



## Registration Decision

|                                       |                                                                             |
|---------------------------------------|-----------------------------------------------------------------------------|
| <b>Application name</b>               | North Eastern Peninsula Sea Claim Group                                     |
| <b>Name of applicant</b>              | Bernard Charlie, Trevor Lifu, Conwell Young, Myiesha Yoelu,<br>Trevina Lifu |
| <b>Federal Court of Australia No.</b> | QUD115/2017                                                                 |
| <b>NNTT No.</b>                       | QC2017/003                                                                  |
| <b>Date of Decision</b>               | 4 November 2025                                                             |

### Claim not accepted for registration

I have decided that the claim in the North Eastern Peninsula Sea Claim Group application does not satisfy all of the conditions in ss 190B–190C of the *Native Title Act 1993* (Cth).<sup>1</sup> Therefore the claim must not be accepted for registration.

For the purposes of s 190D(3)(a), my opinion is that the claim does not satisfy all of the conditions in s 190B. For the purposes of s 190D(3)(b), my opinion is that although the claim does not satisfy all of the conditions in s 190C, it has nevertheless been possible to consider the conditions in s 190B.

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<sup>1</sup> A section reference is to the *Native Title Act 1993* (Cth) ('Act'), unless otherwise specified.

Michael Raine

Delegate of the Native Title Registrar pursuant to ss 190–190D of the Act under an instrument of delegation dated 5 February 2024 and made pursuant to s 99 of the Act.



- [5] Section 190A(1A) provides for an exemption from the registration test for certain applications amended under s 87A. As the granting of leave by the Court to amend the application was not made pursuant to s 87A, I am satisfied that s 190A(1A) does not apply to the Amended Application.
- [6] Section 190A(6A) sets out the conditions under which the Registrar must accept an amended application for registration without testing under ss 190B and 190C, but only applies where the previous application has been accepted for registration.<sup>5</sup> Given that the Previous Application was not accepted for registration, s 190A(6A) does not apply. I note that the only amendments made in the Amended Application are to reduce the claim area and update the names and affidavits under s 62 of the persons comprising the applicant pursuant to the orders made under s 66B on 8 August 2025. The material in the Amended Application is otherwise identical to the Previous Application that I found did not meet the conditions of the registration test in my Previous Registration Decision dated 27 March 2025.<sup>6</sup>
- [7] In the reasons that follow, I will consider the Amended Application against each of the conditions at ss 190B and 190C of the registration test. However, to avoid duplication, I have indicated where I am satisfied that the Amended Application meets or does not meet the requirements of the particular condition for the same reasons as set out in my Previous Registration Decision, without setting out those reasons again. As such, these reasons must be read together with my Previous Registration Decision.
- [8] Having considered the Amended Application afresh against each of the relevant requirements, I have decided that the Amended Application must not be accepted for registration. This document, read together with my Previous Registration Decision, sets out my reasons for that decision.

### *Information considered*

- [9] Section 190A(3) sets out the information which the Registrar must have regard to 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] I have had regard to information in the Amended Application and note that there are no other documents provided by the applicant that I must have regard to under s 190A(3)(a).
- [11] There is no information obtained as a result of any searches conducted by the Registrar of State/Commonwealth interest registers that I must have regard to under s 190A(3)(b).
- [12] The State has not provided submissions in relation to the application of the registration test that I must have regard to under s 190A(3)(c).

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<sup>5</sup> Section 190A(6A)(b).

<sup>6</sup> In addition, there appears to be a scanning error in that the page comprising paragraphs 59 to 65 of Schedule F is missing in the Amended Application, and the page comprising paragraphs 66 to 75 is duplicated. This was brought to the applicant’s attention on 3 September 2025 and I am not aware that this has been corrected.

- [13] I may also have regard to such other information as I consider appropriate.<sup>7</sup> I have considered it appropriate to have regard to a geospatial assessment and overlap analysis prepared by the NNTT's Geospatial Services in relation to the area covered by the Amended Application, dated 12 September 2025 ('Geospatial Assessment'). I have also considered it appropriate to have regard to my Previous Registration Decision.

### *Procedural fairness*

- [14] On 3 September 2025, a Senior Officer of the NNTT wrote to both the applicant and the State of Queensland ('State') to invite any submissions or additional material in relation to the application of the registration test by 17 September 2025. No additional material or submissions were received from the applicant or the State. This concluded the procedural fairness process.

## **Section 190C: conditions about procedural and other matters — conditions not met**

### **Sections 190C(2), 61 and 62: registration conditions about procedural and other matters – condition met**

- [15] I have examined the Amended Application and for the reasons set out below, I am satisfied that it contains all details and other information and is accompanied by affidavits and other documents as required by ss 61 and 62. I refer to and repeat my statement of the relevant case law relating to my assessment of s 190C(2) at paragraph 16 of my Previous Registration Decision.

### *Section 61 – native title applications*

- [16] **Section 61(1)** provides that only persons included in and authorised by the native title claim group may make a native title determination application for the particular native title claimed. Five persons are named in the Amended Application as comprising the replacement applicant. Schedule A contains a description of the native title claim group as the descendants by birth or adoption of eight named apical ancestors or ancestor couples. Each of the persons comprising the replacement applicant have deposed an affidavit for the purposes of s 62 and these have been annexed to the Amended Application at Attachment R2 ('Applicant Affidavits'). The Applicant Affidavits indicate that each deponent is a member of the native title claim group and is authorised to make the application by the persons in the native title claim group.<sup>8</sup> From the material contained in Schedule A and the Applicant Affidavits, I am satisfied that the Amended Application has been made in accordance with s 61(1).
- [17] I have considered the Amended Application afresh and, for the same reasons as set out in my Previous Registration Decision, I am satisfied that the Amended Application contains the

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<sup>7</sup> Section 190A(3).

<sup>8</sup> Form 1, Applicant Affidavits [1], [2], [6].

information required by ss 61(3) and (4), and repeat my comments in relation to ss 61(2) and (5) set out at paragraphs 18 and 21 of my Previous Registration Decision.

*Section 62(1), (1A) and (2): information etc. in relation to certain applications;  
claimant applications*

[18] **Section 62(1)(a)** requires a claimant application to be accompanied by an affidavit sworn by the applicant containing required statements. The members of the replacement applicant have provided updated affidavits at Attachment R2 for the purpose of s 62. These affidavits are in substantially identical terms, and include statements to the effect that:

- the deponent is a member of the native title claim group and includes details about their genealogical connections from an apical ancestor named in Schedule A;
- together with the other members of the replacement applicant, the deponent is authorised by all persons in the native title claim group to make the Amended Application and deal with matters arising in relation to it;
- the deponent believes that the native title rights and interests claimed by the native title group have not been extinguished in relation to any part of the area covered by the application;
- the deponent believes that none of the area covered by the Amended Application is also covered by an approved determination recorded on the Nation Native Title Register;
- the deponent believes that all of the statements made in the Amended Application are true;
- there are no conditions under s 251BA on the authority that relate to the making of the application; and
- was authorised to make the application and deal with matters arising in relation to it at a meeting held in New Mapoon on 28 March 2025, in accordance with an agreed decision-making process.

[19] I am satisfied that the above statements in the Applicant Affidavits meet the description of each of the statements as required by s 62(1A)(a)–(f). As no conditions under s 251BA were imposed, s 62(1A)(g) is not applicable. I am satisfied that the Amended Application is accompanied by the documents required by s 62(1)(a).

[20] In relation to the requirements at ss 62(1)(d) and 62(2)(a) to (i), I have examined the Amended Application and considered afresh whether the Amended Application contains the required documents and information for the purpose of the condition at s 190C(2). For the same reasons as set out in my Previous Registration Decision, and noting for the purpose of the requirements at ss 62(2)(a) and (b) that the Amended Application reflects the amended claim area in the written description and map at Attachments B and C, I am satisfied that the Amended Application contains the relevant information and is accompanied by the documents as required.

[21] As such, I am satisfied that the Amended Application meets the requirements of s 190C(2).

## Section 190C(3): no previous overlapping claim group – condition met

- [22] The condition at s 190C(3) requires that ‘no person included in the native title claim group for the application ... was a member of the native title claim group for any previous application’. Having regard to the Explanatory Memorandum to the *Native Title Amendment Act 1998* (Cth) which inserted this provision,<sup>9</sup> I consider that its purpose is achieved by preventing a claim from being registered if it includes members in common with an overlapping claim that is on the Register at the time the registration test is applied.
- [23] I understand that in assessing this requirement I may have regard to information which does not form part of the application and accompanying documents.<sup>10</sup>
- [24] The condition at s 190C(3) only arises where there is a previous application that meets the criteria set out in subsections (a) to (c).<sup>11</sup> These criteria are that any previous application covers at least some of the same area, was accepted for registration under s 190A and is on the Register. The Geospatial Assessment and my own searches confirm that there is no previous application overlapping any part of the Amended Application that meets the criteria set out in s 190C(3)(a)–(c).
- [25] As there are no previous applications that meet the description of sub-ss (a)–(c), s 190C(3) requires no further consideration. I am satisfied that the Amended Application does not contravene this requirement.

## Section 190C(4): identity of claimed native title holders – condition not met

- [26] Section 190C(4) provides that the Registrar must be satisfied that either a certificate under s 203BE has been issued by the relevant representative Aboriginal/Torres Strait Islander body (‘RATSIB’),<sup>12</sup> or the requirements in subsection (4AA) are met.<sup>13</sup> Schedule P of the Application indicates that the application is not certified. As such and in accordance with s 190C(4)(b), I must proceed to consider the requirements at s 190C(4AA).

### *Sections 190C(4)(b), (4AA), (5) and 251B: authorisation requirements*

- [27] Section 190C(4AA)(a) requires the applicant to be a member of the native title claim group and further requires that the applicant is authorised to make the application, and deal with all matters arising in relation to it, by all the other persons in the native title claim group.<sup>14</sup>
- [28] The Previous Application relied upon an authorisation meeting of 21 May 2015, prior to amendments made in 2021 relating to authorisation.<sup>15</sup> The material relating to authorisation in the Amended Application is identical to that in the Previous Application, except that the

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<sup>9</sup> Explanatory Memorandum, Native Title Amendment Bill 1997 (Cth), page 303 [29.25].

<sup>10</sup> *Doepel* [16].

<sup>11</sup> *Strickland FC* [9].

<sup>12</sup> Section 190C(4)(a).

<sup>13</sup> Section 190C(4)(b).

<sup>14</sup> The word ‘authorise’ is defined in s 251B: Note to s 190C(4AA).

<sup>15</sup> *Native Title Legislation Amendment Act 2021* (Cth).

date and location of the authorisation meeting have been updated to refer to the meeting held at New Mapoon on 28 March 2025, and the Applicant Affidavits refer to an agreed process. Notwithstanding that my Previous Registration Decision considered the authorisation requirements as they were prior to the 2021 amendments, in my view the authorities regarding authorisation set out in paragraphs 49 to 55 are relevant to my consideration of the Amended Application under s 190C(4)(b).

- [29] No additional information relating to the authorisation meeting on 28 March 2025 has been provided with the Amended Application. As such, the information relating to the authorisation of the Amended Application is substantially the same as in the Previous Application.<sup>16</sup> For the same reasons as set out at paragraphs 58 to 60 of the Previous Registration Decision, in my view this information is insufficient to address the requirements for authorisation and as such the Amended Application does not meet the conditions at ss 190C(4) and (5).

## **Section 190B: conditions about merits of the claim – conditions not met**

### **Section 190B(2): identification of area subject to native title – condition met**

- [30] Section 190B(2) requires the Registrar to be satisfied that the written information and map contained in the application are sufficient to identify, with reasonable certainty, the land and waters in relation to which the native title rights and interests are claimed.
- [31] Attachment B of the Amended Application contains the amended description of the claim area, describing area as all the land and waters over listed land parcels or part of land parcels identified by Lot and Plan identifiers and feature names where applicable, with subject parts identified by island name and a former land parcel. Attachment B further includes two areas within a 150 m radius and one area within a 650 m radius of reef features identified by coordinate points to six decimal places (WGS84). Attachment B specifically excludes any area subject to a native title determination and Schedule B lists general exclusions.
- [32] Attachment C contains a low resolution A4 sized colour copy of an A3 sized map prepared by the Geospatial Services, titled 'North Eastern Peninsula Sea Claim Group' dated 20 May 2025. The map includes the application area depicted by bold dark blue outline, labelled with feature name or Lot and Plan number where applicable, a topographic image background, scalebar, coordinate grid, legend, locality diagram and notes relating to the source, currency and datum of data used to prepare the map.
- [33] The Geospatial Assessment concludes that the written description and map are consistent and identify the claim area with reasonable certainty, and further confirms that the claim area has been amended and reduced and does not include any areas which were not previously claimed in the Previous Application. I agree with this assessment and am satisfied that the Amended Application meets the requirements of s 190B(2).

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<sup>16</sup> Noting that in my Previous Registration Decision, I also had regard to an affidavit of Parkinson Wirrick affirmed 18 November 2024, which does not relate to the authorisation meeting on 28 March 2025 and which I have not had regard to for the purpose of this registration decision.

### Section 190B(3): identification of the native title claim group – condition met

- [34] I have reviewed the description of the claim group contained at Schedule A of the Amended Application and note that Schedule A is the same as in the Previous Application. Having considered this condition afresh, I am satisfied for the same reasons as set out in my Previous Registration Decision that the description of the claim group is sufficiently clear such that it can be ascertained whether a particular person is a member of the claim group. As such, the Amended Application meets the condition at s 190B(3).

### Section 190B(4): identification of claimed native title – condition met

- [35] I have considered afresh the description of the native title rights and interests contained at Schedule E of the Amended Application. Schedule E is the same as in the Previous Application. I am satisfied for the same reasons as set out in my Previous Registration Decision that the description of the claimed native title rights is readily identifiable within the meaning of s 190B(4). This requirement is met.

### Section 190B(5): factual basis for claimed native title – condition not met

- [36] In order to meet this condition, this factual basis material must be sufficient to support the three assertions set out at s 190B(5)(a)–(c). I note that the factual basis material for the purpose of my consideration of this condition is the same for this Amended Application as it was for the Previous Application.<sup>17</sup> I note that in my view, the statements of the relevant law in relation to this condition set out in my Previous Registration Decision remain current and I rely upon those reasons.
- [37] I have considered the material afresh, also having regard to the reduced area claimed in the Amended Application. For the same reasons set out in my Previous Registration Decision, I am not satisfied that the factual basis material is sufficient to support the relevant assertions. In my view, the material at Schedule F contains assertions at a high level of generality and there is insufficient additional material to support the condition at s 190B(5). The Amended Application does not meet this condition.

### Section 190B(6): prima facie case – condition not met

- [38] I refer to the reasons set out in my Previous Registration Decision in relation to this condition, noting in particular that where an application does not meet the condition at s 190B(5)(b), the condition at s 190B(6) will not be met.<sup>18</sup> Having considered the Amended Application afresh, for the same reasons set out in my Previous Registration Decision, the Amended Application does not meet the condition at s 190B(6).

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<sup>17</sup> Noting that the page comprising paragraphs 59 to 65 of Schedule F is missing in the Amended Application, and the page comprising paragraphs 66 to 75 is duplicated: see above footnote 7.

<sup>18</sup> *Gudjala 2007* [86]–[87].

### Section 190B(7): physical connection – condition not met

- [39] Having considered the Amended Application afresh, for the same reasons as set out in my Previous Registration Decision, I am not satisfied that the Amended Application meets the condition at s 190B(7).

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

- [40] I have reviewed the Amended Application afresh for the purpose of considering whether the Amended Application contravenes the provisions at ss 61A(1)–(3) of the Act. For the same reasons as set out in my Previous Registration Decision, in my view the Amended Application does not contravene these provisions and as such the condition at s 190B(8) is met.

### Section 190B(9): no extinguishment etc. of claimed native title – condition met

- [41] I have also reviewed the Amended Application afresh and am satisfied, for the same reasons set out in my Previous Registration Decision, that the Amended Application does not include any claim contrary to the requirements of ss 190B(9)(a)–(c). As such, I am satisfied that the Amended Application meets the condition of s 190B(9).

*End of reasons*

## Attachment A

### Summary of registration test result

|                                |                                         |
|--------------------------------|-----------------------------------------|
| Application name               | North Eastern Peninsula Sea Claim Group |
| NNTT No.                       | QC2017/003                              |
| Federal Court of Australia No. | QUD115/2017                             |
| Date of decision               | 4 November 2025                         |

#### *Section 190B conditions*

| Test condition  | Sub-condition/requirement | Result                        |
|-----------------|---------------------------|-------------------------------|
| Section 190B(2) |                           | <b>Met</b>                    |
| Section 190B(3) |                           | Overall result:<br><b>Met</b> |
|                 | Section 190B(3)(a)        | <b>NA</b>                     |
|                 | Section 190B(3)(b)        | <b>Met</b>                    |
| Section 190B(4) |                           | <b>Met</b>                    |
| Section 190B(5) |                           | <b>Not met</b>                |
| Section 190B(6) |                           | <b>Not met</b>                |
| Section 190B(7) |                           | <b>Not met</b>                |
| Section 190B(8) |                           | <b>Met</b>                    |
| Section 190B(9) |                           | <b>Met</b>                    |

#### *Section 190C conditions*

| Test condition  | Sub-condition/requirement | Result                            |
|-----------------|---------------------------|-----------------------------------|
| Section 190C(2) |                           | <b>Met</b>                        |
| Section 190C(3) |                           | <b>Met</b>                        |
| Section 190C(4) |                           | Overall result:<br><b>Not met</b> |
|                 | Section 190C(4)(a)        | <b>NA</b>                         |
|                 | Section 190C(4)(b)        | <b>Not met</b>                    |
| Section 190C(5) |                           | <b>Not met</b>                    |