



Registration Decision

Application name	Kallardoo/Kalaako/Karlaku People
Name of applicant	Rosanne Dimer
Federal Court of Australia No.	WAD60/2026
NNTT No.	WC2026/003
Date of Decision	23 April 2026

Claim not accepted for registration

I have decided that the claim in the Kallardoo/Kalaako/Karlaku People application does not satisfy all of the conditions in ss 190B–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 application does not satisfy all of the conditions in ss. 190B and 190C.

Paulette Dupuy

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.

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

Reasons for Decision

CASES CITED

Anderson on behalf of the Numbahjing Clan within the Bundjalung Nation v Registrar of the National Native Title Tribunal [2012] FCA 1215 (*Anderson*)

Budby on behalf of the Barada Barna People v Native Title Registrar [2014] FCA 801 (*Budby*)

Corunna v Native Title Registrar [2013] FCA 372 (*Corunna*)

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*)

Harrington-Smith on behalf of the Wongatha People v State of Western Australia (No 9) [2007] FCA 31 (*Harrington-Smith*)

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*)

Martin v Native Title Registrar [2001] FCA 16 (*Martin*)

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

Northern Territory of Australia v Alyawarr, Kaytetye, Wurumunga, Wakaya Native Title Claim Group [2005] FCAFC 135 (*Alyawarr*)

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

State of Western Australia v Strickland [2000] FCA 652 (*Strickland FC*)

Strickland v Native Title Registrar [1999] FCA 1530 (*Strickland*)

Ward v Northern Territory [2002] FCA 171 (*Ward*)

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

Wiri People v Native Title Registrar [2008] FCA 574 (*Wiri People*)

BACKGROUND

- [1] This decision concerns a native title determination (**Application**) brought on behalf of the native title claim group in the Kallardoo/Kalaako/Karlaku People application (WAD60/2026). The native title claim group are identified in the Application as Kallardoo People (**claim group**).
- [2] The claim group assert rights and interests in the land and waters described in Schedules B and C and Annexure A of the Application. The external boundary of the Application area is in the form of a polygon and includes land and waters within the City of Kalgoorlie-Boulder and the Shires of Coolgardie, Menzies and Yilgarn in Western Australia.
- [3] The Registrar of the Federal Court (**Court**) gave a copy of the Application and accompanying affidavits to the Native Title Registrar (**Registrar**) on 5 March 2026 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 190A.²

PRELIMINARY CONSIDERATIONS

Registration conditions

- [4] Sections 190A(1A), (6), (6A), (6B) set out the decisions available to the Registrar under s 190A. Given that the Application was received on 5 March 2026 and has not been amended, I am satisfied that neither s 190A(1A) nor s 190A(6A) apply.
- [5] I have decided that the claim in the Application must not be accepted for registration and this document sets out my reasons for that decision.

Procedural fairness

- [6] The Registrar received a copy of the Application from the Court on 5 March 2026. The Application (191 pages) included the following documents:
- a. Form 1 completed by Rosanne Dimer;
 - b. Rosanne Dimer Affidavit signed and dated 3 March 2026 (**Applicant Affidavit**) including:
 - i. Annexure A (referred to in Schedule C of the Form 1) - map of claim area, Geospatial overlap analysis and an external boundary description;³
 - ii. Annexure B (referred to in Schedules D and F of the Form 1) –
 - Minutes of Meeting 10 January 2006 (sic) (**Minutes**);
 - Statement by Minute Taker dated 31 January 2026 (**Minute Statement**);
 - Signed “authorisation forms” (**Authorisation Forms**) x 42 each dated 10 January 2026 (including x 2 duplicates);
 - Document titled “Eastern Goldfields Pedigrees Bindi/Bindy P 42”;

² Section 190A(1).

³ These 3 documents appear to be dated 16 February 2026 and were prepared by Geospatial Services, National Native Title Tribunal (**NNTT**).

- Birth Certificate x 1, Death Certificates x 3, Marriage Certificate x 2;
- Document titled “Kalardoo/Kalaako/Karlaku Language”
- Photographs of individuals and groups of people x 14 some marked by hand, others printed.

[7] On 11 March 2026, a Senior Officer of the National Native Title Tribunal (**NNTT**) wrote to the applicant and the Western Australian State Solicitor’s Office (the **State**) enclosing a copy of the Application and advising, among other things, that:

- A copy of the Application was received by the Registrar from the Federal Court on 5 March 2026 (191 pages).
- A copy of the Application was provided to the State;
- As the Application is future act affected, any additional material or submissions for the consideration of the delegate should be supplied to the NNTT by 16 March 2026; and
- any additional material or submissions provided to the delegate may be circulated to the applicant and the State to provide an opportunity to comment as part of the procedural fairness process.

[8] The State did not provide any submissions in respect of the Application.

[9] On 15 and 16 March 2026, the applicant sent four emails to the NNTT. These emails did not include any messages from the applicant and simply contained pdf attachments. The attached documents were titled as follows:

- i. 20260130145527996.pdf
- ii. 20260313120404723.pdf
- iii. Bindi family.pdf
- iv. Bindy Jacob.pdf
- v. Elders affidavits.pdf
- vi. ██████████.pdf
- vii. Jacob.pdf
- viii. ██████████.pdf
- ix. ██████████.pdf
- x. ██████████ ulogy.pdf
- xi. ██████████.pdf
- xii. Green and Dimers coming back to Norseman from a picnic (1).gif

[10] I examined each of the documents listed above (**15 – 16 March applicant materials**) and have summarised the contents of each as follows:

- i. A collection of documents compiled by Australian Cultural Heritage Management Pty Ltd including Nanambinia Station Diaries 1901 – 1938 recorded by Heinrich and the Dimer Family; correspondence to and from the Department of Native Affairs concerning the Dimer family; and the death of J Dimer and dealings concerning his

estate among other documents and photographs the content or provenance of which is not made clear. (13 pages)

- ii. Death certificate of R Dimer; Annexure AB-1 to the affidavit of Deponent 1 sworn 18 February 2026 which includes largely illegible photocopies of the notebook referred to in the affidavit. (49 pages)
- iii. A list titled "Relatives of: Bindy", source unknown. (9 pages)
- iv. A series of photographs some bearing handwritten names, others printed names. Extracts from the Native Affairs personal file of J Dimer concerning the circumstances of his death, extracts from police files, NNTT extracts regarding Kalaako People claim NNTT Ref#WC97/25, correspondence between Protector of Natives Eyre and Inspector of Police department regarding death of J Dimer and estate, correspondence between H Dimer and Commissioner of Native Affairs. (50 pages)
- v. Template Elder affidavits x 4 each signed and dated 13.03.26. (8 pages)
- vi. Affidavit of Deponent 1, signed and dated 18.02.26 (**Deponent 1 Affidavit**). (6 pages)
- vii. Historical correspondence between officers of Native Affairs regarding Dimer family including documents related to the death and estate of J Dimer dated around 1927, 1937 – 1939. (81 pages)
- viii. Template Elder affidavits x 2 signed and dated 16.03.26. (4 pages)
- ix. Template Elder affidavit x 1 signed and dated 14 March 2026. (2 pages).
- x. Deponent 1 Affidavit Annexure AB-2 Eulogy. (5 pages)
- xi. Template Elder affidavit x 1 signed and dated 16.03.26. (2 pages).
- xii. Photograph saved as "Green and Dimers coming back to Norseman from a picnic"

[11] On 23 March 2026, the NNTT sent the applicant a covering letter and a "Preliminary Assessment of the claimant application against certain conditions of the registration test" (**Preliminary Assessment**). In effect, the covering letter informed the applicant that:

- a. the Preliminary Assessment identified a number of deficiencies that would prevent the registration of the Application and that further submissions/explanations were invited to address such deficiencies by 27 March 2026.
- b. it may be necessary to provide any further material provided by the applicant to the State to provide procedural fairness to them.
- c. certain conditions of the registration test may require additional documents to be filed in the Federal Court in order for them to be considered for registration testing purposes.
- d. The delegate would use best endeavours to apply the registration test to the application by 10 April 2026.

[12] Between 23 and 27 March 2026, the NNTT received a series of emails from the applicant attaching a total of 26 documents (**23-27 March applicant materials**). The applicant provided limited information regarding the relevance of the documents to the registration testing process and in many instances the documents were duplicates. These documents are listed below (duplicates identified):

1. Legible map of claim area dated 16.02.26
2. "Applicant's further submissions in response to preliminary assessment" (**Applicant 24 March Submissions**) and affidavit of Rosanne Dimer, signed and dated 24.03.26 (8 pages) (**Dimer 24 March Affidavit**)
3. Application for membership to Descendants of Bindy Kallardoo/Kalaako/Karlaku Claim Group Administration forms x 7: all signed and dated 20.03.26 by persons claiming to be members of the claim group. All applications approved by Rosanne Dimer on 22.03.26.
4. Membership Application Form Administration Corporation x 1: signed and dated 24.03.26; Template "elder" affidavits x 4: all signed and dated 24.03.26.
5. Duplicate of 2 above
6. Historical documents including genealogy charts for [REDACTED], [REDACTED], [REDACTED] and linguistic charts; signed authorisation forms x 40; relatives of Bindy list; R.Dimer card (114 pages)
7. Duplicate (iii) above
8. Duplicate (vii) above
9. Duplicate (iv) above
10. Duplicate (ii) above
11. Duplicate (x) above
12. Duplicate (vi) above
13. Various historical documents related to Dimer family members prepared by Department of Native Welfare, Department of Social Services dated 1960 – 66, including [REDACTED] appeal against conviction dated 1969.
14. Duplicate (ix) above
15. Duplicate (xi) above
16. Duplicate (viii) above
17. Duplicate (1) above
18. Duplicate (v) above
19. Kallardoo/Kalaako/Karlaku People - Kalaako Society community meeting – 20 March 2026, Maku Stadium Kalgoorlie – flyer and public notice (2 pages)
20. Applicant's further submissions in response to preliminary assessment (**Applicant 26 March Submissions**) and affidavit of R. Dimer affidavit, signed and dated 26.03.2026 (**Dimer 26 March Affidavit**)
21. Duplicate of (3) above.
22. Application for membership to Descendants of Bindy Kallardoo/Kalaako/Karlaku Claim Group Administration forms x 8: all signed and dated between 20-23.03.26. All applications approved by R. Dimer on 22 or 23.03.26.
23. Duplicate of (6) above.
24. Photograph of identified person
25. "Authorisation – Native Title Determination Application" statements x 10: all signed and dated 10.01.26
26. "Meeting Minutes Kalaako Descendants Meeting" held 20.03.26 at Oasis Event Centre, Kalgoorlie, WA and chaired by R. Dimer.

[13] On 13 April 2026, the applicant, State and the Federal Court were advised of a revised registration test date of 24 April 2026.

[14] For reasons set out below, as I formed the view that the above materials did not significantly affect the outcome of the registration test decision, the above documents were not provided to the State.

[15] This concluded the procedural fairness process.

Information considered

[16] 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’.

[17] I have had regard to the Application and to the applicant materials listed at [9] and [12].⁴

[18] I have also considered the Marlinyu Ghoorlie native title determination application⁵ and 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 10 March 2026 (**Geospatial Assessment**). The Geospatial Assessment shows that the Application is wholly overlapped by the following registered native title determination application:

- a. Marlinyu Ghoorlie WAD647/2017 WC2017/007 (**Marlinyu Ghoorlie Claim**); and

I note that the Application is also partly overlapped by the following unregistered native title determination application:

- b. Pindiini People WAD46/2026 WC2026/002 (**Pindiini Application**).

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

Section 190C REGISTRATION: CONDITIONS ABOUT PROCEDURAL AND OTHER MATTERS — CONDITIONS NOT MET

Sections 190C(1), (2) and ss 61, 62: Registration conditions about procedural and other matters – conditions not met

[20] To meet s 190C(2), the Registrar must be satisfied that an 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 assessment of the material to be undertaken, however it does seek “...to ensure that the application contains ‘all details’ required by s 61...”.

⁴ Section 190A(3)(a).

⁵ *Brian Champion & Ors on behalf of the Marlinyu Ghoorlie Claim Group and State of Western Australia & Ors* (WAD647/2017) filed 22 June 2023.

⁶ Section 190A(3)(b).

- [21] In my view, s 190C(2) requires a consideration of whether the Application contains the required material and whether such material is sufficient to enable the Registrar to form an opinion whether the Application satisfies all of the conditions in ss 190B and 190C.
- [22] **Section 61(1)** provides that only persons authorised by and included in the native title claim group may make a native title determination application for the particular native title claimed. The Application names Rosanne Dimer as the single person comprising the applicant. Ms Dimer has deposed a supporting affidavit, the Applicant Affidavit annexed to the Application which includes information addressing some of the matters required by s 61(1) and s 62.
- [23] At paragraph 16 of the Applicant Affidavit, Ms Dimer states that she is a direct descendant of Bindi/Bindy. Schedule A to the Application describes the native title claim group as the descendants of Bindi/ Bindy including biological and descendants by adoption recognised under the traditional laws and customs of Bindi. Taken together, I understand this information confirms that the applicant is a person included in the native title claim group and that this component of the requirements under s 61(1), has been met.
- [24] Part A of the Application includes information concerning what is described as “...An authorisation meeting of the native title claim group was held on 10 January 2026.” The Applicant Affidavit includes further information concerning the authorisation meeting including minutes of the meeting. Based on the Applicant Affidavit supporting the Application, I am satisfied that the Application “contains all details” required by s 61(1). I will assess whether the Application meets the requirements at s 190C(4) below.
- [25] **Section 61(2)** provides that the persons authorised to make the native title determination application are jointly the applicant and none of the other members of the native title claim group is the applicant. I consider that this requirement need not be considered further as there is a single person comprising the applicant.
- [26] **Section 61(3)** requires an application to state the name and address for service of the applicant. As this information is provided at Part B of the Application, I am satisfied that the requirement is met.
- [27] **Section 61(4)** requires a native title determination application authorised by persons in a native title claim group to name or describe such persons so that it can be ascertained whether any particular person is one of those persons.
- [28] Section 61(4) was considered in both *Gudjala 2007* and *Pappin*. Each Judge found no error in the reasoning of the delegate regarding the application of s 61(4) although for different reasons. In *Gudjala 2007*, Dowsett J emphasised the procedural nature of the exercise undertaken by a delegate under s 190C(2) as concerning the details and information required by ss 61 and 62 in contrast to the merits exercise undertaken pursuant to s 190B(3).⁷
- [29] Schedule A of the Application contains a description of the native title claim group extracted below:

⁷ *Gudjala 2007* [31]—[32]; *Pappin* [64]—[73].

The native title claim group comprises the Kallardoo (also recorded as Kalaako or Karlaku) Bindi / Bindy descendants. The Kallardoo (also recorded as Kalaako or Karlaku) Bindi / Bindy descendants are the biological descendants, including descendants by adoption recognised under traditional laws and customs, of Bindi (also recorded as Bindy), a Kallardoo apical ancestor, being an Aboriginal person who, under the traditional laws and customs acknowledged and observed by the group, held native title rights and interests in the claim area at the time of sovereignty. Kallardoo is the name of the tribe. Kalaako and Karlaku are alternative spellings and linguistic recordings referring to the same Kallardoo people and lineage, as recognised under the traditional laws and customs acknowledged and observed by the native title claim group and reflected in historical, anthropological and archival records. Membership of the native title claim group is determined in accordance with the traditional laws and customs acknowledged and observed by the group, including rules relating to descent, kinship, and recognition by the group. A person is a member of the native title claim group if they: are descended from Bindi / Bindy through biological descent or recognised traditional adoption; and are recognised as a member of the Kallardoo group under traditional laws and customs.

[30] In my view, based on the description extracted above, the requirements of this provision are met as the Application contains a description of the native title claim group that is sufficiently clear so that it can be ascertained whether any particular person is a member of the claim group.

[31] I am satisfied that Schedule A of the Application meets the requirements of ss 61(4) and 190C(2).

[32] **Section 61(5)** provides that the application must be filed in the Court in the manner prescribed and be accompanied by any prescribed fee. In my view, these are matters for the Court and I note that the Application was accepted for filing on 5 March 2026.

Section 62(1), (1A) and (2): Information etc. in relation to certain applications; Claimant applications – not met

[33] **Section 62(1)(a)** states that a claimant application must be accompanied by an affidavit sworn by the applicant stating each of the matters mentioned in subsection (1A). The Application includes the Applicant Affidavit and contents detailed in [6] above.

Applicant Affidavit

- [34] The Applicant Affidavit includes statements to the effect that the applicant believes that:
- a. the native title, rights and interests claimed have not been extinguished in relation to any part of the application area ([37]);
 - b. the Application does not seek to disturb any existing determination of native title. To the extent any overlap issues arise, those matters are to be dealt with by the Court according to law ([32]-[35]);
 - c. the contents of the affidavit are true and correct ([42]);
 - d. she is authorised by all of the persons in the native title claim group to make the application and to deal with matters arising in relation to it ([5]);

- e. she was authorised to make the application at a meeting of the Native Title Claim Group held at Bentley, Western Australia on 10 January 2026, pursuant to a traditional decision-making process ([8]-[11]).

[35] Annexure B to the Applicant Affidavit attached the Minutes dated 10 January 2006. I infer that the date listed on the document is an error as the documents annexed to the Minutes refer to a meeting held in Bentley on 10 January 2026, described in the Application as an “authorisation meeting”. An extract of the Minutes appears below:

10. Authorisation of Rosanne Dimer.

The meeting authorised Rosanne Dimer to submit the native title claim, represent the Kallardoo Kalaako family and speak for the Wongatha people.

Signed authorisation forms were completed and attached to these minutes.

[36] Forty Two (42) signed Authorisation Forms were annexed to the Minutes. Each form is signed by a member of the native title claim group and state words to the effect that:

- i. The signatory is a member of the Kallardoo / Kalaako descendants of Bindi, being the native title claim group.
- ii. The Applicant, Rosanne Dimer, is authorised to make the application on behalf of the native title claim group.
- iii. The authorisation was given by the native title claim group through a decision made in accordance with their traditional laws and customs.
- iv. An authorisation meeting of the native title claim group was held on 10 January 2026, members attended the meeting, having been notified in accordance with traditional laws and customs.
- v. By that decision making process, the native title claim group authorised Rosanne Dimer to make and deal with the native title determination application on their behalf.

[37] I note that the applicant has also provided the Dimer 26 March Affidavit which includes some of the requirements under s 62(1A) however that affidavit was not filed in the Court. As it does not “accompany” the Application I understand that it cannot be considered for the purpose of s 62(1)(a).⁸

Applicant Affidavit assessed against the requirements of s 62(1A)

[38] **Section 62(1A)(a)** requires the Applicant Affidavit to state that “ *the applicant believes that the native title rights and interests claimed by the native title claim group have not been extinguished in relation to any part of the area covered by the application...*”. As the Applicant Affidavit [37] includes a statement to this effect, I am satisfied that the requirements of s 62(1A)(a) are met.

[39] **Section 62(1A)(b)** requires the Applicant Affidavit to state that “ *...the applicant believes that none of the area covered by the application is also covered by an approved determination of*

⁸ *Doepel* [16] and [88].

native title...". At paragraph 32 of the Applicant Affidavit the applicant states that "the Application does not seek to disturb any existing determination of native title. To the extent any overlap issues arise, those matters are to be dealt with by the Court according to law...". As this statement does not include a stated belief that there are no other determinations of native title in the area, I am not satisfied that it meets the requirements of s 62(1A)(b).

[40] At paragraph 35 of the Applicant Affidavit the applicant states that *"To the best of my knowledge, there is no approved determination of native title that recognises the rights and interests of the Kallardoo (Kalaako/Karlaku) Bindi/Bindy descendants over the whole of the area covered by the accompanying Form 1 application."* As this statement does not include a stated belief that there are no other determinations of native title in the area, I am not satisfied that it meets the requirements of s 62(1A)(b).

[41] At Schedule R of the Application, it is stated that *"The Applicant is aware that there are ongoing Federal Court proceedings involving the Marlinyu Ghoorlie claim group in relation to parts of the broader region. To the best of the Applicant's knowledge, no final determination of native title has been made in respect of the whole of the area covered by the application."* This statement appears to be directed to the requirements of s 62(1A)(b) however, it is not included in the Applicant Affidavit.

[42] However, the Geospatial Assessment included as part of Annexure A to the Applicant Affidavit indicates that there are no overlapping native title determinations and the deponent states at [42] that "I believe the contents of this affidavit are true and correct".

[43] Having regard to the conclusions of the Geospatial Assessment included at Annexure A of the Applicant Affidavit, I am satisfied that the requirement at s 62(1A)(b) is met.

[44] **Section 62(1A)(c)** requires the Applicant Affidavit state that *"...the applicant believes that all of the statements made in the Application are true"*. As a statement to this effect is not included in the Applicant Affidavit or in any other part of the Application I am not satisfied that the requirements of s 62(1A)(c) are met.

[45] **Section 62(1A)(d)** requires the Applicant Affidavit to state that *"...the applicant 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"*. As [5] in the Applicant Affidavit includes a statement to this effect, I am satisfied that the requirements of s 62(1A)(d) are met.

[46] **Section 62(1A)(e)** requires the Applicant Affidavit to state that *"...the details of the process of decision-making complied with in authorising the applicant to make the application and to deal with matters arising in relation to it..."*. The Minutes and Minute Statement,⁹ are silent with regards to the details of the process of decision-making. Although the Applicant Affidavit and Authorisation Forms assert that the applicant was authorised using a traditional decision-making process, no further details regarding the decision-making process are included. The omission of such information is significant and I cannot be satisfied that the requirements of s 62(1A)(e) are met.

⁹ Minute taker for meeting of 10 January 2026.

- [47] **Section 62(1A)(f)** requires the Applicant Affidavit to state “...if there are no conditions under section 251BA on the authority that relate to the making of the application-that there are no such conditions.”. Schedules HA and P to the Application advise that there are no conditions under s 251BA on the authority of the applicant. However, as no further information has been included in the Applicant Affidavit to this effect, I cannot be satisfied that the requirements of s 62(1A)(f) are met.
- [48] **Section 62(1A)(g)** concerns circumstances where conditions under s 251BA have been applied to the authority of the applicant. However, as Schedules HA and P indicate that there are no conditions, s 62(1A)(g) is not applicable.
- [49] Having regard to the above, I am not satisfied that all of the requirements under s 62(1)(a) and (1A)(a) to (f) have been met.

Sections 62(1)(b) – (d) and 62(2) - met

- [50] **Section 62(1)(b)** provides that the application must contain the details specified in s 62(2).
- [51] **Section 62(2)(a)** provides that the application must contain information that enables the boundaries of the area covered by the application and any areas within those boundaries that are not covered by the application to be identified. Schedule B of the Application “...excludes those areas within the external boundaries of the claim area where native title has been wholly extinguished by operation of law, including areas subject to freehold title or other existing exclusive possession acts.” Annexure A to the Applicant Affidavit includes a written description of the external boundary of the Application area by reference to existing native title determination areas and map coordinates prepared by Geospatial Services NNTT on 16 February 2026. I am satisfied that Schedule B and Annexure A meet the requirements of s 62(2)(a).
- [52] **Section 62(2)(b)** requires that the application include a map showing the boundaries of the area mentioned in s 62(2)(a). Schedule C of the Application refers to Annexure A. Annexure A to the Applicant Affidavit includes a map produced by Geospatial Services NNTT. The map shows the external boundaries of the Application area, townships, roads, and some tenure information. The map is a poor-quality reproduction of the original map such that information including township names and the date that the map was prepared are almost illegible. I am nevertheless satisfied that Schedule B and Annexure A together include information that meets the requirements of ss 62(2)(a) and (b).
- [53] **Section 62(2)(c)** requires that the application include details and results of searches of any non-native title rights and interests covered by the application. Schedule D of the Application indicates the results of searches carried out by the applicant. The Application states that “...results of these searches indicate that parts of the claim area may be subject to non-native title rights and interests. Any such areas are identified in Schedule B and shown on the map in Schedule C.” Schedule B excludes areas where native title has been wholly extinguished. Although the information at Schedule D does not set out the results of the searches as required, having regard to the Application as a whole, I am satisfied that it contains the information required under s 62(2)(c).

- [54] **Section 62(2)(d)** requires an application to contain a description of the native title rights claimed in relation to particular lands or waters. Such description must not consist merely of a statement that the native title rights and interests are all that may exist or have not been extinguished. Schedule E of the Application contains a detailed list particularising each of the native title rights and interests claimed. I am satisfied that Schedule E of the Claim meets the requirements of ss 62(2)(d) and 190C(2).
- [55] **Section 62(2)(e)** requires an application contain a general description of the factual basis on which it is asserted that the native title rights and interests are claimed to exist. Schedule F of the Application provides general information concerning the basis upon which the Kallardoo People claim to hold native title rights and interests claimed in the Application area.
- [56] I am satisfied that the information at Schedule F provides a general description that is sufficient to explain the factual basis upon which the claim group and their predecessors claim: to have an association with the Application area under s 62(2)(e)(i);¹⁰ that there exist traditional laws and customs that give rise to the claimed native title under s 62(2)(e)(ii);¹¹ that the native title claim group have continued to hold their native title under those traditional laws and customs pursuant to s 62(2)(e).¹² Having regard to the above and noting that the merits of the factual basis of the claim will be considered under s 190B(5), I am satisfied that Schedule F of the Application meets the requirements of ss 62(2)(e) and 190C(2).
- [57] **Section 62(2)(f)** requires that if the native title claim group currently carry on any activities in relation to the land or waters claimed, details of those activities should be included in the application. Schedule E of the Application includes a list of current activities describing the use and enjoyment of the Application area by the native title claim group. I am satisfied that Schedule E of the Application meets the requirements of s 62(2)(f) and 190C(2).
- [58] **Section 62(2)(g)** requires an application to include details of any other court applications seeking a determination of native title or native title compensation over any of the area covered by the application. Schedule G of the Application refers to the Marlinyu Ghoorlie Claim and in general terms to other “...earlier native title claims or compensation requests for this area” and that “Any areas of overlap, or areas where native title has been determined or wholly extinguished by operation of law, are reflected in Schedule B and shown on the map in Schedule C.” I note that Annexure A to the Application (referred to in Schedules B and C) includes a Geospatial Overlap Analysis that identifies the overlapping Marlinyu Ghoorlie Claim but not the Pindiini Claim. Although Schedule G and Annexure A do not expressly identify the Pindiini Claim, Schedule G nevertheless refers to earlier native title claims and conveys an appreciation by the applicant that other native title determination applications remain extant. In my view, the requirement at s 62(2)(g) suggests a relatively low bar that has been met by the statements contained at Schedule G of the Application.
- [59] **Section 62(2)(ga)** requires the application include details of any s 24MD(6B)(c) notifications relevant to the application area of which the applicant is aware. Schedule GA of the

¹⁰ See sentences 1 – 3 in [55].

¹¹ See sentences 4 – 6 Ibid.

¹² See sentences 7 – 10 Ibid.

Application states that the “...applicant is aware that mining and exploration activities, including activities authorised under mining tenements, occur within parts of the claim area, and that notifications under the Act may have been issued in relation to those activities. Any such notifications of which the applicant is aware have been taken into account in preparing this application.” Annexure A to the Application includes a Geospatial Overlap Analysis that identifies 13,151 s 29 or equivalent notices falling within the external boundary of the Application. Although Schedule GA does not expressly identify the s 29 notices referred to at Annexure A, Schedule GA nevertheless refers to such notifications and conveys an awareness of extant future act notices. In my view, the requirement at s 62(2)(ga) suggests a relatively low bar that has been met by the broad statements contained at Schedule GA and material contained at Annexure A of the Application.

[60] **Section 62(2)(h)** requires the application to include details of any s 29 notifications relevant to the application area of which the applicant is aware. Schedule H of the Application duplicates the statements made in Schedule G but refers instead to s 29 notices. For the same reasons referred to above, I am satisfied that Schedule H and the material contained at Annexure A of the Application meet the requirements at ss 62(2)(h) and 190C(2).

[61] **Section 62(2)(i)** requires the application include details of any conditions under s 251BA on the authority of the applicant to make the application and to deal with matters arising in relation to it. As Schedule HA of the Application indicates that no conditions have been imposed on the authority of the applicant under s 251BA, I am satisfied that the requirements of ss 62(2)(i) have been met.

[62] **Section 62(1)(c)** provides that the application may include details of traditional physical connection. As it is not a mandatory condition, it need not be assessed.

[63] **Section 62(1)(d)** applies where an agreement has been entered into under s 47C and requires a copy of any relevant agreement to accompany the application. The Application does not include any reference to an existing agreement under s 47C. As such, s 62(1)(d) has no application and this requirement need not be assessed.

[64] Having regard to the information contained above, I am satisfied that all mandatory requirements under s 62(1)(b), (c), (d) and s 62(2)(a) to (i) have been met. However as I am not satisfied that the Application contains all the information required by s 62(1)(a) and (1A)(a) to (f), the Application does not meet the condition at s 190C(2).

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

[65] The condition at s 190C(3) requires the Registrar to be satisfied that “no person included in the native title claim group for the application (the **current application**) was a member of the native title claim group for any previous application, if ...” the conditions set out in subsections (a) to (c) are met. The conditions from (a) to (c) cover circumstances where a previous application overlaps at least some of the same area as the current application, the previous

application was accepted for registration under s 190A, and on the Register of Native Title Claims when the current application was made.¹³

[66] As discussed above, the Geospatial Assessment confirms that the Application is wholly overlapped by the Marlinyu Ghoorlie Claim registered on 28 March 2019 and is partly overlapped by the unregistered Pindiini Claim.

[67] At Schedule M of the Application, reference is made to the Kallardoo claim group members overlapping with members of the Ngadju claim group via descent from Belang, the daughter of Bindi/Bindy. However, the Ngadju Claim does not overlap the Application area.

[68] The Minutes, disclose that the ancestral and territorial foundations of the Marlinyu Ghoorlie Claim was discussed at the 10 January 2026 meeting. A resolution objecting to the Marlinyu Ghoorlie Claim is recorded in the minutes "...noting that their ancestors and boundaries include the area in question". The Minutes further record that "The family acknowledged past exclusion from native title claims. It was resolved to authorise a new native title claim specifically for the Kallardoo Kalaako people to ensure proper representation and recognition." Further, that "The family noted that Marlinyu Ghoorlie has been using Goldfields language without consultation with Kalaako or Wongatha people, which is unacceptable to the Kallardoo Kalaako family." Based on these statements, I understand the Minutes indicate that the Kallardoo People assert that they have been excluded from the Marlinyu Ghoorlie Claim.

[69] The Application does not include any information regarding actual or possible overlapping membership with the registered Marlinyu Ghoorlie Claim. I have compared the native title determination applications and Schedule A descriptions of the claim groups for the Marlinyu Ghoorlie Claim and the Kallardoo People. I have also had regard to the birth, death and marriage certificates attached to the Application. Notwithstanding the coincidence of surnames including "Dimer" between the persons:

- a. comprising the applicant for the Marlinyu Ghoorlie claim and Kallardoo People;
- b. recorded as in attendance at the Kallardoo People's authorisation meeting and persons comprising the applicant for the Marlinyu Ghoorlie Claim; and
- c. named in the birth, death and marriage certificates attached to the Application,

I was unable to locate any further information in the Application or the most recent Marlinyu Ghoorlie native title determination application concerning the composition and membership of the two claim groups.

[70] At [43] to [45] of the Applicant 24 March Submissions, the applicant states that she is aware that "...it has been suggested that the Marlinyu Ghoorlie claim represents Kalaako people..." and goes on to state words to the effect that the Kallardoo People are not part of the Marlinyu Ghoorlie, were not consulted in relation to it, that the Kallardoo People did not authorise the Marlinyu Ghoorlie to represent or include Kalaako people and the Application is

¹³ *Strickland FC* [9], [41]–[44].

brought to ensure that the rights and interests of Kalaako people are properly represented by persons authorised under traditional law and custom.

- [71] At [17] – [21] of the Dimer 26 March Affidavit, the applicant states that: the Kallardoo / Kalaako / Karlaku People are a distinct society descended from Bindy; that members of the Kalaako claim group were not consulted and did not authorise the inclusion of Kalaako people in the Marlinyu Ghoorlie claim; the apical ancestors of the Marlinyu Ghoorlie claim are not apical ancestors of the Kalaako people,¹⁴ are not recognised under Kalaako law and custom; and only descendants of Bindy have authority to speak for Kalaako country. At [40] of the Applicant 26 March Submissions, the applicant asserts that the Kallardoo People are a distinct society descended from Bindy and that members of the claim group were not consulted and did not authorise the inclusion of Kalaako people in the Marlinyu Ghoorlie Claim.
- [72] It is my understanding that the Minutes and Dimer 26 March Affidavit assert that the Kallardoo/Kalaako people have been excluded from the Marlinyu Ghoorlie Claim and that the apical ancestors of the Marlinyu Ghoorlie claim are not apical ancestors of the Kalaako. However, the submissions and affidavit material provided to the NNTT in late March, suggest that the applicant is not certain whether Kalaako people have been included in the Marlinyu Ghoorlie Claim. I note that the terms Kalaako people, Kallardoo People, Kallardoo/Kalaako/Karlaku People, appear to be used interchangeably by the applicant to refer to the descendants of Bindi/Bindy.
- [73] Having regard to the information discussed above, I am unable to conclude that descendants of Bindi/Bindy have been included as members of the Marlinyu Ghoorlie claim group. In my view, it follows that the requirement at s 190C(3) is met.

Section 190C(4) Identity of claimed native title holders: condition not met

- [74] Under s 190C(4) the Registrar must be satisfied that either (a) a certificate issued under s 203BE has been issued by any relevant native title representative body or (b) the requirements in subsection (4AA) are met.¹⁵ In accordance with s 190C(4)(b), as there is no certificate provided in the Application, I must proceed to consider the requirements at s 190C(4AA). I understand that in order to assess the requirements of this provision, I am not confined to the material contained in the Application itself.¹⁶
- [75] **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. It is therefore necessary to identify whether:
- (a) the persons comprising the applicant are members of the native title claim group;
 - (b) the applicant is “authorised” in accordance with the requirements in s 251B; and that
 - (c) such authorisation was given by “all the other persons” in the native title claim group.

¹⁴ Emphasis mine.

¹⁵ Section 190C(4AA) was inserted into the Act by the *Native Title Legislation Amendment Act 2021*.

¹⁶ *Strickland FC* [78].

[76] Having regard to the authorities concerning authorisation of the applicant, my understanding is that a consideration of the provisions at s 190C(4)(b) and (4AA)(a):

- requires the Registrar to be satisfied “*of the fact of authorisation by all members of the native title claim group’ by way of ‘inquiry through the material available ... to see if the necessary authorisation has been given’*”;¹⁷
- requires the Registrar to be satisfied as to the identity of the claimed native title holders, including the applicant;¹⁸
- is not “*to be met by formulaic statements in or in support of applications’*”;¹⁹
- does not permit a claim group to choose between the two decision-making processes set out in s 251B, as where there is a traditionally mandated process, that process must be followed to authorise the applicant, and where there is no mandated traditional process, the process must be that which has been agreed and adopted by the native title claim group.²⁰

[77] **The first limb of s 190C(4AA)(a)** requires that “*the applicant is a member of the native title claim group*”. It is therefore necessary to confirm the definition of the “native title claim group”. Schedule A of the Application defines membership of the claim group as being derived from descent from the apical ancestor listed therein (**Schedule A ancestor**). It follows that only descendants of a Schedule A ancestor are eligible for selection as a person comprising the applicant. In this Application, there is a single Schedule A ancestor identified as Bindi/Bindy.

[78] As indicated above, Ms Dimer being the sole person comprising the applicant has executed an affidavit stating that she is a direct descendant of Bindi/Bindy. Having regard to Schedule A and the Applicant Affidavit, I am satisfied that the applicant is a member of the native title claim group.

[79] **The second limb of s 190C(4AA)(a)** requires that “*the applicant...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*” The second limb is “lengthy” in that it requires a consideration of s 251B “*authorising the making of applications*” as outlined below.

[80] **Section 251B** contains multiple requirements, it is convenient to identify and address each requirement separately:

- I. “***...all the persons in a native title claim group...***”
- II. “***...authorise...persons to make a native title determination application...and to deal with matters arising in relation to it,***
- III. ***if:***
 - a. ***where there is a traditional decision-making process to be complied with by the native title claim group that process has been used to authorise the person or persons to make the native title determination application; or***

¹⁷ Doepel [78].

¹⁸ Wiri People [29].

¹⁹ Strickland [57].

²⁰ Harrington-Smith [1230].

- b. *where there is no traditional decision-making process applicable, the persons in the native title claim group authorise the person or persons to make the application in accordance with a process of decision-making agreed to and adopted by the native title group.*²¹

- [81] As regards **“all the persons in a native title claim group...”**, I must assess whether such persons were provided with an opportunity to attend and participate in the meeting of 10 January 2026. In doing so, I am guided by the reasoning of Stone J in *Lawson*. In *Lawson*, her Honour observed that the *“...effect of the section is to give the word “all” a more limited meaning than it might otherwise have...”* and that *“...It is sufficient if a decision is made once the members of the claim group are given every reasonable opportunity to participate in the decision-making process...”*²² In considering whether a reasonable opportunity to participate was given, Stone J was prepared to accept, in the absence of contrary evidence, that those who did not participate chose not to be involved in the decision-making process.²³
- [82] In *Weribone*, Rares J held that *“[t]he notice must be sufficient to enable the persons to whom it is addressed ... to judge for themselves whether to attend the meeting and vote for a proposal”* and that *“fair notice of the business to be dealt with at the meeting’ must be given”*.

Material in support of s 251B “all the persons in a native title claim group”

- [83] Part A of the Application asserts that the applicant was authorised to make the Application by the native title claim group at a meeting held on 10 January 2026, pursuant to a traditional decision-making process. Schedule P of the Application states that:

“The grounds on which the Registrar should consider the statements in paragraph (a) and (b) to be correct are that: The Applicant was authorised by the native title claim group at an authorisation meeting held on 10 January 2026; The meeting was convened and conducted in accordance with the traditional laws and customs of the Kallardoo ... Bindi/bindy descendants; and Members of the native title claim group were notified of, attended and participated in the decision-making process by which the Applicant was authorised.”

The Applicant Affidavit effectively duplicates the information contained at Schedule P, and further information is provided in the Minutes and the Authorisation Forms.

- [84] The Applicant 24 March Submissions contain further information regarding the meeting of 10 January 2026 and “authorisation” extracted below:
- a. The authorisation materials demonstrate that the Applicant was authorised by the claim group to bring this application.
 - b. The authorisation process was conducted in accordance with traditional laws and customs, including notification through family and kinship networks and decision-making through collective discussion and agreement.
 - c. The applicant, Rosanne Dimer, was authorised to bring this application on behalf of the Kallardoo/Kalaako/Karlaku People as descendants of the apical ancestor Bindy.

²¹ *Noble* [16]–[18].

²² *Lawson* [25]; cited with approval by Kiefel J (as she then was) in *Butchulla* [33].

²³ *Ibid* [27].

- d. Bindy is recognised by the claim group as an aboriginal woman of the Kalaako People who was born in the Davyhurst area and lived in accordance with Kalaako traditional laws and customs.
- e. The initial authorisation of the applicant was given at a meeting held on 10 January 2026 in accordance with traditional decision-making processes.
- f. Those processes included: identifying members through descent from Bindy; notifying members through family and community networks; participation by members, including elders; decision-making through discussion and agreement.
- g. In addition to this, a public march was held on 18 March 2026 in Kalgoorlie, on country, in support of Kalaako People and their rights and interests.
- h. Following this a community meeting was held on 20 March 2026, attended by members of the Kalaako community, including descendants of Bindy and recognised elders.
- i. This meeting confirmed ongoing community support for the applicant and for the protection of Kalaako identity and rights.
- j. The authorisation of the applicant is therefore supported by: descent from Bindy; traditional law and custom; the decision of the claim group; and ongoing recognition and support from the Kalaako community.

[85] The Dimer 24 March Affidavit deals with authorisation as extracted below:

- a. Authorisation occurred through meetings and discussions consistent with our traditional decision-making processes and community practices.
- b. These processes included consultation with elders and senior members of the claim group, including members of the Dimer family and other recognised Kalaako/Kallardoo families.
- c. The decision to proceed with the application was made collectively, and I was authorised to act as Applicant on behalf of the claim group.

[86] The Applicant 26 March Submission contains some further information, in addition to the information extracted above, regarding the meeting of 10 January 2026 and “authorisation” extracted below:

- a. Members of the claim group were notified of the authorisation meeting through kinship and community networks consistent with the traditional laws and customs of the Kalaako people, including communication by family gatherings, telephone contact, and social media, ensuring that descendants of Bindy were informed and given a reasonable opportunity to attend and participate.
- b. Members were notified through kinship and community networks consistent with the traditional laws and customs of the Kalaako people. The decision-making process followed was a traditional consensus-based process under Kalaako law and custom, whereby:
 - all persons present who were recognised as descendants of Bindy were entitled to participate.
 - discussion occurred openly among those present.
 - Elders and senior knowledge holders guided the process.
 - the identity of the claim group and the authority to speak for country were considered; and
 - a decision was reached through consensus and agreement, in accordance with traditional laws and customs, rather than by majority vote.

- c. The meeting included elders and descendants of Bindy.
- d. Decisions were made through a traditional consensus process involving discussion and agreement guided by elders.
- e. The applicant was authorised to make and deal with the application.
- f. There are no conditions under section 251-BA.
- g. The applicant further relies on membership forms completed by members of the claim group.
- h. More than 40 individuals have provided signed membership forms identifying as descendants of Bindy and as Kalaako people this was done on the 20th of March at the Oasis Kalgoorlie and was advertised and by phone to family members, also Facebook
- i. Additional membership forms continue to be received, demonstrating ongoing community support.

[87] The Dimer 26 March Affidavit includes information regarding authorisation as extracted below:

- a. Members of the claim group, being descendants of Bindy, were notified through kinship and community networks consistent with the traditional laws and customs of the Kalaako people, including family gatherings, telephone contact and social media.
- b. These methods ensured that persons recognised under Kalaako law and custom were informed and given a reasonable opportunity to attend and participate.
- c. The decision-making process followed at the meeting was a traditional consensus-based process under Kalaako law and custom.
- d. This involved open discussion among those present, guidance by elders and senior knowledge holders, and participation by persons recognised as descendants of Bindy.
- e. Decisions were made by agreement and consensus rather than by formal voting.
- f. During the meeting, the claim group discussed who should act as applicant.
- g. I was authorised because I am a direct descendant of Bindy, recognised by elders and family as having authority to speak for country, and I maintain connection to country and community.
- h. The claim group accepted me as an appropriate person to represent them.

[88] Based on the above information it appears that a traditional decision-making process was deployed to notify members of the native title claim group, that such notice was provided at gatherings, by telephone and social media, however it is not clear when, where, to whom, or by whom such notice was provided. Information explaining how persons in the native title claim group were identified, whether such persons were provided with reasonable notice and the opportunity to decide whether to attend and participate on 10 January 2026, is not apparent. In other words, it is not clear who was invited to attend and whether, “all persons in the native title claim group” had a reasonable opportunity to judge for themselves whether they should attend the meeting of 10 January 2026 or not.

[89] As regards “**...authorise...persons to make a native title determination application...and to deal with matters arising in relation to it,...**”, I must assess whether the application was “authorised” under s 251B.

[90] In *Ward*,²⁴ O’Loughlin J, listed a number of questions relating to the authorisation process which were required to be addressed. The questions identified by O’Loughlin J, which do not need to be answered in any formal way, but the substance of which must be addressed, are:

*Who convened it and why was it convened? To whom was notice given and why was it given? What was the agenda for the meeting? Who attended the meeting? What was the authority of those who attended? Who chaired the meeting or otherwise controlled the proceedings of the meeting? By what right did that person have control of the meeting? Was there a list of attendees compiled, and if so by whom and when? Was the list verified by a second person? What resolutions were passed or decisions made? Were they unanimous, and if not, what was the voting for and against a particular resolution? Were there any apologies recorded?*²⁵

[91] In considering provisions relevant to authorisation for the purposes of s 190C(4), French J (as he then was) in *Strickland* stated that s 190C(4) cannot be met by formulaic statements:

The affidavit attached to the application meets the requirements of s 190C(5)(a) which requires no more than a statement that the requirement of authorisation referred to in s 190C(4)(b) has been met. It is also required briefly to set out the grounds on which the Registrar should consider that it has been met. The insertion of the word "briefly" at the beginning of par 190C(5)(b) suggests that the legislature was not concerned to require any detailed explanation of the process by which authorisation is obtained.

Material in support of s 251B “...authorise ...persons to make a native title determination application...and to deal with matters arising in relation to it...”

[92] It is clear from the Minutes, Minute Statement and Authorisation Forms annexed to the Application, who attended the meeting, that the meeting was chaired, the resolutions that were passed at the meeting and that the persons present “authorised” the applicant. Each of the signed Authorisation Forms indicate that the “...authorisation was given by the native title claim group through a decision made in accordance with the traditional laws and customs of the Kallardoo/ Kalaako descendants of Bindi”. The Minutes state “*The meeting authorised Rosanne Dimer to submit the native title claim, represent the Kallardoo Kalaako family, and speak for Wongatha people*”.

[93] The Minutes refer to a number of resolutions made at the 10 January 2026 meeting. In addition to the decision “...to authorise a new native title claim specifically for the Kallardoo Kalaako people...” and authorising the applicant to file the Application in the Federal Court “to support the Kallardoo Kalaako family’s native title claim”, the decisions made at the meeting include objecting to the Marlinyu Ghoorlie Claim and Champion family, authorising the Dimer Corporation, writing to mining companies about Land Use Agreements, legal representation, and use of Goldfields Language. Neither the Minutes, the Application nor any other materials provided by the applicant to the NNTT make any reference to how the persons in attendance understood what areas the Application was intended to cover. There is no reference to any maps or geographic areas by which the claim group could be said to have authorised the claim

²⁴ *Ward* [2002] FCA 171.

²⁵ *Ibid* [24], cited with approval in *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 [26].

area described in Schedule C and Annexure A of the Application. In my view, notwithstanding the authority given to Rosanne Dimer to make the application, the omission is significant.

- [94] According to the applicant's submissions partially extracted above at [83] – [87], a traditional decision-making process was followed using a traditional consensus-based process under Kalaako law and custom, elders and senior knowledge holders guided the process, the identity of the claim group and authority to “speak for country” were considered. However, there is no material indicating whether persons present at the meeting of 10 January 2026, discussed what areas comprise “country” and how decisions associated with the making of the native title determination application over Kallardoo/Kalaako/Karlaku “country” were to be made by the applicant in accordance with the traditional decision-making process.
- [95] Schedules HA and P to the Application state that there are no conditions under s 251BA on the authority of the applicant that relate to the making of the Application. The Applicant's 26 March Submissions state that the applicant was authorised to make and deal with the application and that no conditions were placed on the authority of the Applicant. The Dimer 26 March Affidavit states that “there are no conditions under section 251BA on my authority” at [39]. Nowhere in the Application or any of the materials provided to the NNTT does the deponent indicate whether or to what extent her authority extended to determining the area to be covered by the Application or whether a traditional decision-making process was utilised to inform her decisions concerning “country”.
- [96] Considering the Application and other materials provided to the NNTT as a whole, I acknowledge that the questions posed in *Ward* and extracted above have largely been met. However, the absence of information regarding traditional decision-making in relation to “country” and geographic references or maps in respect of the area proposed to be authorised in the Application is significant. In my view, the lack of material showing that the Kallardoo People understood and authorised the making of an Application over the claim area depicted in Schedule C indicates a fundamental defect in the authorisation of the Application.²⁶

III. Section 251B(a) or (b) process of decision making

- [97] At paragraph 70 of his decision in *Fesl*, Logan J considers the meaning and effect of s 251B as dealt with by the Full Court in *Noble* and reproduces the following remarks made by the Full Court:

Section 251B does not require proof of a system of decision-making beyond proof of the process used to arrive at the particular decision in question. The section accommodates a situation where a native title claim group agrees to follow a particular procedure for a particular decision even if other procedures are normally used for other decisions. Nor does s 251B require a formal agreement to the process adopted for the making of a particular decision. Agreement within the contemplation of s 251B may be proved by the conduct of the parties. There was evidence in this case that the claim group conducted itself at the meeting on the basis that it agreed to a vote by the members of the group to determine the question of authorisation. All persons present voted in favour of the motion. Nobody is recorded as leaving the meeting or refusing to vote or in any other way conducting to

²⁶ *Budby* [52] – [53].

indicate dissent from the course adopted. There was thus evidence from the conduct of the claim group on which the primary judge could base his conclusion that the requirements of s 251B were satisfied.

Material in support of s 251B(a) and (b)

[98] As discussed above, the bulk of the information demonstrating the decision-making process utilised by the Kallardoo People at the meeting of 10 January 2026 is contained within the submissions and affidavit material provided by the applicant to the NNTT in March.

[99] The applicant provides general information regarding the “traditional decision-making process” for notification of the authorisation meeting via family networks, collective discussion, consensus style decision-making before, during and after the authorisation meeting, etc. However, it is not clear on the materials before me whether a traditional decision-making process must be complied with by the Kallardoo People in relation to authorising “things of that kind” in this case, the Application. The absence of information going to this point is significant as it is not clear whether the Kallardoo People had no option but to comply with a “traditional decision-making process”, as described by the applicant, or whether there was an option to agree to and adopt a decision-making process when authorising the Application.

[100] Based on my reasoning set out above, on the material before me, I cannot be satisfied that the requirements of s 190C(4)(b) and (4AA) have been met.

Section 190C(4AA)(b): s 251BA conditions – met

[101] **Section 190C(4AA)(b)** deals with conditions under s 251BA on the authority of the applicant that relate to the making of the application. Where there are no s 251BA conditions, the Registrar must be satisfied of same.

[102] As discussed above, the Application at Schedules HA and P and materials provided by the applicant to the NNTT, indicate that there are no conditions under s 251BA on the authority of the applicant that relate to the making of the Application. In light of these statements, I am satisfied that the Application meets this requirement.

Section 190C(5): Requirements for uncertified applications – not met

[103] **Section 190C(5)(a)** provides that the Registrar cannot be satisfied that an uncertified application meets the requirements of s 190C(4) unless the application²⁷ includes statements to the effect that the requirements in sub-section (4AA) have been met. Section 190C(5)(b) provides that the Registrar cannot be satisfied that an uncertified application meets the requirements of s 190C(4) unless the application briefly sets out the grounds upon which the Registrar should consider that the statements in s 190C(5)(a) have been met.

²⁷ *Doepel* [78].

[104] The requirements of s 190C(4)(b), (4AA) are dealt with in [74] to [100] above. The material referred to in [74] to [100] above, together with the information included at Schedule P of the Application appear intended to satisfy the requirements of s 190C(5). However, for the reasons outlined above, as I have concluded that the requirements of ss 190C(4)(b) and 190C(4AA)(a) have not been met, I am not satisfied that there are grounds upon which I can form the view that the conditions in s 190C(4) have been met.

[105] In the circumstances, I am not satisfied that the requirements of s 190C(5) are met. For the reasons set out above, the material contained in the Application and provided to the NNTT does not establish sufficient grounds to conclude that all of the authorisation requirements under ss 190C(4), (4AA) and (5) have been satisfied.

[106] **Section 190B: CONDITIONS ABOUT THE MERITS OF THE CLAIM –Conditions not met**

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

[107] **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.

[108] Schedule B of the Application “...excludes those areas within the external boundaries of the claim area where native title has been wholly extinguished by operation of law, including areas subject to freehold title or other existing exclusive possession acts.” Annexure A to the Application includes a written description of the external boundary of the Application area by reference to existing native title determination areas and map coordinates prepared by Geospatial Services NNTT on 16 February 2026.

[109] Schedule C of the Application also refers to a map at Annexure A. The map at Annexure A was produced by Geospatial Services NNTT. The map shows the external boundaries of the Application area, townships, roads, and some tenure information. The map is a poor-quality reproduction of the original map such that information including township names and the date that the map was prepared are almost illegible.

[110] The Geospatial Assessment concludes that the written description and map are consistent and identify the area with reasonable certainty. I agree with that conclusion notwithstanding the poor quality of the map.

[111] I am satisfied that Schedules B and C meet the requirements of s 190B(2).

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

[112] **Section 190B(3)** requires the Registrar to be satisfied either that the persons in the native title claim group are named in the application in accordance with (a) or, that persons in that group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group in accordance with (b).

[113] When assessing the requirements under s 190B(3), I understand that:

- I am required to address only the content of the application;²⁸
- ‘only ... the members of the claim group are required to be identified, not that there be a cogent explanation of the basis upon which they qualify for such identification’;²⁹
- Where a claim group description contains a number of paragraphs, the paragraphs should be read ‘as part of one discrete passage, and in such a way as to secure consistency between them, if such an approach is reasonably open’;³⁰
- To determine whether the conditions (or rules) specified in the application have a sufficiently clear description of the native title claim group, “[i]t may be necessary, on occasions, to engage in some factual inquiry when ascertaining whether any particular person is in the group as described.”³¹

[114] Schedule A of the Application contains a description of the native title claim group extracted at [29] above indicating that the key criteria for membership is via biological descent from Bindi/Bindy including descent by adoption recognized under traditional laws and customs.

[115] In *WA v NTR*, Carr J accepted a description which included ‘*persons adopted by the named people and by the biological descendants of the named people*’ without any qualification indicating whether the adoption was according to traditional laws and customs, general law or otherwise. Requiring a member to show descent by birth or adoption from an identified ancestor provides a clear starting or external reference point to commence an inquiry about whether a person is a member of the native title claim group. I am of the view that with some factual inquiry it will be possible to identify the persons who fit this part of the description of the native title claim group.

[116] I am satisfied that the Schedule A description of the native title claim group in the Application meets the requirements of s 190B(3).

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

[117] **Section 190B(4)** requires the Registrar to be satisfied that the description contained in the application as required by para 62(2)(d) is sufficient to allow the native title rights and interests claimed to be readily identified. I understand that in order to assess the requirements of this provision, I am confined to the material contained in the Application itself.

[118] The description required by s 62(2)(d) is:

a description of the native title rights and interests claimed in relation to particular land or waters (including any activities in exercise of those rights and interests), but not merely consisting of a

²⁸ *Doepel* [51]; *Gudjala 2007* [30].

²⁹ *Gudjala 2007* [33].

³⁰ *Ibid* [34].

³¹ *WA v NTR* [67].

statement to the effect that the native title rights and interests are all native title rights and interests that may exist, or that have not been extinguished, at law;³²

[119] In *Doepel*, the Court noted that the description of the native title rights and interests must be understandable, have meaning and be without contradiction.³³ I understand that my *task* pursuant to s 190B(4), is to identify whether the rights and interests claimed are '*readily identifiable*'. A description of a native title right or interest that is broadly asserted "...does not mean that the rights broadly described cannot readily be identified within the meaning of s 190B(4)".³⁴

[120] I note that whether the claimed rights and interests can be prima facie established as native title rights and interests within the meaning of s 223 is considered in my reasons below under s 190B(6).

[121] Schedule E of the Application sets out a comprehensive list of exclusive and non-exclusive rights and interests claimed by the native title claim group under traditional laws and customs acknowledged and observed by them in relation to the claim area.

[122] Schedule E provides a description of the native title rights and interests claimed.

[123] In my view, the applicant has provided an extensive list of native title rights and interests that is comprehensive, comprehensible and readily identifiable. I am therefore satisfied that the requirements of s 190B(4) have been met.

Section 190B(5): Factual basis for claimed native title - condition not met

[124] **Section 190B(5)** requires the Registrar to be satisfied that the factual basis for the claimed native title rights and interests is sufficient to support the following assertions:

- (a) that the native title claim group have, and the predecessors of those persons had, an association with the area; and
- (b) that there exist traditional laws acknowledged by, and traditional customs observed by, the native title claim group that give rise to the claim to native title rights and interests; and
- (c) that the native title claim group have continued to hold the native title in accordance with those traditional laws and customs.

[125] Justice Mansfield in *Doepel* states that the task under s 190B(5):

"...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."... "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."³⁵

³² *Doepel* [16].

³³ *Doepel* [91]–[92], [95], [98]–[101], [123].

³⁴ *Strickland* [60]. See also *Strickland FC* [85]–[87].

³⁵ *Doepel* [17]; *Gudjala FC* [57], [83].

[126] Thus, when assessing the requirements of this condition I understand that I must treat the asserted facts as uncontroversial and assess whether such facts are sufficient to support the existence of the native title rights and interests claimed.

[127] Relevant to the task under s 190B(5) is the guidance provided by the Full Court in *Gudjala FC* in respect of the details required under s 62(2)(e)(i) to (iii) “*general description of the factual basis on which it is asserted that the native title rights and interests claimed exist...*”:

“The fact that the detail specified by s 62(2)(e) is described as “a general description of the factual basis” is an important indicator of the nature and quality of the information required by s 62. In other words, it is only necessary for an applicant to give a general description of the factual basis of the claim and to provide evidence in the affidavit that the applicant believes the statements in that general description are true. Of course the general description must be in sufficient detail to enable a genuine assessment of the application by the Registrar under s 190A and related sections, and be something more than assertions at a high level of generality. But what the applicant is not required to do is to provide anything more than a general description of the factual basis on which the application is based. In particular, the applicant is not required to provide evidence of the type which, if furnished in subsequent proceedings, would be required to prove all matters needed to make out the claim. The applicant is not required to provide evidence that proves directly or by inference the facts necessary to establish the claim.”³⁶

[128] In *Gudjala 2009*, Justice Dowsett on remittal clarified the task under s 190B(5) as follows:

“In assessing the adequacy of a general description of the factual basis of the claim, one must be careful not to treat, as a description of that factual basis, a statement which is really only an alternative way of expressing the claim or some part thereof. In my view 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 the 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.”³⁷

[129] Thus, it is my understanding that whilst the material provided by the applicant need not provide evidence to make out each claim, it must nevertheless provide sufficient factual detail to enable a “genuine assessment” of the factual basis for the assertions set out in ss 190B(5)(a) to (c) and at a minimum provide “an outline of the facts of the case”.³⁸

[130] At Schedule F of the Application, the applicant has set out the factual basis for the claim.

[131] The Applicant 24 March Submission includes further material relevant to an assessment under s 190B(5) some of which is extracted below:

- a. Cultural materials, including language and historical references, demonstrate the existence of a distinct Kalaako/Karlaku identity and cultural system...These materials support the continuation of traditional knowledge and practices.

³⁶ *Gudjala FC* [92].

³⁷ *Gudjala 2009* [28], [29]; *Anderson* [43], [48].

³⁸ *Gudjala 2009* [29].

- b. Members of the claim group have an association with the claim area through living on or near country; travelling across country with elders and family; knowledge of places, boundaries, and cultural sites.
- c. The claim group acknowledges and observes traditional laws and customs including: kinship systems governing membership; cultural responsibilities to care for country; rules governing access to land and resources; protection of sacred and culturally significant sites.
- d. These laws and customs have been passed down from the ancestors, including Bindy and Belang, and continue to be observed today.
- e. The claim group continues to observe these laws and customs through: cultural practices and ceremonies; teaching younger generations; maintaining connection to country.
- f. Members of the claim group maintain traditional physical connection through: presence on country; visiting and travelling across country; maintaining cultural knowledge and responsibilities.
- g. Any interruption to occupation has been due to external factors and does not break connection.
- h. The Applicant relies on historical and anthropological materials, including records by Tindale and Bates, which identify Kalaako people as being associated with the Davyhurst, Kalgoorlie and surrounding regions.
- i. These materials confirm that: the Kalaako people are a recognised Aboriginal group in the region; they have longstanding association with the claim area.
- j. The genealogical materials linking the claim group to Bindy and her descendants, including Belang, align with these historical records.
- k. References to historical individuals, including [REDACTED], form part of the genealogical record and assist in identifying continuity of family connections across generations.
- l. This evidence demonstrates that the claim groups identity and connection to country are consistent with both historical and genealogical records.

[132] The Applicant 26 March Submission includes further material relevant to an assessment under s 190B(5) some of which is extracted below:

- a. Genealogy and Claim Group Identity...This material demonstrates continuity of descent from Bindy to present-day members of the Kallardoo/Kalaako/Karlaku people...The descendants of Jacob Dimer, being a descendant of Bindy, are recognised as Kalaako people and form part of the claim group... This establishes that the claim group is a continuing society connected to the claim area.
- b. Historical and Photographic Evidence...The Applicant relies on a historical photograph previously provided showing Bindy and Jacob Dimer at Kookynie with the word "Kallardoo"... This photograph supports: the identification of Bindy as an ancestor connected to the claim area; the connection between Bindy and Jacob Dimer as part of the claim group lineage; the recognition and use of the name Kallardoo/Kalaako/Karlaku.
- c. Factual basis... Association... The claim group has a continuing association with the claim area including Kalgoorlie, Coolgardie, Kookynie, Davyhurst and surrounding regions....The Applicant [REDACTED]. The Applicant and her family: [REDACTED] in accordance with Kalaako law and custom.
- d. Laws and customs...the Applicant was taught Kalaako law and custom by her father Colin Dimer and elders. These include: knowledge of [REDACTED] etc.

- e. These laws and customs have continued from Bindy through: Jacob Dimer; Colin Dimer and his siblings; the Applicant; the Applicant's children and grandchildren.

[133] The Dimer 26 March Affidavit includes further material relevant to an assessment under s 190B(5) some of which is extracted below:

- a. I [REDACTED]
[REDACTED] . We [REDACTED].
- b. These laws and customs have been passed down from Bindy through Jacob Dimer, Colin Dimer, myself, and to my children and grandchildren. ...Oral history continues to be shared. Knowledge of [REDACTED].
- c. I and other members maintain physical connection to country through travelling, camping, hunting, gathering and using waterholes.

[134] At this point, it is convenient to outline information provided by the applicant most relevant to the conditions under s 190B(5)(a) to (c) in turn below.

Section 190B(5)(a): "...native title claim group have...and their predecessors had...an association with the area..." – condition met

[135] I understand that s 190B(5)(a) requires sufficient factual material to support the following assertions:

- there is an "association between the whole group and the area", although not "all members must have such association at all times";³⁹
- the predecessors of the group were associated with the area over the period since sovereignty;⁴⁰
- there is an association with the entire claim area, rather than an association with part of it or "very broad statements", which for instance have no "geographical particularity";⁴¹ and
- "the identified claim group (and not some other group) hold the identified rights and interests (and not some other rights and interests)".⁴²

[136] I understand from the authorities cited above that s 190B(5)(a) requires a consideration of both the native title claim group's contemporary association and the historical association of their ancestors to the Application area.

[137] The Deponent 1 Affidavit includes information attesting to the association of her Kalaako and Ngadjju antecedents to locations within the Application area including [REDACTED] and the Goldfields area.

³⁹ *Gudjala 2007* [52].

⁴⁰ *Ibid.*

⁴¹ *Martin* [26]; see also *Corunna* [45].

⁴² *Gudjala 2007* [39].

[138] The applicant’s material includes references to locations such as Credo Station and the townships of Kalgoorlie, Davyhurst, and Coolgardie as captured above in [131b], [131h], [132c] and [133a], and demonstrates the types of activities undertaken currently and in times past, and the association of current and past generations of family members to the Application area. In my view, such material is sufficient to meet the requirements at s 190B(5)(a).

Section 190B(5)(b): Traditional laws acknowledged by, and traditional customs observed by, the native title claim group that give rise to the native title rights and interests – condition not met

[139] **Section 190B(5)(b)** requires the factual basis material to be sufficient to support the assertion of the existence of the traditional laws and customs giving rise to the native title rights and interests claimed. The definition of ‘native title rights and interests’ in s 223(1)(a) provides that those rights and interests must be ‘*possessed under the traditional laws acknowledged by, and traditional customs observed*’ by the native title holders.

[140] The High Court in *Yorta Yorta*, observed that laws and customs are ‘traditional’ where:

- a. ‘the origins and content of the law or custom concerned are to be found in the normative rules’ of a society that existed prior to the assertion of British sovereignty,⁴³ where the society consists of a body of persons united in and by their acknowledgement and observance of a body of laws and customs;⁴⁴
- b. the normative system under which those traditional rights and interests are possessed is one which ‘has had a continuous existence and vitality since sovereignty’;⁴⁵
- c. the laws and customs have been passed from generation to generation, and must be rooted in the traditional laws and customs that existed pre-sovereignty;⁴⁶
- d. those laws and customs have been acknowledged and observed without substantial interruption since sovereignty.⁴⁷

[141] Dowsett J discussed some of the factors that may guide the Registrar in assessing the factual basis in *Gudjala 2009*, including that:

- a. it is necessary for the factual basis material to identify the relevant pre-sovereignty society of persons who acknowledged and observed the laws and customs;⁴⁸
- b. where the basis for membership of the claim group is descent from named ancestors, the factual basis material must demonstrate some relationship between the ancestors and the pre-sovereignty society from which the laws and customs are derived;⁴⁹ and

⁴³ *Yorta Yorta* [46].

⁴⁴ *Ibid* [49].

⁴⁵ *Ibid* [47].

⁴⁶ *Ibid* [46], [79].

⁴⁷ *Ibid* [87].

⁴⁸ *Gudjala 2009* [37], [52].

⁴⁹ *Ibid* [40].

- c. the factual basis material must provide an explanation, beyond a mere assertion, of how the current laws and customs of the claim group are traditional and derived from the pre-sovereignty society.⁵⁰

[142] I also note the observations of the Full Court in *Warrie*, that although,

‘a claim group must establish that the traditional law and custom which gives rise to their rights and interests in that land and waters stems from rules that have a normative character’, the Act does not ‘require establishment of some overarching “society” that can only be described in one way and with which members of a claim group are forever fixed in relation to any other land and waters over which they assert native title’.⁵¹

[143] The applicant’s references to the inter-generational transfer of knowledge in accordance with traditional laws and customs is captured above in [130c, d, e and, f] and [132b]. That such traditional laws and customs likely existed prior to the assertion of British sovereignty is supported by [130i, j, k, l] and [131a, d and e] which suggests that the laws and customs referred to by the applicant have been passed from generation to generation and derive from a pre-sovereignty society.

[144] However, in my view, such material could only be sufficient to meet the requirements at s 190B(5)(b) if the material also establishes a factual basis from which it is possible to conclude that it is the Kallardoo/Kalaako/Karlaku that is the relevant pre-sovereignty society from which the traditional laws and customs relevant to the Application area are derived.

[145] The Application and the applicant material provided to the NNTT makes multiple assertions at a high level of generality to the effect that the “Kallardoo/Kalaako/Karlaku People are a distinct society descended from Bindy”.⁵² However, I have been unable to locate any factual material supporting this assertion. I am unable to discern how the historical, genealogical and linguistic material provided by the applicant amounts to a factual basis supporting the assertion that the traditional laws and customs acknowledged and observed by the native title claim group give rise to the native title rights and interests claimed in the Application area.

[146] The Applicant’s 24 and 26 March Submissions do little to contextualise the genealogical charts, historical letters, handwritten notes, photographs and other material provided to the NNTT. Having regard to all of the material provided as part of the Application and to the NNTT by the applicant, I am unable to locate a factual basis in support of the assertions made by the applicant, that it is the traditional laws and customs of the Kallardoo/Kalaako/Karlaku society that give rise to the native title rights and interests claimed by the Kallardoo People in the Application.

[147] For the reasons discussed above, I am not satisfied that the material provided meets the requirements of s 190B(5)(b).

Section 190B(5)(c): Native title claim group have continued to hold the native title in accordance with those traditional laws and customs – condition not met

⁵⁰ Ibid [29], [54].

⁵¹ *Warrie* [107]; see also *Alyawarr* [78].

⁵² Dimer 26 March Submissions [39].

[148] **Section 190B(5)(c)** requires the factual basis material to be sufficient to support the assertion that the native title claim group continues to hold native title in accordance with the traditional laws and customs. The traditional laws and customs referred to in s 190B(5)(c) are those referred to under s 190B(5)(b).⁵³

[149] I understand that continuity may be inferred where there is “[c]lear evidence of a pre-sovereignty society and its laws and customs, of genealogical links between that society and the claim group, and an apparent similarity of laws and customs”.⁵⁴

[150] As I am unable to conclude that the traditional laws and customs asserted by the applicant in respect of the Application area are derived from a Kallardoo/Kalaako/Karlaku pre-sovereignty society, I cannot be satisfied that the requirements of s 190B(5)(c) have been met.⁵⁵

Section 190B(6) Prima facie case: condition not met

[151] As I am not satisfied that the requirements at s 190B(5) have been met, it follows that I cannot be satisfied that the claimed rights and interests have been established on a prima facie basis. In my view, the claim does not satisfy the requirements of s 190B(6).⁵⁶

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

[152] **Section 190B(7)** requires the Registrar to 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, or previously had and would reasonably be expected to currently have a traditional physical connection with any part of the land or waters, but for certain things done.

[153] The courts have observed that the traditional physical connection under s 190B(7) ‘*must be in exercise of a right or interest in land or waters held pursuant to traditional laws and customs*’.⁵⁷ “Traditional” as that term is used under s 223 of the Act, was considered by the members of the joint judgment in *Yorta Yorta* who noted that:

...the connection which the peoples concerned have with the land or waters must be shown to be a connection by their traditional laws and customs ... “traditional” in this context must be understood to refer to the body of law and customs acknowledged and observed by the ancestors of the claimants at the time of sovereignty.⁵⁸

[154] In *Doepel*, the task of the Registrar under s 190B(7), requires “*some measure of substantive (as distinct from procedural) quality control upon the application, if it is to be accepted for registration*”.⁵⁹ Having regard to the authorities cited, I understand that I must be satisfied that the material provides a factual basis from which I can establish that at least one member

⁵³ *Martin* [29].

⁵⁴ *Gudjala 2009* [33].

⁵⁵ *Martin* [29].

⁵⁶ *Gudjala 2007* [86]-[87].

⁵⁷ *Gudjala 2009* [84].

⁵⁸ *Yorta Yorta* [86].

⁵⁹ *Doepel* [18].

of the claim group has or had the necessary “traditional” physical association with the Application area.

[155] I refer to my reasons and conclusions regarding the requirements of s 190B(5) and s 190B(6). Having regard to those conclusions, I cannot be satisfied that the Application meets the requirements of s 190B(7).

Section 190B(8): No failure to comply with s 61A – condition not met

[156] **Section 190B(8)** provides that the application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that the application should not have been made because it does not comply with s 61A.

[157] **Section 61A(1)** restricts the making of a native title determination application over areas where there has been a previous native title determination/s; or where a previous exclusive possession act was done in relation to the area; or from claiming certain native title rights and interests where a previous non-exclusive possession act was done in relation to an area. As discussed at [39] – [43] above, I have formed the view that the Applicant Affidavit does indicate that none of the area covered by the Application is also covered by an approved determination of native title and this is confirmed by the Geospatial Assessment and my own searches.

[158] **Section 61A(2)** provides that a claimant application must not be made over areas covered by a previous exclusive possession act, unless the circumstances described in s 61A(4) apply. Schedule B of the Application describes tenures excluded from the Application area and indicates that it does not cover any areas where native title has been wholly extinguished by operation of law, including areas subject to freehold title or other existing exclusive possession acts.

[159] **Section 61A(3)** provides that an application must not claim native title rights and interests that confer possession, occupation, use and enjoyment to the exclusion of all others in an area where a previous non-exclusive possession act was done, unless the circumstances described in s 61A(4) apply. The Application appears to be silent with respect to this condition, consequently I cannot be satisfied that it meets the requirements of s 190B(8).

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

[160] **Section 190B(9)** provides that the application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that the claimed native title rights and interests include (a) ownership of minerals, petroleum or gas wholly owned by the Crown; or (b) exclusive rights to waters in an offshore place; or (c) extinguished native title rights and interests (except where such extinguishment can be disregarded under certain provisions of the Act).

[161] The Application does not claim any interests included in s 190B(9) as confirmed by Schedules B, N and O. In my view, the Application does meet the requirements under s 190B(9)(a) to (c).

End of reasons

Attachment A

Summary of registration test result

Application name	KALLARDOO/KALAAKO/KARLAKU People
NNTT No.	WC2026/003
Federal Court of Australia No.	WAD60/2026
Date of decision	23 April 2026

Section 190B conditions

Test condition	Sub-condition/requirement	Result
Section 190B(2)		Met
Section 190B(3)		Overall result: Met
	Section 190B(3)(a)	Met
	Section 190B(3)(b)	Met
Section 190B(4)		Met
Section 190B(5)		Aggregate result: Not met
	Section 190B(5)(a)	met
	Section 190B(5)(b)	Not met
	Section 190B(5)(c)	Not met
Section 190B(6)		Not met
Section 190B(7)		Not met
	Section 190B(7)(a)	Not met
	Section 190B(7)(b)	Not met
Section 190B(8)		Aggregate result: Not met
	Section 61A(1)	met
	Sections 61A(2), (4)	met
	Sections 61A(3)–(4)	Not met
Section 190B(9)		Aggregate result: met
	Section 190B(9)(a)	met
	Section 190B(9)(b)	met
	Section 190B(9)(c)	met

Section 190C conditions

Test condition	Sub-condition/requirement	Result
Section 190C(2)		Aggregate result: Met
Section 190C(3)		Met
Section 190C(4)		Overall result: Not met
	Section 190C(4)(a)	N/A
	Section 190C(4)(b)	Not met
Section 190C(5)		Not met