings, protecting gravesites, caves and old campsites; activities associated with cooking and camping include the use of fires and protecting camp sites that pre-date European contact. Hunting, fishing and gathering the natural resources of the claim area are regular activities. The material evidences traditional laws and customs in respect of hunting and fishing: rules relating to hunting and fishing continue to be acknowledged and observed by the native title claim group; traditional methods are taught to children by their elders and knowledge is held about animals and plants, the duty of care for totemic animals and in general the use and conservation and sharing of resources. Members of the claim group continue to use plants, bark, clay for medicinal purposes, bush craft and survival on country. The Dawson River and its creeks and tributaries hold a significant place in Iman people’s relationship to their country. The material evidences the use of water and its resources throughout the generations, including the rights and responsibilities recognised under Iman traditional law and custom.

[90] Knowledge of specific areas and sites on and proximate to the claim area includes knowledge of the native title claim group’s rights and obligations to care and protect places of significance. Information continues to be passed on to the younger generations – they are taught about places, key sites of significance, camp sites. Teaching about place maintains knowledge of ancestors and the connection between kin and territory; children and

grandchildren are taken out onto country and told about their ancestors. Claimants attest to burials that took place in Taroom before the establishment of the town; gravesites and burial sites are known and visited by members of the claim group both on the claim area and proximate to it.

[91] All of the claimed non-exclusive rights are evidenced in the material before me and as such, I consider that they can be established, prima facie, in relation to the three claim areas.

Conclusion

[92] I have considered the rights claimed in the application against existing law in relation to whether or not they are capable of being recognised and am satisfied the application provides sufficient information to establish, prima facie, their existence.

Physical connection – s 190B(7): condition met

[93] Under s 190B(7), 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. This condition ‘can be seen as requiring some measure of substantive (as distinct from procedural) quality control upon the application’.⁶⁷

[94] In *Doepel*, Mansfield J also considers the nature of the Registrar’s task at s 190B(7):

Section 190B(7) imposes a different task upon the Registrar. It does require the Registrar to be satisfied of a particular fact or particular facts. It therefore requires evidentiary material to be presented to the Registrar. The focus is, however, a confined one. It is not the same focus as that of the Court when it comes to hear and determine the application for determination of native title rights and interests. The focus is upon the relationship of at least one member of the native title claim group with some part of the claim area. It can be seen, as with s 190B(6), as requiring some measure of substantive (as distinct from procedural) quality control upon the application if it is to be accepted for registration.⁶⁸

[95] Schedule M of the application refers to Attachment F for ‘manifestations of that physical connection’ found in the details of the activities that members of the claim group have maintained with Iman country. The connection affidavits provide many examples of people’s physical connection to sites, locations and the broader area of Iman country. As evidenced in all of the connection affidavits, members of the claim group continue to visit many areas within the area covered by the application and to carry out various traditional activities associated with ‘looking after country’ and in exercise of their claimed native title rights and interests.

[96] Sufficient material is provided to show that, in their acknowledgement and observance of Iman traditional laws and customs, members of the native title claim group have a traditional physical connection with the land and waters of the application area. The material is referred to and quoted extensively in the consideration above for both ss 190B(5) and 190B(6). I am satisfied that at least one member of the claim group currently has a traditional physical connection with parts of the application area

[97] The application satisfies the condition of s 190B(7).

⁶⁷ *Gudjala FC* at [84].

⁶⁸ *Doepel* at [18].

No failure to comply with s 61A – s 190B(8): condition met

[98] Sections 61A(1)-(3) set out various prohibitions for a native title determination application area. By s 190B(8), the application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that the application should not have been made due to s 61A factors. In my view the application area is not problematic in terms of s 61A(1)-(3) restrictions, therefore the application satisfies the condition of s 190B(8). The circumstances regarding s 61A(1)-(3) are as follows:

Requirement	Information addressing requirement	Result
s 61A(1) no native title determination application if approved determination of native title	Geospatial report	Met
s 61A(2) claimant application not to be made that covers any previous exclusive possession areas	Schedule B, paragraph 1 & 6	Met
s 61A(3) claimant application not to claim certain rights and interests in areas covered by previous non-exclusive possession acts	Schedule B, paragraph 3	Met

No extinguishment etc. of claimed native title – s 190B(9): condition met

[99] Section 190B(9) sets out various circumstances which are restricted from a native title determination application as described specifically in that provision. In my view the application suffices in terms of this condition and the bases for that conclusion are as follows:

Requirement	Information addressing requirement	Result
(a) no claim made of ownership of minerals, petroleum or gas wholly owned by the Crown	Schedule Q	Met
(b) exclusive possession is not claimed over all or part of waters in an offshore place	Schedule P	Met
(c) native title rights and/or interests in the application area have otherwise been extinguished	Schedule B paragraph 6	Met

Procedural and other matters (s 190C)—Conditions not met

Information etc. required by sections 61 and 62 – s 190C(2): condition met

[100] I have examined the application and I am satisfied that it contains the prescribed information and is accompanied by the prescribed documents.

What is required to meet this condition?

[101] To meet s 190C(2), the Registrar must be satisfied that the application contains all of the prescribed details and other information, and is accompanied by any affidavit or other document, required by ss 61 and 62. This condition does not require any merit or qualitative assessment of the material to be undertaken.⁶⁹

⁶⁹ *Doepel* at [16] and also at [35] to [39].

Subsection 61

[102] The application contains the details specified in s 61 as per the table below.

Section	Details	Form 1	Result
s 61(1)	Native title claim group	Part A and Schedule A	Met
s 61(3)	Name and address for service	Part B	Met
s 61(4)	Native title claim group named/described	Schedule A	Met

Subsection 62

[103] The application contains the details specified in s 62 as per the table below.

Section	Details	Form 1	Result
s 62(1)(a)	Affidavits in prescribed form.	Affidavits of all persons comprising the Applicant: Harold Doyle; Trent White; Samantha Booth; John Waterton	Met
s 62(2)(a)	Information about the boundaries of the area	Schedule B and Attachment B	Met
s 62(2)(b)	Map of external boundaries of the area	Schedule C and Attachment C	Met
s 62(2)(c)	Searches regarding non-native title rights and interests of which the Applicant is aware.	Schedule D	Met
s 62(2)(d)	Description of native title rights and interests	Schedule E	Met
s 62(2)(e)	Description of factual basis:	Attachment F	Met
s 62(2)(f)	Details of any activities the claim group currently carries on	Schedule G	Met
s 62(2)(g)	Other applications	Attachment H	Met
s 62(2)(ga)	Notices under s 24MD(6B)(c)	Schedule HA	Met
s 62(2)(h)	Notices under s 29	Schedule I	Met

No previous overlapping claim group – s 190C(3): condition not met

[104] The requirement that the Registrar be satisfied in the terms set out in s 190C(3) is only triggered if there is a previously registered claim in relation to the area covered by the application before me, as described in ss 190C(3)(a), (b) and (c).⁷⁰ Section 190C(3) relates to ensuring there are no common native title claim group members between the application currently being considered for registration ('the current application') and any overlapping 'previous application' that is a registered application when the current application was made.

[105] The geospatial report confirms that one native title determination application falls within the external boundaries of the current application, being the Wadja People application (QUD422/2012; QC2012/010). Area A of the Iman #4 application overlaps the southern

⁷⁰ Strickland at [9].

portion of the Wadja People application. The Wadja People application was made on 22 August 2012, entered on the Register of Native Title Claims on 19 December 2012 as result of consideration under s 190A and has not since been removed. It is therefore a 'previous' application as it meets the conditions set out in the subparagraphs (a) to (c) of s 190C(3). As such the Registrar is required to be satisfied that no person included in the Iman People #4 native title claim group is a member of the previous Wadja People native title claim group.

[106] Schedule H refers to Attachment H which is an overlap analysis report prepared by the NNTT's Geospatial Services as at 14 August 2017. The report identifies that the Wadja People application overlaps the Iman People #4 application. The overlap of the two claims is therefore acknowledged by the applicant.

[107] Schedule O provides the statement that no member of the native title claim group is a member of a native title claim group for any registered application made in relation to the claim area.

Alice Dutton (Iman) and Harriet Dutton (Wadja)

[108] A comparison of the native title claim group descriptions of the Wadja People and the Iman People reveals that each relies on descent from an apical ancestor with the surname Dutton. Alice Dutton is an apical ancestor for the Iman people and Harriet Dutton is an ancestor for the Wadja people.

[109] On 10 November 2017 I provided the applicant with an opportunity to comment on why the Registrar should be satisfied that the two native title claim groups do not have claimants in common based on the common surnames of these apical ancestors. In response, the applicant has provided an anthropologist's report in which the finding is:

Taking into consideration the differences between Harriet Dutton and Alice Dutton with respect to linguistic affiliation/language group affiliation, and place association, and the absence of any genealogical links between either them or their children, or children's children I have formed the view that there is no information in the records available for my review that indicates there is any link between the apical ancestor Harriet Dutton or Harriet's children with the apical ancestor Alice Dutton and Alice Dutton's children.⁷¹

[110] The basis of the anthropologist's finding is that records show:

- Alice Dutton is associated with the Taroom area and her language affiliation is Barunggam.
- Harriet Dutton was born on Duaringa Station and her language affiliation is Kangalu (Gangulu) or Wainjigo.
- Alice Dutton's date of birth is estimated to be 1863.
- Harriet Dutton's date of birth is estimated to be 1845 or 1856.
- Harriet Dutton may have acquired her surname through her association with Bauhinia Downs Station pastoral station owned by a Dutton family and on which her husband was born.
- There is no record confirming any link between Alice Dutton and any Dutton family present in the region.
- Records pertaining to Harriet Dutton's mother show she was born in the Duaringa area and that Harriett was her only child.

⁷¹ Anthropological Report at [31].

[111] I note that Dauringa is approximately 270km north of Taroom and approximately 120km north of the Iman People #4 Area A claim area.

Sarah Dodd (Wadja)

[112] On 16 November 2017 the Registrar received a letter from [name deleted] and supporting documentation asserting her membership of both the Wadja and Iman native title claim groups. Her father is a descendent of a Wadja apical ancestor and her mother a descendant of an Iman apical ancestor.

[113] [Name deleted] states that she identifies as ‘a Wadja woman through descent on my father’s side from apical ancestor Sarah Dodd’.⁷² Sarah Dodd is the grandmother of [name deleted]’s father [name deleted] and is an apical ancestor used to describe the composition of the Wadja native title claim group. [Name deleted] states that her mother’s great grandmother was Mary Ann (mother of Maggie Dunn) – the 7th named apical ancestor listed in the description of the Iman People native title claim group. She states that all of her siblings are ‘descendants of Sarah Dodd on the Wadja side and Mary Anne on the Iman side’. She participates in Iman meetings and her ‘status as an Iman person has never been challenged by other Iman people’.⁷³ As supporting evidence she provides copies of her own birth certificate and the marriage certificate of her grandparents. She does not believe that ‘the Iman #4 claim should be registered as myself and my fellow family members are members of both the Iman #4 and Wadja native title claim groups and the Iman #4 claim overlaps the Wadja claim which was registered earlier in 2012’.⁷⁴ I note the Register records [name deleted] is a person comprising the applicant for the Wadja claim.

[114] I provided [name deleted]’s submission to the applicant for comment and on 8 December 2017. The applicant provided a submission and a further anthropological report prepared in relation to the apical ancestor Sarah Dodd. The applicant submits:

- [name deleted] does not claim to be an Iman person through Sarah Dodd, but asserts her identity through Mary Ann – and many Iman people have such ancestry that connects them to other groups;
- in accordance with Iman traditional law and custom, people are only entitled to assert native title rights and interests where they primarily identify as an Iman person;
- [name deleted] has in the past identified primarily as an Iman person and it is on this basis that she is a member of the Iman registered native title body corporate which requires members to primarily identify as Iman, be accepted as a member of the Iman People and provide evidence to this effect.

[115] The applicant submits Sarah Dodd is associated with areas outside the traditional country of the Iman people and that ‘she was a Gangalu rather than a Wadja person’. Further, it submits there is no family connection between Sarah Dodd and Mary Ann, and although ‘some later generations of Mary Ann are also descended from Sarah Dodd’ these are a minority and they primarily identify as Iman people.

[116] The accompanying anthropological report considers the overlap area, [name deleted]’s connections to the Iman and Wadja claim groups, Sarah Dodd, Mary Ann (mother of Maggie

⁷² At [1].

⁷³ At [6].

⁷⁴ At [8].

Dunn), Iman people who may be descendants of Sarah Dodd and the laws and customs of the Iman people.

- [117] In summary, Dr Powell's report states that Sarah Dodd was born in 1862 in Banana which falls in neither the Iman #4 nor Wadja claim areas. She and her children were at Redcliffe No.6 in 1904 (a portion of the Redcliffe pastoral holding and not overlapped by the Iman People #4 Area A). There is evidence that Sarah Dodd has a historical association with Redcliffe No. 6 during the period 1884 – 1904, however there is no information about her whereabouts during the period 1862 - 1884. She died in Rockhampton in 1952. The report illustrates [name deleted]'s ancestry and Sarah Dodd's descendants with partial genealogies which confirm the descent descriptions in [name deleted]'s submission. The report states that approximately 60 persons are descendants of both Mary Anne and Sarah Dodd, however, the descendants of [name deleted] and [name deleted] ([name deleted]'s parents) 'comprise only one branch of the many branches of the descendants of [name deleted] [[name deleted]'s mother's mother] who was one of 11 children.⁷⁵
- [118] The report acknowledges that Sarah Dodd is one of the apical ancestors that describe the Wadja claim group, which is one of the names associated with a language identified variously as Wainjago, Wainjigo, Wadjainggo, Wainggo and Wadjigu. The report also clearly submits that Sarah Dodd was not an Iman person. However, it appears also to imply a lack of certainty in relation to Sarah Dodd's identity as a Wadja person and provides some support for this view based on the historical records Dr Powell has reviewed.
- [119] The report sets out Mary Ann's descendants to show the limit to which her descendants are also descendants of Sarah Dodd. This is followed by information about the laws and customs that regulate membership of the Iman native title claim group, including the rules for membership of the corporation.
- [120] The report's findings with respect to [name deleted] include that she is the great grandchild of Sarah Dodd and a descendant of the Iman apical ancestor Mary Ann (mother of Maggie Dunn); that she is a member of the Iman Wardingarri Aboriginal Corporation based on her primary identification as Iman; that she now identifies as Wadja through an ancestor who was not an Iman person which would suggest that this preferences her Wadja affiliation and therefore makes her ineligible to remain a member of the corporation.

Consideration

- [121] The possibility of common claim group membership arises in relation to two descent lines used to describe the composition of the Iman native title claim group. On the first, Dr Powell's report provides sufficient explanation that no link or relationship exists between the Wadja named apical ancestor Harriet Dutton and Iman named ancestor Alice Dutton. This is sufficient for me to be satisfied that none of the descendants of these two ancestors are included in both claim groups. On the second, the information in [name deleted]'s submission and the applicant's submissions in reply leads me to consider that there is little certainty as to whether some persons included in the Iman People #4 native title claim group are not also members of the Wadja native title claim group, as they are described.

⁷⁵ At [26]-[27].

- [122] *Dann* deals with a similar circumstance of overlapping claims where a person appears to claim membership of two native title claim groups, one through her father and one through her mother. [Name deleted] has a father whose descent is from a named Wadja apical ancestor, and a mother whose descent is from a named Iman apical ancestor. Justice Barker states that ‘It does not, on one view of things, seem reasonable – and certainly in traditional terms one would not think that it is – for a person to be required to give up their traditional claims either on their father’s or their mother’s side, simply in order to meet the registration requirements of the NTA set out in s 190C(3).⁷⁶ Further, ‘it can readily be appreciated that s 190C(3) introduces something of a conundrum in such a case as the present’. [Name deleted] similarly has ‘competing aspects’ of traditional interest that are ‘not easily resolved’.⁷⁷
- [123] However, it is a ‘strict requirement’ of s 190C(3) ‘that a later application over the same area covered by an earlier application cannot be entered on the Register where any person included in the claim group for the later application is a member of the claim group on the earlier registered application. Section 190C(3) expressly says that the Registrar must be satisfied “that no person” included in the claim group for the current application is a member of the claim group for any previous registered application’.⁷⁸
- [124] Ultimately I am bound to consider the descriptions of the native title claim groups at Schedule A in each of these applications in order to be satisfied that no person is included in both groups. They each provide an objective mechanism by which a person in the native title claim group can be ascertained – that is, by descent from named apical ancestors. Whether or not Sarah Dodd in fact was a Wadja woman is not material to my consideration – it is not for me, in the context of registration, to make a decision about her identity. As the Register currently stands Sarah Dodd is a named apical ancestor used to describe the composition of the current Wadja native title claim group. [Name deleted]’s descent from both Sarah Dodd and Iman apical Mary Ann is unequivocal – it is set out in her submissions and the records reviewed by Dr Powell and included in her report do not contradict those submissions.
- [125] Dr Powell’s Stage 2 and 3 anthropological reports on the Iman landholding group include findings about ‘the importance of descent in determining membership of the landholding group’ as well as ‘that identification as Iman is an essential criterion for membership of the Iman claim group’. The factual basis then supports Dr Powell’s submission in her report on Sarah Dodd that membership of the Iman People native title claim group ‘derives from a combination of three things’: (a) self-identification, (b) descent from an ancestor who is regarded by others who also self-identify as Iman as having a traditional association with the Claim Area, and (c) recognition as a member of the claim group by others who are accepted as members of the claim group. It is in this context that she states [name deleted] ‘clearly identifies as a Wadja woman’.⁷⁹ The following paragraph in *Dann*, in my view, is therefore key to my consideration in these circumstances:

However, unless the construction can be taken that self-identification is a pre-requisite to membership of the Bunuba claim group as a final, additional requirement under para (c)

⁷⁶ At [82].

⁷⁷ At [78], [79] and [81].

⁷⁸ At [79].

⁷⁹ Dr Powell’s research, Sarah Dodd submissions at [28].

[of the claim group description], then the statutorily induced conundrum seems to me to exist.⁸⁰

[126] The regulatory mechanisms of these three criteria under the group's traditional law and custom is not included in the description of the group at Schedule A. This is unlike the Bunuba application in which the (similar) criterion for membership of the Bunuba native title claim group is included in the description. In my view, the consideration of whether I am satisfied that 'no person' is included in both claim groups is dictated by the primacy of the description at Schedule A and not what any supporting or additional information provides about how membership of the claim group is regulated.

[127] On this basis, it is clear to me that by virtue of the descriptions of each of the native title claim groups [name deleted] is descended from an apical ancestor in each of the claim groups and is thereby, on the face of it, eligible for membership in both. Whilst this is not problematic in itself, the fact of the overlap of the two claim areas precludes me from being satisfied that no person in the earlier registered Wadja claim group is included in the claim group for the later Iman application. If it were arguable that I should also take into account the primary identification criteria for her membership, and that [name deleted] does not meet this requirement, I refer to the acknowledged existence of other persons descended from Mary Ann who may also be descendants of Sarah Dodd. Those persons may be limited to the descendants of the union of [name deleted]'s parents, but I have no information before me that would confirm their primary Iman identification. The threshold is that I must be satisfied that no person is a member of both native title claim groups. In my view, there is no certainty that this is the case and I cannot be satisfied as to the terms required of this condition for registration.

[128] The application does not satisfy the condition at s 190C(3).

Authorisation – s 190C(4)(b): condition met

[129] For the application to meet the requirements of s 190C(4)(b), the Registrar must be satisfied that 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. Furthermore, in accordance with s 190C(5), the application needs to include a statement to the effect that the requirement at s 190C(4)(b) has been met and briefly set out the grounds for this being the case.

[130] In *Doepel*, Mansfield J discusses the interaction between s 190C(4)(b) and s 190C(5) as follows:

In the case of subs (4)(b), the Registrar is required to be satisfied of the fact of authorisation by all members of the native title claim group. Section 190C(5) then imposes further specific requirements before the Registrar can attain the necessary satisfaction for the purposes of s. 190C(4)(b). The interactions of s. 190C(4)(b) and s. 190C(5) may inform how the Registrar is to be satisfied of the condition imposed by s. 190C(4)(b), but clearly it involves some inquiry through the material available to the Registrar to see if the necessary authorisation has been given.⁸¹

[131] Section 251B defines the term 'authorise' and provides that an applicant's authority from all the persons in a native title claim group to make an application and deal with matters arising

⁸⁰ *Dann* at [83].

⁸¹ *Doepel* at [78].

in relation to it must be given under a traditional decision-making process, or if no such process exists, then under an agreed decision-making process. For this application, the latter is relevant. For that process, s 251B(b) requires the native title claim group to authorise the applicant to make the application and to deal with the matters in accordance with the decision-making process that is agreed to and adopted by the persons in the claim group in relation to authorising the making of the application, dealing with the matters or doing things of that kind.

Have the requirements of s 190C(4)(b) and s 190C(5) been met?

[132] For s 190C(4)(b) the first consideration is whether the applicant is a member of the native title claim group. The four persons comprising the applicant have each deposed in their affidavit “I am a member of the claim group (“the claim group”) for the Native Title Determination Application of the Iman People (“the native title claim”). That statement alone does not expressly identify the particular claim. In considering the whole application I am satisfied the membership requirement is met because in respect of the area, I note that elsewhere in the affidavit the claim is identified as Harold Doyle & Ors on behalf of the Iman People #4, consistent with the application. Further, each person deposes that they have seen the Form 1 (which clearly identifies the particular claim for which they are asserting claim group membership).

[133] The native title claim group is described in Schedule A by reference to a list of apical ancestors and within the authorisation meeting minutes (Attachment R), each of the persons comprising the applicant is listed in attendance with reference to one of those ancestors.

[134] The next consideration is whether the applicant is *authorised* by all the other persons in the native title claim group to make the application and deal with matters arising in relation to it.

[135] An authorisation meeting took place on 31 October 2015. The minutes of that meeting have been provided as Attachment R. Much of the meeting addressed the area of the Iman People #2 claim⁸² and a few of the resolutions related to the subject Iman People #4 claim. I note the following about the relationship between these two claims:

- Attachment R lists the apical ancestors for the #2 application, which are the same as those listed in Schedule A for the #4 application;
- Resolution 9 states that the claim group for the intended #4 application is the same as the claim group for the #2 application; and
- Attachment F states ‘the Iman People #2 Native Title Claim abuts this current application [Iman People #4] and the [Iman People #4] claim group is identical to the [Iman People #2] determined native title holders’.

[136] This context about Iman People #2 is useful and relevant to the extent that it affects the assessment of the Iman People #4 claim.

[137] After setting out details of the authorisation meeting, each of the four persons comprising the applicant have stated in their affidavit that he/she is authorised by all the persons in the native title claim group to make the application and to deal with matters arising in relation to it. I also note at Part A(2) of the application it is stated that the Applicant is entitled to make

⁸² The claim has since been determined (Tribunal file number QCD2016/015).

the application as authorised by the native title claim group with reference to the 31 October 2015 meeting described in Schedule R.

[138] The applicant persons confirm in their affidavits that there is no traditional decision-making process for authorisation purposes and that ‘at the authorisation meeting those in attendance adopted an agreed decision-making process providing for decisions to be made by majority’. The applicant persons provide further information in each affidavit as follows:

At the authorisation meeting, I was present when a resolution was put appointing myself and several other members of the claim group to form the applicant for the native title claim. The resolution provided that any decisions by the applicants must be made by majority...

The resolution was debated and then voted on by the claim group. I observed that the resolution was passed by a substantial majority. As a result, I am now authorised by all the persons in the Native Title Claim Group to prosecute the native title claim and to deal with matters arising in relation to it—at [5] and [6].

[139] Further information about the agreed decision-making process and other relevant aspects of the authorisation meeting (see Attachment R) are as follows:

- (a) Proposed Resolution 3 shows a resolution was passed which set out that for the Iman #2 claim group there is no process of decision-making under traditional law and custom for the Iman #2 claim or any new applications and then set out what the process of decision-making for this meeting will be (i.e. six dot points which, in summary, involve a show of hands and if a majority is not clear then a count of each category (favour, against, abstain) and a written record of that). That resolution of decision-making process was voted in favour unanimously. As the Iman #2 claim group membership has been stated to be the same as that for Iman People #4, I regard this process of decision-making as applicable for both claims.
- (b) Proposed Resolution 9 was that ‘the persons in attendance at this meeting authorise the filing of a further NT Determination Application for the Iman People over the shaded area in the map displayed and presented to this meeting. The claim group description for the further NT claim is to be the same as that set out in the amended NT Application for Iman #2 people (QUD6162 of 1998) filed on 13 June 2014 and the rights and interests will be as set out in schedule J of that application’. A map of the proposed new claim was shown on the screen and the three shaded areas appear to replicate the three areas as Attachment C to the Iman People #4 application.
- (c) Proposed Resolution 11 set out a method for selecting the Applicant persons for the new native title claim (i.e. #4) and compensation claim with reference to ten descent lines. It was carried in favour by a show of hands and two people voted against it.
- (d) Proposed Resolution 12 set out a process for appointing new Applicant persons. Each descent group (based on the apical ancestors) selected their candidate to nominate. After that occurred, a resolution was read out stating the condition (at 12.1) of being appointed as an applicant. Ten people were endorsed as applicants (carried in favour by show of hands, and one person voted against). The Applicant persons for Iman People #4 (Harold Doyle, Trent White, John Waterton and Samantha Booth) were among the ten people so endorsed.
- (e) One of the parameters to the authorisation meeting was that set out in Resolution 4 (carried unanimously). It was that only persons descended from the listed ancestors (i.e. the same ancestors for Iman People #2 and #4) are intended to speak and make decisions at the meeting.

[140] In *Lawson*, the Court addressed authorisation involving an agreed and adopted decision-making process which permits decisions to be made by persons from the claim group who are present at an authorisation meeting convened for that purpose, but who clearly do not amount to all of the persons of the claim group. Stone J decided a person may be authorised following an agreed and

adopted process where every reasonable opportunity is extended to group members to attend a meeting, even though all members do not actually attend.⁸³

[141] For present purposes, the application provided ample information about the 31 October 2015 authorisation meeting. Within the minutes it was noted that a copy of the notice of meeting advertised in the Courier Mail was displayed. The additional material provides further information in a signed statement dated 13 September 2017 from a Just Us Lawyers staff member describing the steps she took to organise the authorisation meeting

(a) Newspaper advertisements of the authorisation meeting were published on the following dates. Copies of each notice has been provided.

1. 'Koori Mail published on 7 October 2015'
2. 'First Nations Telegraph on 9 October 2015'
3. 'Courier Mail on 3 October 2015'

(b) A copy of the notice was mailed out to 314 people on the Just Us Lawyers contact list. The list was drawn from information taken from attendance sheets at previous Iman People authorisation meetings and people who had submitted applications to be members of the RNTBC for the Iman People (Wardingarri Aboriginal Corporation). The list was provided, though the date of the mail out has not been specified.

(c) Dr Fiona Powell provided the attendance sheets from the 31 October 2015 meeting, which show that 347 Iman People attended the meeting and those numbers are further divided into which apical ancestor the attendee aligns with. A copy of the attendee sheets (with personal information redacted) has been provided.

[142] The notices sets out the various purposes of the meeting, one of which was to "authorise a further Native Title claim over the shaded area of the Map contained in this notice and authorise Applicants to prosecute the new claim". The map in the notice appears consistent with the 3 areas shown in Attachment C of the Form 1 so I infer it is the area of the current Iman People #4 application. The notice provided the date, time and venue of the application and invites only the descendants of listed Iman ancestors to participate (the listed ancestors are the same as those in the Form 1 claim group description). Each notice also outlines a travel assistance opportunity.

[143] Having considered the circumstances, inclusive of the nature of the publications, the dates the notice was placed or published and the content of the notice for the newspapers, as well as the mail out, I am satisfied that the claim group was provided every reasonable opportunity to attend the authorisation meeting.

[144] As required by s 190C(5)(a), I note that the application includes a statement to the effect that the requirements of s 190C(4)(b) has been met (see the affidavit statements and Part A(2) of the Form 1). The affidavits, Schedule R and further material submitted on 13 September 2017 provide material relevant and adequate for briefly setting out the grounds for which the Registrar should consider that s 190C(4)(b) has been met.

[145] Taking into account the information described above about the authorisation process and meeting, my view is that the claim has been properly authorised.

⁸³ At [25]-[27].

[146] I am therefore satisfied that all reasonable steps have been taken for all of the persons of the native title claim group to be provided an opportunity to participate in the decision-making process which authorised the persons comprising the applicant. I am satisfied that all the material before me demonstrates that the applicant is duly authorised in accordance with s 251B(b) to make this application and to deal with all matters arising in relation to it.

End of reasons

Attachment A

Summary of registration test result

Application name	Iman People #4
NNTT No.	QC2017/008
Federal Court of Australia No.	QUD413/2017
Date of decision	2 March 2018

Section 190B conditions

<i>Test condition</i>	<i>Subcondition/requirement</i>	<i>Result</i>
s 190B(2)		Met
s 190B(3)		Met
s 190B(4)		Met
s 190B(5)		Met
s 190B(6)		Met
s 190B(7)(a) or (b)		Met
s 190B(8)		Met
s 190B(9)		Met

Section 190C conditions

<i>Test condition</i>	<i>Subcondition/requirement</i>	<i>Result</i>
s 190C(2)		Met
s 190C(3)		Not met
s 190C(4)	s 190C(4)(b)	Met