



Registration Decision

Application name	Harold Doyle & Ors on behalf of Iman People #4
Name of applicant	Harold Doyle, Trent White, Samantha Booth, John Waterton
Federal Court of Australia No.	QUD413/2017
NNTT No.	QC2017/008
Date application made	21 August 2017
Date application last amended	9 August 2018
Date of Decision	2 October 2018

Claim accepted for registration

I have decided that the claim in the Iman People #4 application satisfies all of the conditions in ss 190B and 190C of the *Native Title Act 1993* (Cth).¹ Therefore the claim must be accepted for registration.

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 27 July 2018 and made pursuant to s 99 of the Act.

Reasons for Decision

CASES CITED

Drury v Western Australia (2000) 97 FCR 169; [2000] FCA 132 (*Drury*)

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

Gudjala People #2 v Native Title Registrar (2008) 171 FCR 317; [2008] FCAFC 157 (*Gudjala FC*)

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

Members of the Yorta Yorta Aboriginal Community v Victoria (2002) 214 CLR 422; [2002] HCA 58 (*Yorta Yorta*).

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

Western Australia v Native Title Registrar (1999) 95 FCR 93; [1999] FCA 1591 (*WA v NTR*)

BACKGROUND

- [1] The amended application is filed on behalf of the Iman People native title claim group. The Registrar of the Federal Court (the Court) gave a copy of the amended application and accompanying affidavits to the Native Title Registrar (Registrar) on 17 August 2018 pursuant to s 64(4) of the Act.
- [2] The claim covers two discrete areas of land and waters in south east Queensland, totalling approximately 10,626 square kilometres. These areas are adjacent to the Iman People's land and waters determined in *Doyle on behalf of the Iman People #2 v State of Queensland* [2016] FCA 743 (*Doyle*). The larger of the two claimed areas spans east west across the southern expanse of the determined area and the much smaller portion lies to its east. The determined area covers key areas of association and connection for Iman People – the Dawson River and its tributaries, the towns of Taroom and Wandowan and surrounding locale. The area covered by the application's larger portion includes the towns of Miles in the south-east and Injune in the north-west and the smaller portion lies approximately 60km east of the town of Taroom.
- [3] When the claim was first made, a third portion to the north overlapped with the registered Wadja People claim (QUD422/2012). On the basis of there being claimants common to both native title claim groups and that the Iman People #4 claim was made later in time, it was not accepted for registration³. I was the delegate of the Registrar that made the registration decision which was then the subject of reconsideration by a member of the Tribunal under s 190E. The reconsideration decision also did not accept the claim for registration based on the same 'claimants in common' issue.
- [4] The application has been amended to remove this overlap and make a few additional minor amendments to the application:
 1. Schedule A to include an additional statement to describe the native title claim group
 2. Schedule B to reduce the area covered by the application
 3. Schedule C to amend the map to reflect the reduction in the area
 4. Attachment F to include a supplementary report
 5. Schedule H to remove any reference to the overlapping claim.

³ See s 190C(3) and my Reasons for Decision to not accept the Iman People #4 application for registration at [104]-[128].

[5] This has triggered the Registrar's duty to consider the claim made in the application for registration in accordance with s 190A⁴.

Registration conditions

[6] 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.

[7] I am satisfied that neither subsection 190A(1A) nor subsection 190A(6A) apply to the claim made in this amended application. The granting of leave by the Court to amend the application was not made pursuant to s 87A, and thus the circumstance described in s 190A(1A) does not arise. The claim made in the original application was not accepted for registration⁵, therefore the exemptions contemplated in s 190A(6A) also do not apply. Consideration of all the registration conditions under ss 190B and 190C will therefore be required.

[8] I have decided that the claim satisfies all of the registration test conditions and my reasons on each condition follow below.

Information considered

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

[10] As required by s 190A(3)(a), I have had regard to information in the current amended application. On 12 September 2018, the applicant confirmed that I should also rely on additional information provided by the applicant for the purposes of my consideration of the original application. That information is as follows:

1. The Iman People, Final Historical Report, Rosalind Kidd, December 2012 (Kidd Report);
2. 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).
3. 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

⁴ See 190A(1).

⁵ Registration Decision for the claim *not to be accepted* for registration, dated 2 March 2018.

- [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
4. 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

There is no information before me obtained as a result of any searches conducted by the Registrar of State/Commonwealth interest registers.⁶

[11] The State of Queensland (the state government) has not provided submissions in relation to the application of the registration test.⁷

[12] I may also have regard to such other information as I consider appropriate⁸. As a delegate of the Registrar, I have considered for registration applications made in relation to Iman People #2 and #4 claims. Information provided by the applicant in support of the original #4 application is the same material provided by the same applicant in support of amendments made to the (now determined) #2 application in 2012 and 2014. I consider it appropriate to have regard to my reasons for decision in relation to these applications as the same factual basis, facts and law apply, which make them relevant to consider in relation to the claim made in the #4 amended application:

- decision to not accept the original #4 application for registration, dated [2 March 2018](#);
- and
- decisions to accept amended #2 applications, dated [18 August 2012 and 25 May 2014](#).

[13] I note, that in coming to my decision in relation to the original #4 application, I relied on my reasons for decision in relation to the amended #2 applications.

[14] I have also considered information contained in a geospatial assessment and overlap analysis prepared by the Tribunal's Geospatial Services in relation to the area covered by the application, dated 22 August 2018 (the geospatial report).

Procedural fairness

[15] As noted above, I have considered the additional material provided by the applicant on 13 September 2018. On 20 September 2018, I wrote to the State of Queensland (the state government) advising that I would be relying on this information in my application of the registration test and that should they wish to make any submissions, they should do so by 2 October 2018. On 21 September 2018 the state government confirmed that it had no

⁶ See s 190A(3)(b).

⁷ See s 190A(3)(c).

⁸ See s 190A(3).

comments or submissions to make in relation to the additional material. This concluded the procedural fairness processes.

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

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

[16] For the application to meet the requirements of s 190B(2), the Registrar must be satisfied that the information and map contained in the application identify with reasonable certainty the ‘particular land and waters’ where native title rights and interests are claimed. The two questions for this condition are whether the information and map provides certainty about:

- (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.⁹

[17] The area covered by the original application area was made up of three parts: areas A, B and C. The application has been amended to reduce the area by removing Area A which wholly overlapped the area covered by the Wadja People application. The area does not include any areas which have not previously been claimed in the original application.

Schedule B refers to Attachment B which describes the application area (Area B and Area C) by metes and bounds referencing parcel boundaries, watercourses, the Dawson River Sub Basin Drainage Area, the Burnett River Watershed, the Carnarvon Range ridgeline, coordinate points expressed as decimal degrees to six (6) decimal points, and the external boundaries of the following Native Title determinations and claimant applications: QUD6006/2000 Wulli Wulli People (QCD2015/009 and QCD2017/004); QUD6162/1998 Iman People #2 (QCD2016/005); QUD311/2011 Wulli Wulli (QC2011/005).

Schedule C refers to Attachment C which is a scanned colour map prepared by the NNTT’s Geospatial Services, titled ‘Iman People 4’ dated 16 May 2018. The map includes the application area depicted in bold dark-blue outline, a topographic image depicting relief, and roads, watercourses, population centres, homesteads, and topographic features identified by name, a locality diagram, scale-bar, and coordinate grid (GDA94), and notes relating to the source, currency and datum of data used to prepare the map.

[18] I have considered the description as a whole and I am satisfied that there is sufficient information in the description and map to identify the area covered by the application.

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. 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.

⁹ *Doepel* at [122].

Conclusion

- [19] The geospatial report concludes 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.
- [20] I am satisfied the claim meets the requirements of s 190B(2).

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

- [21] 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.
- [22] The only question for this condition is ‘whether the application enables the reliable identification of persons in the native title claim group’: whether the claim has been made on behalf of the correct native title claim group is not relevant.¹⁰
- [23] Schedule A of the application describes the native title claim group as follows:

Subject to the traditional laws and customs of the Iman people, 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;
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).

- [24] 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 the traditional laws and customs and through descent from an Iman ancestor(s). The description names the apical ancestors through which members of the native title claim group will claim descent.
- [25] 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.¹¹

¹⁰ *Doepel* at [51] and [37]; *Gudjala 2007* at [33].

¹¹ *WA v NTR* at [67].

Supplementary report on criteria for claim group membership

[26] Attachment F to the amended application includes a report to address the amendment to the description of the native title claim group. The description now includes the phrase '*subject to the traditional laws and customs of the Iman People*' and the report by Dr Powell discusses three aspects of membership of the Iman People – self-identification, descent and recognition. In summary:

- claimants identify themselves as Iman on the basis of information transmitted from their immediate predecessors;¹²
- membership of the Iman landholding group is established through recognition as the offspring of a member of the group, including adoption, with descent from their apical ancestors determines totemic affiliations, fundamental to an Iman person's identity.¹³
- self-identification and recognition of descent are essential criteria for membership of the landholding group, including that membership requires recognition by other members of the Iman landholding group.¹⁴

[27] Further, the report discusses the choices that people may make in relation to membership of other claim groups. That is, an individual may choose to identify as holding rights in Iman country on the basis of descent from a recognised ancestor, but may also be a member of different landholding group through descent from a non Iman ancestor.¹⁵ A 'primary identification' requirement however, regulates membership of the Registered Native Title Body Corporate for the Iman people's determined area.¹⁶

[28] Dr Powell states that she is able to 'say with certainty that the traditional laws and customs that apply to the determined Native Title Holders are also acknowledged and observed by the claim group for the Native Title Claim'.¹⁷ She concludes that, based on her research, it is 'likely that those who assert and are recognized as primarily identifying as Iman are those who have chosen to privilege (over any other) their membership of the Iman people and Iman Country with respect to their exercise of customary rights to country'.¹⁸

[29] In my view, the information in the report serves to explain the content of the traditional laws and customs of Iman People which regulate membership of the native title claim group. It provides the basis on which traditional laws and customs now regulate the contemporary operation of 'primary identification' as a principle of recruitment to the Iman landholding group.

[30] I am satisfied the claim meets the requirements of s 190B(3).

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

[31] There is no change to the description of the claimed native title rights and interests in this amended application. Schedule E of the contains the description of native title rights and

¹² At [8].

¹³ At [9]-[11].

¹⁴ At [12].

¹⁵ At [13]-[14].

¹⁶ At [16]-[18].

¹⁷ At [19].

¹⁸ At [22].

interests claimed in relation to the application area, as required by s 62(2)(d). Schedule E includes a section on definitions and interpretation relevant to understanding the description.

[32] I refer to my reasons for decision of 2 March 2018 and to my reasons for this condition, along with the law applicable to this particular assertion at [33]-[35] of that decision. I remain of the view that the description contained in the application is sufficient to allow the native title rights and interests to be readily identified.

[33] 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

[34] For the application to meet this merit condition, I must be satisfied that a sufficient factual basis is provided to support the assertion that the claimed native title rights and interests exist and to support the particularised assertions in paragraphs (a) to (c) of s 190B(5).

[35] I refer to my discussion of the legal principles governing this registration test condition in my reasons for decision dated 2 March 2018, including the decisions in *Members of the Yorta Yorta Aboriginal Community v Victoria* (2002) 214 CLR 422; (2002) 194 ALR 538; [2002] HCA 58 (*Yorta Yorta*); *Gudjala People #2 v Native Title Registrar* [2007] FCA 1167 (*Gudjala 2007*); *Gudjala # 2 v Native Title Registrar* [2008] FCAFC 157 (*Gudjala FC*) and *Gudjala #2 v Native Title Registrar* [2009] FCA 1572 (*Gudjala 2009*).

[36] I remain of the same view that the Registrar's task at s 190B(5) is not to evaluate the factual basis as if it were evidence provided in support of the claim and the applicant is not required to provide evidence of the type which would prove all of the facts necessary to succeed in their native title claim.¹⁹ 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, to consider whether the factual basis is sufficient to support each of the assertions at ss 190B(5)(a) to (c).²⁰

The factual basis material

[37] Attachment F references the extensive material filed in the Court in support of the (now determined) #2 application on which the applicant relies to support the claim made in the #4 application. The applicant asserts that traditional Iman country extends beyond the boundaries of the area covered by the #2 application. The original #4 application included at Attachment F the same summaries of and references to those parts of the material that pertain specifically to the area covered by the Iman #4 application, and, in the amended application this is followed by a supplementary report: 'Criteria for claim group membership', Fiona Powell, 5 July 2018. The report has been provided to address the amendment to the description of the native title claim group which now includes the words 'Subject to the traditional laws and customs of the Iman People...'²¹ My consideration of the factual basis takes account of the matters discussed in the report, which I have summarised above at [30]-[33].

¹⁹ *Gudjala FC* at [92].

²⁰ *Doepel* at [17].

²¹ See above in relation to the condition at s 190B(3).

Area covered by the application

[38] The discrete areas claimed in the #4 application were identified in the original application as Areas A, B and C. Area A has been removed from the area covered by the application and the two remaining areas are not identified in the same way on the revised map. 'Area B' is the small portion to the east over the area of the Auburn Ranges and 'Area C' is the large area which runs east west, south of the smaller area.

Consideration of the statement of reasons for decision in the original application

[39] As stated earlier in these reasons, I am of the view that it is appropriate that I have regard to my reasons for decision in relation to the original #4 application and amended #2 applications. Specifically I rely on the reasons I provided for my consideration of the sufficiency of the factual basis material. In my view the reasons remain relevant and applicable because the amended #4 application relies on the same material relied on by the original #4 application and amended #2 applications – the information at Schedule F, the claimant affidavits and expert reports at listed above at [4]. The only material difference between the original #4 application and this amended application is a reduction in the area claimed and qualifying words that open the description of the native title claim group.

[40] I refer to commentary in my reasons of 2 March 2018 regarding the relationship between the Iman people's determined area and the area covered by Iman People #4:

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.²²

[41] I have reviewed all of the material before me and considered the entirety of the current amended application against the requirements for the provision of a sufficient factual basis. I have read my statement of reasons in relation to the original #4 application and remain of the same view as I then reached. I rely on the same summaries of the material and my assessment, reasoning and conclusions in respect of the three assertions for the factual basis condition. It is on this basis that I have decided to adopt my summaries of the material where I consider them applicable to the application because the same facts and law apply. Further, I have adopted my reasons and have reached the same conclusions.

s 190B(5)(a)

[42] I was satisfied in relation to the original #4 application that the factual basis material was sufficient to demonstrate the association that members of the claim group have and its predecessors had with the area covered by the application. The summary of the case law, the material before me and the basis for my being satisfied is provided at paragraphs [44]-[66] of my reasons of 2 March 2018. I concluded:

²² At [43].

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.

- [43] I remain satisfied, based on the material before me, that the claim group currently has an association with the application area as a whole. I am also satisfied, based on the material before me, that there is a sufficient factual basis to support the assertion that the predecessors of the claim group had an association with the application area.

s 190B(5)(b)

- [44] I was satisfied in relation to the original application that the factual basis material before me supported the proposition that the territory for the Iman landholding group extends beyond the #2 claim area and that the claimants (the persons descended from the same apical ancestors) continue to acknowledge and observe traditional laws and customs in relation to the combined areas. The summary of the case law, the material before me and the basis for my being satisfied is provided at paragraphs [69]-[75] of my reasons of 2 March 2018. I concluded:

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.

- [45] I remain 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)

- [46] I was satisfied in relation to the original application that the factual basis illustrated how the laws and customs of Iman society have been passed from generation to generation and that they continue to be acknowledged and observed today amongst the current generations of the claim group. The summary of the case law, the material before me and the basis for my being satisfied is provided at paragraphs [78]-[79] of my reasons of 2 March 2018.

- [47] I remain 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.

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

- [48] 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 my discussion of the legal principles governing this registration condition in my reasons of 2 March 2018,

including the comments made by Mansfield J in *Doepel* about the nature of the test at s 190B(6).²³

[49] It was my view in relation to the original application, and this remains so in relation to the amended application, that a sufficient factual basis supports 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. The summary of the case law, the material before me and my consideration of the rights and interests claimed in the application is provided at paragraphs [82]-[92] of my reasons of 2 March 2018.

[50] 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 remain satisfied the application provides sufficient information to establish, prima facie, the existence of the rights claimed:

- the right to exclusive possession is evidenced in the material before me and can be established, prima facie, over areas covered by the application where it can be recognised; and
- all of the claimed non-exclusive rights are evidenced in the material before me and can be established, prima facie in relation to the claim area.

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

[51] For the application to meet the requirements of s 190B(7), the Registrar ‘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’—see subsection (a). I refer to my discussion of the legal principles governing this registration condition in my reasons of 2 March 2018, including the comments made by Mansfield J in *Doepel* about the nature of the task at s 190B(7).²⁴

[52] I was satisfied in relation to the original application that at least one member of the claim group currently has a traditional physical connection with parts of the application area. The summary of the case law, the material before me and the basis for my being satisfied is provided at paragraphs[93]-[97] of my reasons of 2 March 2018. I am satisfied that this remains the case in relation to the two areas covered by the application.

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

[53] In my view the application does not offend the provisions of ss 61A(1), 61A(2) and 61A(3) and therefore the application satisfies the condition of s 190B(8):

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 covering previous exclusive possession over areas	Schedule B, paragraph 1 & 6	Met
s 61A(3) claimant applications not to claim certain	Schedule B, paragraph 3	Met

²³ *Doepel* at [126], [127], [132] and [135].

²⁴ *Doepel* at [17].

rights and interests in previous non-exclusive possession act areas		
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No extinguishment etc. of claimed native title – s 190B(9): condition met

[54] In my view the application does not offend the provisions of ss 190B(9)(a), (b) and (c) and therefore the application meets the condition of s 190B(9):

Requirement	Information addressing requirement	Result
(a) no claim made of ownership of minerals, petroleum or gas that are 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 met

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

[55] 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 undertaken²⁵.

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

Subsection 61

[57] The application contains the details specified in s 61.

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

[58] The application contains the details specified in s 62.

Section	Details	Form 1	Result
s 62(1)(a)	Affidavits in prescribed form	Refer [77] below	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

²⁵ *Doepel* at [16] and also at [35] to [39].

Section	Details	Form 1	Result
s 62(2)(c)	Searches	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)	Activities	Schedule G	Met
s 62(2)(g)	Other applications	Schedule H	Me
s 62(2)(ga)	Notices under s 24MD(6B)(c)	Schedule HA	Met
s 62(2)(h)	Notices under s 29	Attachment I	Met

Section 62(1)(a) Affidavits in prescribed form

[59] The amended application as filed in the Court on 9 August 2018 was not accompanied by affidavits as required by s 62(1)(a). On 12 September 2018, the applicant filed those affidavits which accompanied the original application, and these were referred to the Registrar on 14 September 2018. Each of the four persons who comprise the applicant has signed an affidavit swearing or affirming, in full, to all the statements required of this section. All are dated 30 May 2017.

[60] In my view, as the application is amended to simply contract the geographical area it covers, the filing of fresh affidavits by the same applicants under s 62(1)(a) is not required.²⁶ Although the affidavits were filed after the amended application was filed, in my view, it is open to me consider that they accompany the application. The affidavits accompanied the original application, the composition of the applicant has not changed and I am satisfied that they are in the prescribed form. As such, there is no basis for failing this requirement of s 190C(2).²⁷

No previous overlapping claim group – s 190C(3): condition met

[61] 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, as described in ss 190C(3)(a), (b) and (c). 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 in the Court.

[62] The Tribunal's geospatial report confirms that no native title determination applications fall within the external boundaries of the current application. As the Iman People #4 application is not overlapped by any other applications, there is no requirement that I consider the issue of common claim group membership.

[63] I am satisfied that no person is included in the native title claim group for this application that was a member of the native title claim group for any previous overlapping application.

Identity of claimed native title holders – s 190C(4): condition met

[64] For the application to meet the requirements of s 190C(4), the Registrar must be satisfied that the application has been certified by all representative Aboriginal/Torres Strait Islander bodies

²⁶ *Drury* is authority for the proposition that this 'would be a pointless bureaucratic imposition'—at [13].

²⁷ *Doepel* at [88].

that could certify the application in performing its functions.²⁸ If the application has not been certified, 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.²⁹

[65] The #4 application is not certified and is therefore required to meet the requirements of s 190C(4)(b). I refer to my discussion of the legal principles governing this registration condition in my reasons of 2 March 2018, including the comments made by Mansfield J in *Doepel* about the nature of the task at s 190C(4).³⁰ The summary of the authorisation material and my consideration of the proper authorisation of the applicant to make and deal with the Iman People #4 application is provided at paragraphs [129]-[146] of my reasons of 2 March 2018.

[66] I remain 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

²⁸ See subsection 190C(4)(a).

²⁹ See subsection 190C(4)(b).

³⁰ *Doepel* at [81].

Attachment A

Information to be included on the Register of Native Title Claims

Application name	Harold Doyle & Ors on behalf of Iman People #4
NNTT No.	QC2017/008
Federal Court of Australia No.	QUD413/2017

Section 186(1): Mandatory information

In accordance with ss 190(1) and 186 of the *Native Title Act 1993* (Cth), the following is to be entered on the Register of Native Title Claims for the above application.

Application filed/lodged with:

Federal Court of Australia

Date application filed/lodged:

21 August 2017

Date application entered on Register:

2 October 2018

Applicant:

Harold Doyle, Trent White, Samantha Booth, John Waterton

Applicant's address for service:

As per Schedule

Area covered by application:

As per Schedule

Persons claiming to hold native title:

As per Schedule

Registered native title rights and interests:

As per Schedule

Lisa Jowett

2 October 2018

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 27 July 2018 and made pursuant to s 99 of the Act.