



Registration Decision

Application name	Gomeroid People
Name of applicant	Sidney Chatfield, Peter White, Richard Green, Chris McGrady, Madeline McGrady, Dorothy Tighe, Ian Brown, Lee-Ann Pearl Davern, Shannon Draper, Christine Porter, Susan Smith, Elaine Binge, Bradley Fernando, Barry Toomey, Leon Winters
Federal Court of Australia No.	NSD37/2019
NNTT No.	NC2011/006
Date of Decision	8 May 2026
Claim accepted for registration	

I have decided that the claim in the Gomeroid People application satisfies all of the conditions in ss 190B–190C of the *Native Title Act 1993* (Cth).¹ Therefore the claim must be accepted for registration and entered on the Register of Native Title Claims.

Michael Raine

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

¹ A section reference is to the *Native Title Act 1993* (Cth) ('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; (2012) 297 ALR 660 ('Anderson')

Aplin on behalf of the Waanyi Peoples v Queensland [2010] FCA 625 ('Aplin')

Burrabungba on behalf of the Wangan and Jagalingou People v Queensland [2017] FCA 373 ('Burrabungba')

Butchulla People v State of Queensland [2006] FCA 1063; (2006) 154 FCR 233 ('Butchulla')

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

Fesl v Delegate of the Native Title Registrar [2008] FCA 1469; (2008) 173 FCR 150 ('Fesl')

Fortescue Metals Group v Warrie on behalf of the Yindjibarndi People [2019] FCAFC 177; (2019) 273 FCR 350 ('Warrie')

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

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

Gudjala People #2 v Native Title Registrar [2009] FCA 1572; (2009) 182 FCR 63 ('Gudjala 2009')

Harrington-Smith on behalf of the Wongatha People v Western Australia (No 9) [2007] FCA 31; (2007) 238 ALR 1 ('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] HCA 58; (2002) 214 CLR 422 ('Yorta Yorta')

McLennan v Queensland [2019] FCA 1969 ('McLennan')

Noble v Mundraby, Murgha, Harris and Garling [2005] FCAFC 212 ('Noble')

Northern Territory of Australia v Alyawarr, Kaytetye, Wurumunga, Wakaya Native Title Claim Group [2005] FCAFC 135; (2005) 145 FCR 442 ('Alyawarr')

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

Sampi on behalf of the Bardi and Jawi People v Western Australia [2010] FCAFC 26; (2010) 266 ALR 537 ('Sampi FC')

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

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

Weribone on behalf of the Mandandanji People v Queensland [2013] FCA 255 ('Weribone')

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

Western Australia v Strickland [2000] FCA 652; (2000) 99 FCR 33 ('Strickland FC')

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

Wiri People v Native Title Registrar [2008] FCA 574; (2008) 168 FCR 187 ('Wiri People')

Background

- [1] This decision relates to an amended native title determination application, *Sidney Chatfield & Ors* on behalf of the Gomeroi People and Attorney General of New South Wales & Ors. It covers land and waters of approximately 87,286.6 square kilometres in northern New South Wales, from Gilgandra and Tamworth to the Queensland border.
- [2] The Gomeroi People’s application was first made on 20 December 2011 and on 20 January 2012 it was accepted for registration on the Register of Native Title Claims (‘Register’). The claim has been amended once previously, on 8 May 2023 (‘Previous Application’). On 24 July 2023 the Previous Application was accepted for registration. On 23 January 2026 orders were made in the Federal Court of Australia (‘Court’) replacing the applicant under s 66B and granting leave to file an amended application.² On 2 February 2026 the applicant filed an amended application in accordance with those orders (‘Amended Application’), and the Register was updated to reflect the replacement applicant in accordance with the s 66B orders on 3 February 2026.
- [3] The Registrar of the Court gave a copy of the Amended Application and accompanying affidavits to the Native Title Registrar (‘Registrar’) on 2 February 2026 pursuant to s 64(4) 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.³

Preliminary considerations

Registration conditions

- [4] Sections 190A(1A), (6), (6A) and (6B) set out the decisions available to the Registrar under s 190A. Section 190A(6) provides that the Registrar must accept the claim for registration if it satisfies all of the conditions of s 190B (which the Act refers to as dealing mainly with the merits of the claim) and s 190C (which the Act refers to as dealing with procedural and other matters). Section 190A(6B) provides that the Registrar must not accept the claim for registration if it does not satisfy all the conditions of ss 190B–190C.
- [5] Section 190A(1A) provides for an exemption from the registration test for certain applications amended under s 87A. As the granting of leave by the Court to amend the application was not made pursuant to s 87A, I am satisfied that s 190A(1A) does not apply to the Amended Application.
- [6] Section 190A(6A) sets out the conditions under which the Registrar must accept an amended application for registration without testing under ss 190B and 190C. The amendments made in the Amended Application include updates to the persons comprising the applicant to reflect the s 66B orders, updates to the information about authorisation, changes to the description of the claim group, a reduced claim area, updates to references to affidavit material and other

² Orders of Judicial Registrar Salzman in *Sidney Chatfield & Ors on behalf of Gomeroi People v Attorney General of New South Wales* (Federal Court of Australia, NSD37/2019, 23 January 2026).

³ Section 190A(1).

minor updates. I consider that these include amendments which do not fall within s 190A(6A)(d), and therefore s 190A(6A) does not apply to the Amended Application.

- [7] One notice was given under s 29 in relation to acts affecting land or waters within the claim area, with a notification date of 9 October 2025. As a result, the Registrar must use best endeavours to complete the registration test within four months of the notification day.⁴ As that date would be 9 February 2026, one week after the Amended Application was provided under s 64(4), and owing to the requirements of procedural fairness,⁵ it has not been possible to complete the registration test within that timeframe.
- [8] I have decided that the Amended Application must be accepted for registration, and this document sets out my reasons for that decision.

Procedural fairness

- [9] On 4 February 2026, a Senior Officer of the National Native Title Tribunal ('NNTT') wrote to both the applicant and the State of New South Wales ('State') to invite any submissions or additional material in relation to the application of the registration test by 18 February 2026.
- [10] The applicant requested and was granted a short extension of time in which to provide additional material. On 23 February 2026, the applicant provided additional material, comprising 10 confidential claimant affidavits. On 24 February 2026 the applicant provided a letter together with an annexure, comprising its submissions in relation to the registration test.
- [11] Consistent with *WA v NTR*,⁶ the State was asked to enter into a confidentiality undertaking with respect to the confidential material provided. The State provided a signed confidentiality undertaking on 27 February 2026 to the NNTT and on 2 March 2026 was provided with the applicant's additional material. No submissions or comments were received from the State.
- [12] On 14 April 2026 I provided a preliminary assessment of the Amended Application to the applicant in relation to the authorisation condition at s 190C(4). In response, the applicant provided submissions and three further confidential affidavits on 28 and 29 April 2026. The State was asked to enter into a confidentiality undertaking, and did so on 30 April 2026.
- [13] On 30 April 2026, these further affidavits were provided to the State for their comment. No submissions or comments were received from the State.
- [14] This concluded the procedural fairness process.

Information considered

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

⁴ Section 190A(2).

⁵ *Ibid* [36].

⁶ *WA v NTR* [38].

[16] I have had regard to information in the Amended Application and accompanying documents under s 190A(3)(a). I have also had regard to the additional information provided by the applicant on 23 and 24 February 2026, comprising:

- Affidavit of [claim group member 1], affirmed 23 February 2026;
 - Affidavit of [claim group member 2], affirmed 23 February 2026;
 - Affidavit of [claim group member 3], affirmed 23 February 2026;
 - Extract Affidavit of [claim group member 4], affirmed 23 September 2011;
 - Extract Affidavit of [claim group member 5], affirmed 13 December 2011;
 - Extract Affidavit of [claim group member 6], affirmed 13 December 2011;
 - Extract Affidavit of [claim group member 7], affirmed 14 December 2011;
 - Extract Affidavit of [claim group member 8], affirmed 23 March 2023;
 - Extract Affidavit of [claim group member 9], affirmed 23 March 2023;
 - Extract Affidavit of [claim group member 10], affirmed 24 March 2023
- (together referred to as the 'Claimant Affidavits');
- Letter dated 23 February 2026 in relation to certain conditions of the registration test ('Applicant's Submissions'); and
 - Annexure A to the Applicant's Submissions, comprising a summary table with selected extracts of the Claimant Affidavits ('Summary Table').

[17] I have also had regard to the following affidavits provided by the applicant on 28 and 29 April 2026:

- Affidavit of [claim group member 11] affirmed on 28 April 2026;
- Affidavit of the Manager of Research at NTSCORP affirmed on 28 April 2026;
- Further affidavit of a solicitor at NTSCORP affirmed on 29 April 2026; and
- Further submissions dated 29 April 2026 ('Applicant's Further Submissions').

[18] There is no information obtained as a result of any searches conducted by the Registrar of State/Commonwealth interest registers that I must have regard to under s 190A(3)(b).

[19] The State has not provided submissions in relation to the application of the registration test that I must have regard to under s 190A(3)(c).

[20] I may also have regard to such other information as I consider appropriate.⁷ I have considered it appropriate to have regard to a geospatial assessment and overlap analysis prepared by the NNTT's Geospatial Services in relation to the area covered by the Amended Application, dated 17 February 2026 ('Geospatial Assessment').

⁷ Section 190A(3).

Section 190C: conditions about procedural and other matters — conditions met

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

[21] To meet s 190C(2), the Registrar must be satisfied that a claimant application contains all of the prescribed details and other information, and is accompanied by any affidavit or other document, required by ss 61–62. 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...’.⁸ As such, in my view s 190C(2) requires consideration of whether the Amended Application contains the required material and whether such material is sufficient to enable the Registrar to form an opinion about whether the claim satisfies all of the conditions in ss 190B and 190C.⁹

Section 61 – native title applications

[22] **Section 61(1)** provides that only persons included in and authorised by the native title claim group may make a native title determination application for the particular native title claimed. Fifteen persons are named in the Amended Application as comprising the applicant. Schedule A contains a description of the native title claim group. Each of the persons comprising the applicant has deposed an affidavit for the purposes of s 62, and these have been annexed to the application (‘Applicant Affidavits’). The Applicant Affidavits indicate that each deponent is a member of the native title claim group and is authorised to make the application by the persons in the native title claim group.¹⁰ From the material contained in Schedule A and the Applicant Affidavits, I am satisfied that the Amended Application has been made in accordance with s 61(1).

[23] **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 there is nothing in the Amended Application or other material that I have considered that would suggest otherwise.

[24] **Section 61(3)** requires an application to state the name and address for service of the applicant. The names of each of the persons comprising the applicant are stated in the Amended Application and the address for service is included at Part B. As such, I am satisfied that the Amended Application contains the information required by s 61(3).

[25] **Section 61(4)** requires a native title determination application authorised by persons in a native title claim group to name or describe the persons in that claim group so that it can be ascertained whether any particular person is one of those persons. In *Gudjala 2007*, Dowsett J emphasised the procedural nature of the exercise undertaken under s 190C(2) regarding the

⁸ *Doepel* [35].

⁹ See also s 190D(3)(b).

¹⁰ Form 1, Applicant Affidavits [1], [5].

details and information required by ss 61 and 62 in contrast to the merits exercise undertaken pursuant to s 190B(3).¹¹ As noted above, Schedule A contains a description of the native title claim group. I am satisfied that the Amended Application contains the information required by s 61(4) because Schedule A describes the persons sufficiently clearly so that it can be ascertained whether any particular person is one of those persons.¹²

[26] **Section 61(5)** provides that the application must be filed in the Court in the prescribed form and be accompanied by any prescribed fee. In my view, these are matters for the Court however I note that the Amended Application is made in the prescribed form and was accepted for filing by the Court on 2 February 2026.

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

[27] **Section 62(1)(a)** requires an application to be accompanied by an affidavit sworn by the applicant stating each of the matters mentioned in subsection (1A). Each of the 15 persons comprising the applicant have deposed an affidavit that includes statements to the effect that the deponent:

- is a member of the native title claim group for the Amended Application by reference to each of the criteria for membership set out in Schedule A;
- believes that the native title rights and interests claimed have not been extinguished in relation to any part of the area covered by the Amended Application;
- believes that none of the area covered by the Amended Application is also covered by an approved determination of native title;
- believes that all of the statements made in the Amended Application are true;
- is authorised by all the persons in the native title claim group to make the Amended Application and to deal with matters arising in relation to it;
- was authorised at a publicly notified meeting of the claim group held in Tamworth on 29 and 30 September 2025 pursuant to an agreed and adopted decision-making process involving a clearly worded motion being read, moved and seconded, with the decision being passed by a majority vote;
- is subject to conditions on authority that relate to the making of the Amended Application, being:
 - (a) the applicant must not amend, resolve, have listed for trial or discontinue the application without first obtaining a resolution of the Gomeroi People native title claim group specifically authorising it to do so;

¹¹ *Gudjala 2007* [31]–[32].

¹² Section 61(4)(b).

(b) the applicant must do all things necessary to implement the resolutions and decisions of the Gomeroi People native title claim group and must not act inconsistently with those resolutions and decisions.¹³

- has satisfied these conditions by making the Amended Application as a result of resolutions made by the Gomeroi People at the meeting of 29 and 30 September 2025.

[28] I am satisfied that the above statements in the Applicant Affidavits meet the description of each of the statements required by s 62(1A)(a)–(g), noting that as conditions were imposed s 62(1A)(f) is not applicable. I am therefore satisfied that the Amended Application is accompanied by the documents required by s 62(1)(a).

[29] **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 an application. Schedule J of the Amended Application indicates that no agreement under s 47C has been entered into. As such, the requirement at s 62(1)(d) is not applicable.

[30] **Section 62(2)(a)** requires that an application 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. Attachment B of the Amended Application contains a written description of the external boundaries of the claim area and Schedule B sets out the areas within the external boundary that are not covered by the Amended Application. As such I am satisfied that the application contains the information required by s 62(2)(a).

[31] **Section 62(2)(b)** requires that an application include a map showing the boundaries of the area mentioned in s 62(2)(a). Attachment C of the Amended Application contains a map showing the external boundaries of the claim area. As such, I am satisfied that the Amended Application contains the information required by s 62(2)(b).

[32] **Section 62(2)(c)** requires that an application include details and results of searches of any non-native title rights and interests covered by the application. Schedule D of the Amended Application states that no searches have been carried out. As no searches have been conducted, I am satisfied that s 62(2)(c) is not applicable to the Amended Application.

[33] **Section 62(2)(d)** requires an application to contain a description of the native title rights claimed in relation to particular land or waters. This 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. I am satisfied that the description of the claimed native title rights and interests included at Schedule E of the Amended Application is sufficient to meet the requirements of s 62(2)(d).

[34] **Section 62(2)(e)** requires an application to contain a general description of the factual basis on which it is asserted that the native title rights and interests are claimed to exist. The Amended

¹³ I note that additional conditions imposed on the applicant under s 251BA are set out at Schedule HA. I consider that those additional conditions do not relate to the making of the Amended Application, but to dealing with matters arising after the Amended Application has been made.

Application contains a general description of the factual basis at Attachments E(1) to E(4) and F. As such, I am satisfied that the Amended Application contains the information required by s 62(2)(e).

- [35] **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 must be included in an application. Schedule E of the Amended Application contains details of activities in relation to the lands and waters currently carried on by members of the claim group. I am satisfied that the Amended Application contains the information required by s 62(2)(f).
- [36] **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 states that there are no current native title determination applications in relation to the Amended Application and refers to a number of historical applications. I am satisfied that the Amended Application meets the requirements of s 62(2)(g).
- [37] **Section 62(2)(ga)** requires an application to include details of any s 24MD(6B)(c) notifications relevant to the claim area. Schedule GA includes the details of relevant notices. I am satisfied that the Amended Application contains the information required by s 62(2)(ga).
- [38] **Section 62(2)(h)** requires that an application include details of any s 29 notifications relevant to the claim area of which the applicant is aware. Schedule H includes the details of relevant notices. I am satisfied that the Amended Application contains the information required by s 62(2)(h).
- [39] **Section 62(2)(i)** requires an 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. Schedule HA of the Amended Application contains the conditions imposed on the authority of the applicant to make the application and deal with matters arising in relation to it. As such, the Amended Application contains the information required by s 62(2)(i).

Conclusion on s 190C(2)

- [40] As set out above, I am satisfied that the Amended Application contains all of the details and other information, and is accompanied by any affidavit or other document, as required by ss 61–62, and as such, the condition at s 190C(2) is met.

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

- [41] The condition at s 190C(3) requires that ‘no person included in the native title claim group for the application ... was a member of the native title claim group for any previous application’. I understand that in assessing this requirement I may have regard to information which does not form part of the application and accompanying documents.¹⁴

¹⁴ *Doepel* [16].

[42] The condition at s 190C(3) only arises where there is a previous application that meets the criteria set out in subsections (a) to (c).¹⁵ These criteria are that any previous application covers at least some of the same area, was accepted for registration under s 190A and is on the Register of Native Title Claims ('Register').

[43] Schedule G states that at the time of filing there were no other native title determination applications in relation to the whole or part of the area covered by the Amended Application. The Geospatial Assessment and my own searches of the NNTT's mapping databases have confirmed this.

[44] As there are no previous applications that meet the description of sub-ss (a)–(c), s 190C(3) requires no further consideration. I am satisfied that the Amended Application does not contravene this requirement.

Section 190C(4): identity of claimed native title holders – condition met

[45] Section 190C(4) provides that the Registrar must be satisfied that either a certificate under s 203BE has been issued by the relevant representative Aboriginal/Torres Strait Islander body,¹⁶ or the requirements in subsection (4AA) are met.¹⁷ Schedule P confirms that the Amended Application is not certified. As such and in accordance with s 190C(4)(b), I must proceed to consider the requirements at s 190C(4AA).

Sections 190C(4)(b) and (4AA): identity of claimed native title holders

Section 190C(4AA)(a): member authorised by native title claim group to be the applicant

[46] 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.¹⁸ It is therefore necessary to identify whether:

- the persons comprising the applicant are members of the native title claim group;
- the applicant is 'authorised' in accordance with the requirements in s 251B; and
- that such authorisation was given by 'all the other persons' in the native title claim group.

[47] Having regard to the authorities concerning authorisation of the applicant, I understand that 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';¹⁹

¹⁵ *Strickland FC* [9].

¹⁶ Section 190C(4)(a).

¹⁷ Section 190C(4)(b).

¹⁸ The word 'authorise' is defined in s 251B: Note to s 190C(4AA).

¹⁹ *Doepel* [78].

- requires the Registrar to be satisfied as to the identity of the claimed native title holders, including the applicant;²⁰
- is not ‘to be met by formulaic statements in or in support of applications’;²¹
- 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.²²

[48] The first limb of s 190C(4AA)(a) requires that ‘the applicant is a member of the native title claim group’. The description of the claim group in Schedule A contains several criteria: descent by birth or adoption, listing 153 apical ancestors; self-identification as a Gomeroi person; recognition as a Gomeroi person in accordance with traditional laws and customs; continuity of connection with part of the application area; and participation in the social and cultural life of the Gomeroi People. Paragraph 1 of each of the Applicant Affidavits states that the deponent is a member of the claim group and meets each of the criteria for membership listed in Schedule A. As such, I am satisfied that each person comprising the applicant is a member of the native title claim group.

[49] 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’. In my view, the second limb requires consideration of s 251B, which sets out the relevant definition of the word ‘authorise’.

Section 251B: authorising the making of applications

[50] As s 251B contains multiple requirements, it is convenient to identify and address each requirement separately:

- ‘...all the persons in a native title claim group...’
- ‘...authorise ... persons to make a native title determination application ... and to deal with matters arising in relation to it, 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
 - (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.

²⁰ *Wiri People* [29].

²¹ *Strickland* [57].

²² *Harrington-Smith* [1230].

[51] As regards ‘all the persons in a native title claim group’, Stone J commented in *Lawson* that ‘the effect of the section is to give the word “all” a more limited meaning’, that it does not require a unanimous vote and that ‘[i]t 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’.²³ 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.²⁴ As such, I understand that I must assess whether all the persons in the native title claim group were provided with an opportunity to attend and participate in the relevant authorisation meetings held on 27 to 30 September 2025.

[52] In *Weribone*, Rares J held that a notice for an authorisation meeting ‘must be sufficient to enable the persons to whom it is addressed ... to judge for themselves whether to attend the meeting and vote for or against a proposal’ and that ‘fair notice of the business to be dealt with at the meeting’ must be given.²⁵

[53] 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. In *Ward*, O’Loughlin J listed a number of questions relating to the authorisation process which do not need to be answered in any formal way, but the substance of the questions should be addressed,²⁶ as follows:

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?²⁷

[54] In *Noble*, the Full Court stated:

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 indicate dissent from the course adopted. There was thus evidence from

²³ *Lawson* [25]. See also *Butchulla* [33].

²⁴ *Lawson* [27].

²⁵ *Weribone* [40], [41]; see also *Burrugubba* [31].

²⁶ *Ward* [24]–[25].

²⁷ *Ward* [24], cited with approval in *Lawson* [26].

the conduct of the claim group on which the primary judge could base his conclusion that the requirements of s 251B were satisfied.²⁸

[55] In *Fesl*, Logan J considered the meaning and effect of s 251B as dealt with in the above passage from the Full Court in *Noble*, and stated the following principles distilled from the authorities concerning s 251B:

- (a) the effect of the s 251B is to give the word ‘all’ in, materially, the table which appears below s 61(1) a more limited meaning than it might otherwise have;
- (b) in those cases where there is no relevant traditional decision-making process, s 251B does not mandate any one particular decision-making process, only that it be one that is agreed to and adopted by the persons in the native title claim group or compensation group;
- (c) “agreed to and adopted by” imports the giving to all of those whose whereabouts are known and have capacity to authorise a reasonable opportunity to participate in the adoption of a particular process and the making of decisions pursuant to that process;
- (d) unanimous decision-making is not mandated;
- (e) agreement to a particular process may be proved by the conduct of the parties even in the absence of proof of a formal agreement.²⁹

Information provided in support of s 190C(4AA): s 190C(5)

[56] Section 190C(5) provides that the Registrar cannot be satisfied that an uncertified application meets the requirements of s 190C(4) unless the application³⁰ contains statements to the effect that the requirements in sub-s (4AA) have been met and briefly sets out the grounds upon which the Registrar should consider that the conditions have been met (but need not include brief grounds relating to conditions under s 251BA where none are imposed).

[57] In *Strickland*, French J (as his Honour then was) stated that s 190C(5):

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.³¹

[58] The statements and brief grounds relevant to s 190C(5) are contained in Part A and Schedule P, the Applicant Affidavits and Attachment P, which contains an affidavit of a solicitor at NTSCORP affirmed on 30 October 2025. Attachment P includes the following information:

- a. NTSCORP have maintained a mailing list of Gomeroi People over many years, and names are added to the list based on advice from the NTSCORP Research Unit who

²⁸ *Noble* [18].

²⁹ *Fesl* [71].

³⁰ *Doepel* [16], [78].

³¹ *Strickland* [57].

conduct genealogical checks to confirm members meet the claim group description in Schedule A;³²

- b. two meetings were held in Tamworth for the purpose of authorising the Amended Application, one on 27 and 28 September 2025 ('Meeting 1') and the second on 29 and 30 September 2025 ('Meeting 2');³³
- c. notices for both meetings were:
 - i. sent by post to 1382 members and by email on 7 and 8 September 2025 to 610 members of the claim group on the NTSCORP mailing list;³⁴
 - ii. published in the *Northern Daily Leader* on 19 September 2025;³⁵
 - iii. emailed to relevant local Aboriginal land councils and Aboriginal health, legal and employment services on 6 September 2025;³⁶ and
 - iv. published on the NTSCORP Facebook page on 11 September 2025;³⁷
- d. the notice for Meeting 1:
 - i. invited all members of the Gomeroi People by reference to the claim group description contained in the Previous Application;
 - ii. indicated that the purpose of Meeting 1 included to consider proposed amendments to the description of the claim group (as set out in Attachment A to the notice) and reducing the claim area; and
 - iii. stated that if the Gomeroi People make decisions to amend the claim group and claim area, the amended claim group would be asked to consider authorising a new applicant to make the Amended Application at a further meeting on 29 and 30 September 2025 ('Meeting 2');³⁸
- e. the notice for Meeting 2:
 - i. invited all members of the Gomeroi People by reference to the claim group description that is contained in the Amended Application; and
 - ii. stated that the amended claim group would be asked to consider authorising a new applicant to make the Amended Application;³⁹
- f. both meeting notices also:
 - i. included a map of the claim area that also depicted the proposed reduced claim area;

³² Form 1, Attachment P, Affidavit of Mishka Jade Holt affirmed 30 October 2025 [11].

³³ Ibid [9], [23].

³⁴ Ibid [9]–[10], [12]–[13], [25].

³⁵ Ibid [14], [25].

³⁶ Ibid [15]–[18], [25].

³⁷ Ibid [29].

³⁸ Ibid, Annexures MJH-2–MJH-3.

³⁹ Ibid, Annexures MJH-4–MJH-5.

- ii. indicated that participants could attend in person or remotely by videoconference or telephone;
- iii. indicated that travel and accommodation assistance may be provided; and
- iv. included information about how to register to attend the meetings;⁴⁰
- g. travel and accommodation assistance was provided to a large number of people, with 186 motel rooms being booked and 122 mileage payments made;⁴¹
- h. a registration process was managed by NTSCORP, including checks of the Gomeri mailing list or genealogical database, issuing coloured wrist bands to indicate participants and observers and maintaining a registration list;⁴²
- i. the process included separate registration for participants at Meeting 2 following the passing of resolutions to amend the claim group description, firstly to ensure attendees were members of the claim group as amended and other persons asserting native title rights and interests in the claim area,⁴³ then to ensure that attendees at Meeting 2 were members of the Gomeri People claim group as amended;⁴⁴
- j. a similar registration process was undertaken for persons who attended remotely via Zoom;⁴⁵
- k. the numbers of in-person and remote attendees were:
 - i. 230 at day 1 of Meeting 1;⁴⁶
 - ii. 234 at day 2 of Meeting 1;⁴⁷
 - iii. 232 (members of the claim group as amended and other persons asserting native title rights and interests in the area) at part 1 of day 1 of Meeting 2;⁴⁸
 - iv. 202 (members of the claim group as amended) at part 2 of day 1 of Meeting 2;⁴⁹
 - v. 191 (members of the claim group as amended) at day 2 of Meeting 2;⁵⁰
- l. both meetings were attended and facilitated by NTSCORP, including solicitors and research staff, as well as counsel and a consultant anthropologist;⁵¹

⁴⁰ Ibid, Annexures MJH-2–MJH-5.

⁴¹ Ibid [32].

⁴² Ibid [37]–[53].

⁴³ Ibid [56]–[63].

⁴⁴ Ibid [71]–[77].

⁴⁵ Ibid [86]–[90].

⁴⁶ Ibid [50], [91(a)].

⁴⁷ Ibid [54], [91(b)].

⁴⁸ Ibid [65], [91(c)].

⁴⁹ Ibid [80], [91(d)].

⁵⁰ Ibid [84], [91(e)].

⁵¹ Ibid [93]–[95], [122]–[124].

- m. proposed resolutions were read to attendees and displayed on a screen at both meetings, with opportunity given for the resolutions to be discussed;⁵²
- n. the proposed amendments to the claim group description and claim boundary were discussed, information was given by the consultant anthropologist and legal advice was given;⁵³
- o. the resolutions passed at Meeting 1 included:
 - i. attendees were members of and sufficiently representative of the claim group (as in the Previous Application) to make decisions at the meeting, and sufficient notice was given (resolution 3);⁵⁴
 - ii. there is no traditional decision-making process that must be followed, and a decision-making process involving a clearly worded motion being read, moved and seconded, with the decision being passed by a majority vote was agreed and adopted (resolution 4);⁵⁵
 - iii. amending the claim area in accordance with the map displayed on screen (resolution 5);⁵⁶
 - iv. amending the description of the claim group in accordance with the revised list of apical ancestors displayed at the meeting (resolution 6);⁵⁷ and
 - v. authorising any other amendments as necessary to ensure the Amended Application is capable of registration (resolution 7);⁵⁸
- p. the resolutions passed at part 1 of Meeting 2 by the claim group as amended and other persons asserting native title rights and interests in the claim area included:
 - i. attendees were members of and sufficiently representative of the claim group (as amended) to make decisions at the meeting, and sufficient notice was given (resolution 1);⁵⁹
 - ii. there is no traditional decision-making process that must be followed, and a decision-making process involving a clearly worded motion being read, moved and seconded, with the decision being passed by a majority vote was agreed and adopted (resolution 2);⁶⁰

⁵² Ibid [101]–[102], [129]–[130].

⁵³ Ibid [116].

⁵⁴ Ibid [114].

⁵⁵ Ibid [115].

⁵⁶ Ibid [118]. I infer that the proposed reduced claim area map displayed at the meeting is consistent with the map contained in the notice for the authorisation meetings, and with the map at Attachment C.

⁵⁷ Form 1, Attachment P, Affidavit of Mishka Jade Holt affirmed 30 October 2025 [119].

⁵⁸ Ibid [120].

⁵⁹ Ibid [136].

⁶⁰ Ibid [137].

- iii. amending the description of the claim group to reflect the claim group description circulated in the notice and displayed at the meeting (resolution 3);⁶¹
- q. the resolutions passed at part 2 of Meeting 2 by the claim group as amended included:
 - i. attendees were members of and sufficiently representative of the claim group (as amended) to make decisions at the meeting, and sufficient notice was given (resolution 5);⁶²
 - ii. there is no traditional decision-making process that must be followed, and a decision-making process involving a clearly worded motion being read, moved and seconded, with the decision being passed by a majority vote was agreed and adopted (resolution 6);⁶³
 - iii. amending the claim area in accordance with the map displayed on screen and authorising the applicant to make the amendments, including to the claim group description and claim area (resolution 7 and 8);⁶⁴
 - iv. amending the description of the claim group (resolution 6);⁶⁵
- r. authorising any other amendments as necessary to ensure the Amended Application is capable of registration (resolution 7);⁶⁶each of the above resolutions
- s. the conditions imposed on the authority of the applicant under s 251BA.

[59] As noted above at paragraph 12, on 14 April 2026 a preliminary assessment of the Amended Application was provided to the applicant. The preliminary assessment referred to my review of the lists of apical ancestors contained on the notices for the authorisation meetings as against Schedule A, noting that it appeared that four apical ancestors were not included in the notice for Meeting 2, one of whom was also not included in the notice for Meeting 1. The further affidavits received from the applicant on 28 and 29 April 2026 set out the following further information to address this:

- a. at an earlier meeting of the claim group as described in the Previous Application, held in Tamworth from 31 January to 4 February 2025, the claim group received information from an expert anthropologist about research relating to the description of the claim group, at which a resolution was passed for further anthropological research to be conducted into several apical ancestors, including the four referred to above;⁶⁷

⁶¹ Ibid [139].

⁶² Ibid [143].

⁶³ Ibid [144].

⁶⁴ Ibid [145]. I infer that the proposed reduced claim area map displayed at the meeting is consistent with the map contained in the notice for the authorisation meetings, and with the map at Attachment C.

⁶⁵ Form 1, Attachment P [119].

⁶⁶ Ibid [120].

⁶⁷ Affidavit of Mishka Jake Holt affirmed 29 April 2026 [10]–[16].

- b. further research was conducted, including on-Country consultations with the descendants of the four apical ancestors in August 2025, at which those descendants were informed that the question of the inclusion of the four apical ancestors would be discussed at future authorisation meetings;⁶⁸
- c. all of the descendants of the apical ancestor listed in Schedule A but not listed in the notices for either Meeting 1 or Meeting 2 are also descendants of another apical ancestor listed in Schedule A and on the meeting notices (being the mother of the spouse of that apical ancestor);⁶⁹
- d. all of the descendants of the three apical ancestors listed in Schedule A but not listed in the notices for Meeting 2 are also descendants of other apical ancestors listed in Schedule A and on the meeting notices (through spousal and other relationships);⁷⁰
- e. the inclusion of these four apical ancestors ‘does not alter the identity of the persons who comprise the Gomeri People native title claim group on the basis of those persons’ descent from other apical ancestors’;⁷¹ and
- f. persons who are descendants of each of the four apical ancestors attended both Meeting 1 and Meeting 2 and participated in the authorisation process;⁷²

[60] I now turn to my consideration of whether the authorisation requirements of ss 190C(4AA) and 251B have been met.

Has the applicant been authorised: ss 190C(4AA)(a) and 251B?

[61] The material provided in Schedule P, the Applicant Affidavits and the Authorisation Affidavit indicates that the notice for the authorisation meetings was sent by post and email to a large number of Gomeri People on the database maintained by NTSCORP, published in a regional newspaper and sent to local Aboriginal land councils and Aboriginal health, legal and employment services. The notice provided information about the purpose of the meetings and included a map of the proposed claim area and invited Gomeri People by reference to the previous and proposed amended claim group descriptions and others who may assert native title interests in the area. The material also clarified that the descendants of the four apical ancestors not included in the meeting notices also had the opportunity to participate as they are all also descendants of other listed apical ancestors. I am satisfied that all members of the claim group had a reasonable opportunity to participate in the authorisation process.

[62] Registrations at the meeting and online were managed using a process of verification against the genealogical database maintained by NTSCORP. Attendees had the opportunity to discuss and ask questions about each resolution. The material indicates that there is no traditional

⁶⁸ Ibid [19].

⁶⁹ Affidavit of Michael Bennett affirmed 28 April 2026 [46], [48]. Descendants of this apical ancestor received notice of the authorisation meetings: Affidavit of [claim group member 11] affirmed 28 April 2026 [15], [17]; Applicant’s Further Submissions [17].

⁷⁰ Affidavit of Michael Bennett affirmed 28 April 2026 [17]–[18], [32]–[34], [40]–[41]; Applicant’s Further Submissions [17].

⁷¹ Affidavit of Michael Bennett affirmed 28 April 2026 [57]; Applicant’s Further Submissions [14].

⁷² Ibid [58]–[59]. See also Affidavit of Mishka Jake Holt affirmed 29 April 2026 [27], [44].

decision-making process that must be followed and sets out the detail of the agreed and adopted decision-making process. The text of each resolution is set out in the Authorisation Affidavit, including detail about who moved and seconded the resolution and the results of the voting. In my view, the substance of the questions in *Ward* have been addressed.⁷³

[63] I consider that the material is sufficient to satisfy the condition at ss 190C(4)(b) and (4AA) that the applicant has been authorised to make the Amended Application and deal with matters arising in relation to it by all the other persons in the native title claim group.

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

[64] As noted above at paragraph 27, the Applicant Affidavits include details about the conditions imposed under s 251BA on the authority that relate to the making of the application and how these have been satisfied. Having regard to the nature of the conditions that relate to the making of the application (that the applicant must do all things necessary to implement resolutions made by the claim group and is not to amend the application without obtaining a resolution) and that the Authorisation Affidavit demonstrates that the application was brought following resolutions passed by the claim group, I am satisfied that the Amended Application meets the requirement at s 190C(4AA)(b).

Conclusion on s 190C(4)

[65] For the above reasons, the Amended Application meets the condition at s 190C(4).

Section 190B: conditions about merits of the claim – conditions met

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

[66] Section 190B(2) requires the Registrar to be satisfied that the written information and map contained in a claimant application are sufficient to identify, with reasonable certainty, the land and waters in relation to which the native title rights and interests are claimed.

[67] Attachment B contains a metes and bounds description of the external boundary of the Amended Application area by reference to state borders, watercourses, road reserves, cadastral boundaries, contour lines, local government authority boundaries, water catchments and geographic coordinate points to six decimal places. Schedule B lists general exclusions.

[68] Attachment C contains a colour copy of a map prepared by the NNTT's Geospatial Services, titled 'Gomeri People' dated 12 August 2025. The map depicts the Amended Application area by a bold blue outline, and includes a topographic image background, scalebar, coordinate grid, legend and notes relating to the source, currency and datum of data used to prepare the map.

[69] The Geospatial Assessment notes that there is a minor typographical error with the longitude listed for the commencement point, however the point is clarified by reference to the intersection of an unnamed creek and the NSW/QLD border and by the last paragraph of the

⁷³ *Ward* [24]; *Lawson* [26].

description in Attachment B. The Geospatial Assessment concludes that notwithstanding the typographical error, the written description and map are consistent and identify the claim area with reasonable certainty. The Geospatial Assessment further notes that area has been amended and reduced and does not include any areas which were not claimed in the Previous Application.

[70] I agree with the conclusion of the Geospatial Assessment and am satisfied that the written description and map contained in the Amended Application are sufficient for it to be said with reasonable certainty whether native title rights and interests are claimed in relation to particular land and waters. I am satisfied that the Amended Application meets the requirement at s 190B(2).

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

[71] Section 190B(3) requires the Registrar to be satisfied that either the persons in the native title claim group are named in the application,⁷⁴ or that persons in that group are described sufficiently clearly so that it can be ascertained whether any particular person is in that group.⁷⁵

[72] From the relevant case law, I understand that when assessing the requirements under s 190B(3):

- I am required to address only the content of the application;⁷⁶
- ‘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’;⁷⁷
- 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’;⁷⁸ and
- 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’.⁷⁹

[73] Schedule A contains the amended description of the native title claim group, as follows:

The Gomeroi People native title claim group comprises those Aboriginal persons who:

(a) are the descendants of the following apical ancestors

[153 named apical ancestors]

⁷⁴ Section 190B(3)(a).

⁷⁵ Section 190B(3)(b).

⁷⁶ *Doepel* [51]; *Gudjala 2007* [30].

⁷⁷ *Gudjala 2007* [33].

⁷⁸ *Ibid* [34].

⁷⁹ *WA v NTR* [67].

- (b) identify as a Gomeroi person; and
- (c) are recognised as a Gomeroi person by Gomeroi People in accordance with their traditional laws and customs; and
- (d) have maintained continuity of connection with part of the Gomeroi People native title determination application area; and
- (e) participate in the social and cultural life of the Gomeroi People.

Descendants include persons who are descendants by adoption or incorporation according to traditional laws and customs.

[74] I note that paragraphs (b) to (e), as well as the reference to ‘incorporation’ in the last sentence, were not included in the description contained in the Previous Application.

[75] Schedule A also refers to Attachment A, which contains further information in relation to adoption and incorporation, noting that these are practiced in accordance with Gomeroi traditional law and custom. Attachment A included several questions forming an ‘objective test’ with respect to persons who may be adopted or incorporated as members of the Gomeroi People.

[76] Identifying members of the claim group by descent from named apical ancestors has been accepted by the Court as satisfying the requirements of s 190B(3)(b).⁸⁰ In my view, requiring a person to show descent from an identified ancestor provides a clear starting or external reference point and that with some factual inquiry it will be possible to identify the persons who fit the description of the native title claim group.

[77] Paragraph (b) of Schedule A requires members of the claim group to identify as a Gomeroi person. In my view this can be ascertained through some factual inquiry.

[78] Paragraph (c) requires a person to be recognised as Gomeroi by other members of the claim group. I note that group acceptance has been previously held by the Court as ‘inherent in the nature of a society’.⁸¹ In *Sampi FC*, the Full Court noted that:

in determining whether a group constitutes a society in the *Yorta Yorta* sense is the internal view of the members of the group – the emic view. The unity among members of the group required by *Yorta Yorta* means that they must identify as people who are bound by the one set of laws and customs or normative system.⁸²

[79] I am satisfied that through some factual inquiry, it can be ascertained whether an individual meets paragraph (c) of the claim group description.

[80] Paragraphs (d) and (e) respectively require a person to have maintained a continual connection with part of the claim area and participate in social and cultural life of the Gomeroi People. In my view, paragraphs (d) and (e) provide further rules or principles to be applied to the question of whether a person is a member of the claim group. I note that the ‘objective test’ contained at Attachment A with respect to adoption or incorporation under traditional

⁸⁰ Ibid.

⁸¹ *Aplin* [260]; *Yorta Yorta* [108].

⁸² *Sampi FC* [45].

laws and customs also refers to whether a person has participated in social and cultural life of the Gomeri People. In my view and reading Schedule A as a whole, the criteria at paragraphs (d) and (e) inform and are generally subsumed within the criteria at paragraph (c) about whether a person is recognised by other Gomeri People as a member of the claim group. Although there is a level of subjectivity with the criteria at paragraphs (d) and (e), in my view, whether a person meets these criteria may be ascertained through some factual inquiry.

[81] I consider that the material in Attachment A provides sufficient detail in relation to persons adopted or incorporated in accordance with Gomeri traditional laws and customs.

[82] Having regard to the above, I am satisfied that the description of the claim group is sufficiently clear such that, with some factual inquiry, it can be ascertained whether a particular person is a member of the claim group. The Amended Application meets the condition at s 190B(3).

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

[83] Section 190B(4) requires the Registrar to be satisfied that the description contained in a claimant application as required by s 62(2)(d) is sufficient to allow the native title rights and interests claimed to be readily identified. I understand that I am confined to the material contained in the application itself in considering this condition.⁸³

[84] In *Doepel*, Mansfield J noted that the ‘test of identifiability’ for the purpose of this condition is whether the description of the native title rights and interests is understandable, has meaning and is without contradiction.⁸⁴ It is also open to the Registrar to read the contents of the claimed rights and interests together with any stated qualifications or restrictions.⁸⁵ 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)’.⁸⁶

[85] The claimed rights and interests are set out in Schedule E, as follows:

1. Where exclusive native title can be recognised (such as areas where there has been no prior extinguishment of native title or where s.238 and/or ss.47, 47A and 47B apply), the Gomeri People as defined in Schedule A of this application, claim the right to possession, occupation, use and enjoyment of the lands and waters of the application area to the exclusion of all others subject to the valid laws of the Commonwealth and the State of New South Wales.
2. Where exclusive native title cannot be recognised, the Gomeri People as defined in Schedule A of this application, claim the following non-exclusive rights and interests including the right to conduct activities necessary to give effect to them
 - (a) the right to access the application area;
 - (b) the right to use and enjoy the application area;
 - (c) the right to move about the application area;
 - (d) the right to camp on the application area;

⁸³ *Doepel* [16].

⁸⁴ *Ibid* [99], [123].

⁸⁵ *Ibid* [123].

⁸⁶ *Strickland* [60]. See also *Strickland FC* [85]–[87].

- (e) the right to erect shelters and other structures on the application area;
 - (f) the right to live being to enter and remain on the application area;
 - (g) the right to hold meetings on the application area;
 - (h) the right to hunt on the application area;
 - (i) the right to fish in the application area;
 - (i) the right to have access to and use the natural water resources of the application area;
 - (k) the right to gather and use the natural resources of the application area (including food, medicinal plants, timber, tubers, charcoal, wax, stone, ochre and resin as well as materials for fabricating tools, hunting implements, making artwork and musical instruments);
 - (l) the right to manage natural resources including the right to carbon;
 - (m) the right to share and exchange resources derived from the land and waters within the application area;
 - (n) the right to participate in cultural and spiritual activities on the application area;
 - (o) the right to maintain and protect places of importance under traditional laws, customs and practices in the application area;
 - (p) the right to conduct ceremonies and rituals on the application area;
 - (q) the right to transmit traditional knowledge to members of the native title claim group including knowledge of particular sites on the application area;
 - (r) the right to speak for and make non-exclusive decisions about the application area in accordance with traditional laws and customs;
 - (s) the right to speak authoritatively about the application area among other Aboriginal People in accordance with traditional laws and customs; and
 - (t) the right to control access to or use of the lands and waters within the application area by other Aboriginal People in accordance with traditional laws and customs.
3. The native title rights and interests referred to in paragraph 2 do not confer possession, occupation, use or enjoyment of the lands and waters of the application area to the exclusion of all others.
4. The native title rights and interests are subject to and exercisable in accordance with:
- (a) the laws of the State of New South Wales and the Commonwealth of Australia including the common law;
 - (b) the rights (past or present) conferred upon persons pursuant to the laws of the Commonwealth and the laws of the State of New South Wales: and
 - (c) the traditional laws acknowledged and traditional customs of the Gomeroi People for personal, domestic and communal purposes (including social, cultural, religious, spiritual and ceremonial purposes).

[86] In my view, the claimed rights and interests are understandable and have meaning. I do not consider there to be any inherent contradictions. I am therefore satisfied that the Amended Application meets the requirements of s 190B(4).

[87] I consider below whether the factual basis material is sufficient to establish the existence of these claimed rights and interests on a prima facie basis under s 190B(6).

Section 190B(5): factual basis for claimed native title – condition met

[88] 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.

[89] Justice Mansfield stated in *Doepel* 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.⁸⁷

[90] As such, when assessing the requirements of this condition, I understand that I must treat the asserted facts as true and assess whether they are sufficient to support each of the relevant assertions.

[91] 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...’ is also relevant to the task under s 190B(5):

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.⁸⁸

[92] In *Gudjala 2009*, Dowsett J further 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,

⁸⁷ *Doepel* [17]; *Gudjala FC* [57], [83].

⁸⁸ *Gudjala FC* [92].

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.⁸⁹

[93] From the above, it is my understanding that although the material provided by the applicant need not provide evidence to make out each claim, it must nevertheless provide sufficient factual details 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’.⁹⁰

[94] There is a substantial volume of factual basis material contained in Attachments E and F and the Claimant Affidavits. I have also had regard to the Applicant’s Submissions and the Summary Table, which contains non-exhaustive and select extracts relevant to the factual basis, relied upon by the Applicant for the purpose of this condition.⁹¹

Section 190B(5)(a): the association of the native title claim group and their predecessors with the area

[95] Section 190B(5)(a) was considered by Reeves J in *McLennan*. His Honour set out the relevant principles as follows:

To satisfy the condition in s 190B(5)(a) of the [Act], it will be sufficient if the applicant demonstrates that:

- (a) “the claim group presently has an association with the area, and the claim group’s predecessors have had an association with the area since sovereignty or European settlement” [*Gudjala 2007* [52]];
- (b) “there is an association between the whole group and the area, although not all members must have such association at all times” [*Gudjala 2007* [52]]; and
- (c) “there is an association with the entire area claimed, rather than an association with only part of it or ‘very broad statements’, which have no ‘geographical particularity’” [*Martin* [26] and *Corunna* [39]].⁹²

[96] In addition, I note the comments of Dowsett J in *Gudjala 2007* that s 190B(5)(a) requires sufficient factual material to support the assertion that the identified claim group (and not some other group) hold the identified rights and interests (and not some other rights and interests).⁹³

What material has been provided in support of the assertion at s 190B(5)(a)?

[97] Attachment F states that the Gomeroi People occupied and had rights and interests in the Application area prior to 26 January 1788, and that the claim group and their ancestors have continuously used, been present on and enjoyed the Application area since that time.⁹⁴ The

⁸⁹ *Gudjala 2009* [29]; *Anderson* [43], [47]–[48].

⁹⁰ *Gudjala 2009* [29].

⁹¹ Applicant’s Submissions, page 3 [21].

⁹² *McLennan* [28], citations incorporated from original.

⁹³ *Gudjala 2007* [39].

⁹⁴ Form 1, Attachment F [1], [3], [5].

material refers to archaeological evidence demonstrating physical association and connection with the Amended Application area.⁹⁵

- [98] The list of apical ancestors in Schedule A includes detail in relation to their places and dates of birth, indicating that they were born in and in the vicinity of the Amended Application area around the time of effective sovereignty.
- [99] The material indicates that the predecessors of the claim group lived in and are buried within the Application area.⁹⁶ Members of the claim group describe hearing stories related to their predecessors and their association with areas within the Amended Application area,⁹⁷ and describe prominent Elders who teach younger generations about Gomeroi identity and culture.⁹⁸ The material indicates that the predecessors of the claim group taught the younger generations about the extent of Gomeroi Country, in terms consistent with the Amended Application area.⁹⁹
- [100] The Claimant Affidavits contain information setting out the association of contemporary members of the claim group with the Amended Application area. For example, members of the claim group describe being born within the Amended Application area at places such as Mungindi,¹⁰⁰ Narrabri,¹⁰¹ Moree¹⁰² and Collarenebri.¹⁰³ Members of the claim group describe growing up and living at locations such as Narrabri,¹⁰⁴ Toomelah,¹⁰⁵ Gunnedah,¹⁰⁶ and Tamworth.¹⁰⁷ One member of the claim group describe fishing at on the Namoi and Manilla Rivers at Manilla,¹⁰⁸ and another describes hunting grounds within the Amended Application area as being ‘my country and we have a responsibility for it’.¹⁰⁹
- [101] Members of the claim group also describe the importance of being connected to the land,¹¹⁰ being able to feel the ancestors there with them,¹¹¹ and that they, and their predecessors, would feel the urge to return home to their Country.¹¹² The material demonstrates the

⁹⁵ Ibid [9].

⁹⁶ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [6], [14].

⁹⁷ Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [9]–[10].

⁹⁸ Affidavit of [claim group member 3], affirmed 23 February 2026 [15]–[16].

⁹⁹ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [44]; Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [56].

¹⁰⁰ Extract Affidavit of [claim group member 8], affirmed 23 March 2023 [1].

¹⁰¹ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [2].

¹⁰² Affidavit of [claim group member 2], affirmed 23 February 2026 [2].

¹⁰³ Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [2].

¹⁰⁴ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [5].

¹⁰⁵ Affidavit of [claim group member 2], affirmed 23 February 2026 [2].

¹⁰⁶ Extract Affidavit of [claim group member 5], affirmed 13 December 2011 [2].

¹⁰⁷ Affidavit of [claim group member 3], affirmed 23 February 2026 [5].

¹⁰⁸ Ibid [13].

¹⁰⁹ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [40]–[42].

¹¹⁰ Ibid [27].

¹¹¹ Extract Affidavit of [claim group member 8], affirmed 23 March 2023 [12].

¹¹² Ibid [12].

spiritual connection that members of the claim group have with the Amended Application area,¹¹³ being able to feel the ancestors there with them.

Consideration of the assertion at s 190B(5)(a)

[102] From the above information, I consider that the factual basis material is sufficient to enable a ‘genuine assessment’ of the factual basis for the assertions that members of the claim group have an ongoing association with the claim area.

[103] In my view, the material contains sufficient material to demonstrate that the apical ancestors and predecessors of the claim group have an association with the area. Schedule A includes detail on each of the apical ancestors demonstrating that they were born on or in the vicinity of the Amended Application area at or around the time of European sovereignty or settlement. The factual basis material also demonstrates that the predecessors of the claim group, including prominent Elders, were knowledgeable about particular sites and lived, camped, hunted and fished at locations throughout the Amended Application area. Contemporary members of the claim group describe their ongoing association with the Amended Application area, including both physical and spiritual connection. The material contains sufficient geographical detail to indicate that the whole of the claim group and their predecessors have an association with the whole of the Amended Application area.

[104] For the above reasons, I am satisfied that the factual basis material contained in the Amended Application is sufficient to support the assertion that the native title claim group and their predecessors have an association with the area. The Amended Application meets the condition 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

[105] 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, and traditional customs observed’ by the native title holders.

[106] In *Yorta Yorta*, the High Court observed that laws and customs are ‘traditional’ where:

- ‘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,¹¹⁴ where the society consists of a body of persons united in and by their acknowledgement and observance of a body of laws and customs;¹¹⁵

¹¹³ Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [57]; Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [10].

¹¹⁴ *Yorta Yorta* [46].

¹¹⁵ *Ibid* [49].

- the normative system under which those traditional rights and interests are possessed is one which ‘has had a continuous existence and vitality since sovereignty’;¹¹⁶
- 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;¹¹⁷
- those laws and customs have been acknowledged and observed without substantial interruption since sovereignty.¹¹⁸

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

- 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;¹¹⁹
- 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;¹²⁰ and
- 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.¹²¹

[108] 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.’¹²²

What material has been provided to support the assertion at s 190B(5)(b)?

[109] Attachment F asserts that the ancestors of the claim group exercised a system of traditional law and customs and that the Gomeroi People maintain that system to the present day.¹²³ The material indicates that these laws and customs form a normative system binding the claim group, including through rules relating to kinship and land tenure and traditional use of land

¹¹⁶ Ibid [47].

¹¹⁷ Ibid [46], [79].

¹¹⁸ Ibid [87].

¹¹⁹ *Gudjala 2009* [37], [52].

¹²⁰ Ibid [40].

¹²¹ Ibid [29], [54].

¹²² *Warrie* [107]; see also *Alyawarr* [78].

¹²³ Form 1, Attachment F [2], [6].

and waters.¹²⁴ Attachment F sets out several components making up these laws and customs.¹²⁵

[110] The material includes descriptions of creation stories relating to the landscape, stories relating to particular sites, and stories and beliefs about animals such as birds.¹²⁶ The fundamental connection between creation stories and the law is described in the material.¹²⁷ Members of the claim group describe how 'Lore' is passed down from generation to generation, and is still passed down today.¹²⁸ This includes detail about practices relating to punishments and how to cleanse evil spirits.¹²⁹

[111] Members of the claim group describe how the people in their 'extended family' that are descended from their ancestors are all part of the Gomeroi People.¹³⁰ The Gomeroi is described as a 'wide nation' with a common system and local variations, with certain local communities having rights to speak for their particular area.¹³¹ The predecessors of the claim group passed on knowledge about other Gomeroi clans and would take the younger generations to see other Gomeroi families.¹³² Members of the claim group indicate knowledge of language and symbols taught by their Elders.¹³³

[112] Particular laws and customs are described in the material, including in relation to initiation, totems, burial practices and marriage.¹³⁴ The material contains detail in relation to the totem system and its importance with marriage and family connections.¹³⁵ Members of the claim group also describe the importance of smoking practices,¹³⁶ and also describe the meaning behind traditional songs and dances that their predecessors performed.¹³⁷

Consideration of the assertion at s 190B(5)(b)

[113] I am satisfied that the material outlined above is sufficient to enable a genuine assessment of whether there exist traditional laws acknowledged and customs observed by the Gomeroi People that give rise to the claim to native title rights and interests.

¹²⁴ Ibid [15].

¹²⁵ Ibid [16]–[18].

¹²⁶ Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [41], [46]–[48]; Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [48]–[51].

¹²⁷ Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [27].

¹²⁸ Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [55].

¹²⁹ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [61]–[62]; Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [28].

¹³⁰ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [5].

¹³¹ Ibid [45].

¹³² Form 1, Attachment E(2), Affidavit of [claim group member 1] affirmed 15 October 2025 [18].

¹³³ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [53]–[54]; Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [54].

¹³⁴ Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [45]–[46], [52]–[54]; Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [5]; Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [31]–[32], [62].

¹³⁵ Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [18].

¹³⁶ Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [12]–[13].

¹³⁷ Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [23]; Affidavit of [claim group member 3], affirmed 23 February 2026 [21]–[22].

[114] In my view, the factual basis material is sufficient to support the assertion that the laws and customs of the claim group are traditional and derived from the pre-sovereignty society. The Claimant Affidavits consistently describe the families with responsibility for particular locations as part of a united Gomeroi nation. The factual basis material describes in detail particular laws and customs and sets out how these have been passed down from the Elders. These include maintenance of kinship and totem systems, conduct of smoking and other ceremonies, practices and beliefs relating to creation stories, animals and birds, knowledge about totems, knowledge of language and responsibilities to looking after Country.

[115] Although the assertions in Attachment F are at a high level of generality, the material at Attachments E(1) to E(4) and the Claimant Affidavits support these general assertions with detailed information about the way that traditional laws and customs have been passed down by their Elders. The factual basis material demonstrates that members of the claim group have maintained strong knowledge of traditional laws and customs and continue to practice important elements and pass these on to younger generations.

[116] For the above reasons, I am satisfied that the factual basis material is sufficient to support the assertion that there exist traditional laws acknowledged by, and traditional customs observed by, the Gomeroi People that give rise to the claim to native title rights and interests. The Amended Application meets the condition at s 190B(5)(b).

Section 190B(5)(c): the native title claim group have continued to hold the native title in accordance with those traditional laws and customs

[117] 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 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).¹³⁸

[118] 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'.¹³⁹

What material has been provided in support of the assertion at s 190B(5)(c)?

[119] Attachment F states that the claim group have continued to hold their native title rights and interests in accordance with their traditional laws and customs, and refers to the material contained at Attachments E(1) to E(4).¹⁴⁰

[120] Members of the claim group describe being able to maintain and live their traditional ways and practice their own laws throughout their lives, and that they teach their children as they were taught.¹⁴¹ The material provides examples of members of the claim group learning from their Elders and handing things on through the families to the younger generations.¹⁴²

¹³⁸ *Martin* [29].

¹³⁹ *Gudjala 2009* [33].

¹⁴⁰ Form 1, Attachment F [21]–[24].

¹⁴¹ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [35]–[36].

¹⁴² Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [24]–[25].

Members of the claim group describe the importance of Elders, that they were strong and knowledgeable about Gomeroi beliefs and customs, taught them to care for the land and provided a strong cultural upbringing.¹⁴³

[121] One member of the claim group describes taking the younger generations to the places he was taken by his grandfather so there is ‘a continuity for them when they fish in that stretch of river and that they know that their parents, their grandparents always fished there’, practicing what was done thousands of years ago.¹⁴⁴ Another member of the claim group describes the importance of teaching about Country and law to ensure that it is not broken.¹⁴⁵

[122] The material demonstrates that the role of Elder carries the responsibility for teaching those of the younger generations who are ‘worthy to carry it’.¹⁴⁶

[123] The Claimant Affidavits include genealogical information, indicating that contemporary members of the claim group are the descendants of the apical ancestors.¹⁴⁷

Consideration of the assertion at s 190B(5)(c)

[124] In my view, the factual basis material contains sufficient detail relating to the transmission of traditional laws and customs from generation to generation to enable a genuine assessment of the extent to which the Gomeroi People have continued to hold their native title in accordance with those traditional laws and customs.

[125] The factual basis material contains many examples of traditional laws and customs being passed down from one generation to the next. The material also demonstrates adherence to rules about how knowledge is to be passed down and that Elders are highly respected and knowledgeable. The material also includes genealogical information linking contemporary members of the claim group with their predecessors and the apical ancestors. In my view, the material is sufficient to support the assertions that the claim group have maintained knowledge of Country and maintained the responsibility to respect and look after Country that has been passed on from their predecessors.

[126] For the above reasons, I am satisfied that there is sufficient factual basis material to support the assertion that the native title claim group have continued to hold the native title in accordance with those traditional laws and customs. The Amended Application meets the condition at s 190B(5)(c).

¹⁴³ Affidavit of [claim group member 3], affirmed 23 February 2026 [6], [12].

¹⁴⁴ Form 1, Attachment E(3), Affidavit of [claim group member 13] affirmed 15 October 2025 [15], [17].

¹⁴⁵ Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [52].

¹⁴⁶ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [24]–[25], [39]; Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [74]–[75].

¹⁴⁷ See, eg, Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [1]; Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [1]; Form 1, Attachment E(3), Affidavit of [claim group member 13] affirmed 15 October 2025 [1].

Section 190B(6): prima facie case – condition met

[127] The condition at s 190B(6) requires the Registrar to consider that, prima facie, at least some of the native title rights and interests claimed in a claimant application can be established.¹⁴⁸

[128] I understand that I may consider material additional to the application for the purpose of my assessment of this condition.¹⁴⁹ Because a ‘more onerous test [is] to be applied to the individual rights and interests claimed’ than under s 190B(5),¹⁵⁰ I consider that the task involves some weighing of the factual basis for the claimed rights and interests. It follows that a claimed native title right and interest can be prima facie established if the factual basis is sufficient to demonstrate that it is possessed pursuant to the traditional laws and customs of the native title claim group.¹⁵¹

[129] In *Gudjala 2007*, Dowsett J indicated that s 190B(6) is to be considered having regard to the definition of ‘native title rights and interests’ in s 223(1).¹⁵² As such, I must consider whether, on a prima facie basis, the claimed native title rights and interests:

- exist under traditional laws and customs in relation to any of the land or waters in the application area;
- are native title rights and interests in relation to land or waters; and
- have not been extinguished over the whole of the application area.

[130] In *Ward HC*, Kirby J observed that ‘for a native title right to be recognised under the [Act], the critical threshold question is whether it is a right or interest “in relation to” land or waters’.¹⁵³ The term “in relation to” is here to be given a ‘wide import’.¹⁵⁴

[131] The claimed native title rights and interests are set out at paragraph 85 above. I consider each of these claimed rights and interests are in relation to land or waters.

Exclusive rights to possession, occupation, use and enjoyment of the lands and waters

[132] Paragraph 1 of Schedule E claims ‘the right to possession, occupation, use and enjoyment of the lands and waters of the application area to the exclusion of all others’.

[133] I note the comments of the High Court in *Ward HC*, that exclusive rights are ‘the rights under traditional law and custom to be asked permission and to “speak for country” that are expressed in common law terms as a right to possess, occupy, use and enjoy land to the exclusion of all others’.¹⁵⁵

¹⁴⁸ Section 186(1)(g) of the Act requires the Register of Native Title Claims to include a description of the native title rights and interests that, in applying s 190B(6), could be established on a prima facie basis.

¹⁴⁹ *Doepel* [16].

¹⁵⁰ *Ibid* [127], [132].

¹⁵¹ *Yorta Yorta* [86]; *Gudjala 2007* [86].

¹⁵² *Gudjala 2007* [85]–[87].

¹⁵³ *Ward HC* [577].

¹⁵⁴ *Alyawarr* [93].

¹⁵⁵ *Ward HC* [88].

[134] The Full Court held in *Griffiths* that:

It is not necessary to a finding of exclusivity in possession, use and occupation, that the native title claim group should assert a right to bar entry to their country on the basis that it is “their country”. If control of access to country flows from spiritual necessity because of the harm that ‘the country’ will inflict upon unauthorised entry, that control can nevertheless support a characterisation of the native title rights and interests as exclusive. The relationship to country is essentially a ‘spiritual affair’. It is also important to bear in mind that traditional law and custom, so far as it bore upon relationships with persons outside the relevant community at the time of sovereignty, would have been framed by reference to relations with indigenous people. The question of exclusivity depends upon the ability of the [native title holders] effectively to exclude from their country people not of their community. If, according to their traditional law and custom, spiritual sanctions are visited upon unauthorised entry and if they are the gatekeepers for the purpose of preventing such harm and avoiding injury to the country, then they have ... an exclusive right of possession, use and occupation.¹⁵⁶

[135] In *Sampi*, French J (as his Honour then was) noted that:

The right to possess and occupy as against the whole world carries with it the right to make decisions about access to and use of the land by others. The right to speak for the land and to make decisions about its use and enjoyment by others is also subsumed in that global right of exclusive occupation.¹⁵⁷

[136] Members of the claim group describe how only certain people can speak for Country, and that this was understood and respected by other Aboriginal people as part of their ‘traditional way’.¹⁵⁸ The importance of asking permission as part of Gomeroi law is also set out in the material, including the danger of ‘being impatient’ and of talking about restricted sites.¹⁵⁹ The material includes detail in relation to the practices around being invited into Country.¹⁶⁰ Members of the claim group describe the importance of having a traditional owner to keep people safe when on other people’s Country,¹⁶¹ and of the harm that can befall someone that goes to an area to do the wrong thing or with ill intent.¹⁶²

[137] In my view, the material is sufficient to establish the claimed exclusive rights on a prima facie basis. The material provides detail on the importance of others seeking permission to access the Application area, including detail relating to the cultural practices required. The material also demonstrates the importance of controlling access to avoid spiritual harm, and that severe punishment may be imposed for unauthorised access. The material also includes detail about rights to speak for Country.

[138] In my view, the material demonstrates rights to speak for or make decisions about land that reflect rights to possess, occupy, use and enjoy land to the exclusion of all others within the

¹⁵⁶ *Griffiths* [127].

¹⁵⁷ *Sampi* [1072].

¹⁵⁸ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [17].

¹⁵⁹ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [32]–[33].

¹⁶⁰ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [45]; Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [69]–[70].

¹⁶¹ Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [58].

¹⁶² Form 1, Attachment E(4), Affidavit of [claim group member 14] affirmed 15 October 2025 [37].

meaning of *Ward HC* and *Sampi*. The material also demonstrate that the claim group acted as gatekeepers and prevented access to avoid spiritual harm within the meaning of *Griffiths*. For these reasons, my view is that the claimed exclusive rights can be prima facie established and should be entered on the Register under s 186(1)(g).

Non-exclusive rights and interests

[139] The claimed non-exclusive rights are set out at paragraph 2 of Schedule E. I refer to the factual basis material set out above in my consideration of the condition at s 190B(5), which contains information that is relevant to the claimed non-exclusive rights and interests.

[140] In relation to the claimed rights at **sub-paragraphs (a) to (f) to access, use and enjoy, move about, camp and erect shelters, enter and remain on the Application area**, the material describes how people within the Gomeroi nation moved through the Country.¹⁶³ Members of the claim group describe being taken for trips across the Application area and shown locations relating to traditional stories,¹⁶⁴ as well as camping on Country, including in places where their predecessors camped.¹⁶⁵ Although the material does not contain a significant amount of detail relating to erecting shelters and structures, in my view this is subsumed within the right to camp on the Application area. In my view, there is sufficient factual basis material to indicate that these claimed non-exclusive right are derived from the pre-sovereignty society and can be prima facie established for the purpose of s 190B(6).

[141] In relation to the claimed rights at **sub-paragraphs (g), (n) and (p) to hold meetings, participate in cultural and spiritual activities and conduct ceremonies and rituals**, the material describes locations within the Application area where meetings and ceremonies were held.¹⁶⁶ The material includes detail descriptions relating to some of these activities.¹⁶⁷ In my view, the material is sufficient to demonstrate that the predecessors of the claim group exercised these rights and the material also demonstrates contemporary members of the claim group continuing to participate in these activities. As such, I am satisfied that these claimed non-exclusive right are derived from the pre-sovereignty society and can be prima facie established under s 190B(6).

[142] In relation to the claimed rights at **sub-paragraphs (h) to (l) to hunt, fish, access to and use and manage water and natural resources**, members of the claim group describe being taught by their predecessors how to hunt, use traditional cooking methods and use plants for food and medicine and about traditional laws and customs about when to fish and to not take more than is needed or eat their totem.¹⁶⁸ Another example describes sitting down with the

¹⁶³ Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [45], [48]; Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [26].

¹⁶⁴ Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [4].

¹⁶⁵ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [11]; Extract Affidavit of [claim group member 5], affirmed 13 December 2011 [4].

¹⁶⁶ Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [9]; Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [46]–[47].

¹⁶⁷ Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [45]–[46].

¹⁶⁸ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [24]–[26], [30].

Elders and how the old people taught them about bush tucker and food.¹⁶⁹ The material demonstrates the claim groups strong knowledge relating to the use of resources for food and medicine,¹⁷⁰ and the importance of water.¹⁷¹ I consider that the factual basis material contains a significant amount of information to demonstrate that these claimed non-exclusive rights are an important part of Gomeroi culture derived from the pre-sovereignty society and can be prima facie established under s 190B(6).

[143] In relation to the claimed rights at **sub-paragraph (m) to share and exchange resources derived from the land and waters**, the material refers to trading tracks and sharing with people from other areas.¹⁷² Members of the claim group describe trade of animals, weapons and ideas,¹⁷³ and describe trading places that contain artefacts.¹⁷⁴ In my view, the material is sufficient to demonstrate that these claimed non-exclusive rights are traditional and derived from the pre-sovereignty society and can be prima facie established under s 190B(6).

[144] In relation to the claimed rights at **sub-paragraph (o) to maintain and protect places of importance under traditional laws, customs and practices**, the material contains examples of knowledge about and efforts to protect particular sites.¹⁷⁵ Members of the claim group also describe their predecessors looking after particular sites that they had responsibilities for.¹⁷⁶ One member of the claim group describes that it is their responsibility to protect Country.¹⁷⁷ I consider that the factual basis material is sufficient to demonstrate that these claimed rights and interests are traditional and can be prima facie established under s 190B(6).

[145] In relation to the claimed rights at **sub-paragraph (q) to transmit traditional knowledge to members of the native title claim group including knowledge of particular sites**, members of the claim group describe the practice of taking younger generations on Country to learn about the 'old days' and about hunting and fishing.¹⁷⁸ The material contains examples of transmitting traditional knowledge relating to particular sites, including gender restricted sites, as well as stories relating to animals and the stars.¹⁷⁹ In my view, the material is sufficient to establish that these claimed non-exclusive rights are traditional and derived from the pre-sovereignty society, and can be prima facie established under s 190B(6).

[146] In relation to the claimed rights at **sub-paragraphs (r) to (t) to speak for and make non-exclusive decisions, and control access by other Aboriginal People**, members of the claim

¹⁶⁹ Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [28].

¹⁷⁰ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [12]–[18].

¹⁷¹ Form 1, Attachment E(2), Affidavit of [claim group member 1] affirmed 15 October 2025 [50].

¹⁷² Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [23].

¹⁷³ Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [45].

¹⁷⁴ Affidavit of [claim group member 3], affirmed 23 February 2026 [32].

¹⁷⁵ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [55]–[58]; Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [60].

¹⁷⁶ Form 1, Attachment E(1), Affidavit of [claim group member 12] affirmed 16 October 2025 [43].

¹⁷⁷ Form 1, Attachment E(2), Affidavit of [claim group member 1] affirmed 15 October 2025 [46], [48].

¹⁷⁸ Extract Affidavit of [claim group member 4], affirmed 23 September 2011 [48].

¹⁷⁹ Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [44], [57], [59]; Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [32].

group describe being able to speak for Country because their ancestors are from there,¹⁸⁰ as well as conducting welcome speeches to welcome people onto Gomeroi Country.¹⁸¹ The practice of ‘Welcomes to Country’ is described as being derived from practices conducted hundreds of years ago.¹⁸² The material demonstrates the respect that members of the claim group have in their responsibilities for Country and for their Elders.¹⁸³ Elders are described as having authority for law, making decisions and enforcing law.¹⁸⁴ I also consider that these claimed rights and interests are derived from the pre-sovereignty society and can be prima facie established under s 190B(6).

[147] As at least some of the claimed rights and interests can be prima facie established, the Amended Application meets the condition at s 190B(6). Each of the claimed exclusive and non-exclusive rights and interests will be entered on the Register under s 186(1)(g).

Section 190B(7): traditional physical connection – condition met

[148] 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.

[149] Justice Dowsett observed in *Gudjala 2009* 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’.¹⁸⁵ ‘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.¹⁸⁶

[150] In *Doepel*, Mansfield J stated that 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’.¹⁸⁷

[151] Having regard to this, I understand that I must be satisfied that the material provides a factual basis from which I can establish that at least one member of the claim group has or had the necessary ‘traditional’ physical association with the application area.

¹⁸⁰ Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [30].

¹⁸¹ Extract Affidavit of [claim group member 7], affirmed 14 December 2011 [39], [55].

¹⁸² Extract Affidavit of [claim group member 6], affirmed 13 December 2011 [33]–[34].

¹⁸³ Form 1, Attachment E(3), Affidavit of [claim group member 13] affirmed 15 October 2025 [39]; Extract Affidavit of [claim group member 10], affirmed 24 March 2023 [39].

¹⁸⁴ Extract Affidavit of [claim group member 9], affirmed 23 March 2023 [73]–[74].

¹⁸⁵ *Gudjala 2009* [84].

¹⁸⁶ *Yorta Yorta* [86].

¹⁸⁷ *Doepel* [18].

[152] I refer to my above summary of the relevant factual basis material and reasons regarding the requirements of ss 190B(5) and (6). The material contains many examples of the traditional physical connection to Country currently exercised by the Gomeroi People. One member of the claim group described going on Country all the time, hunting, fishing and gathering.¹⁸⁸ Another describes how the bush provides comfort and solace, visiting sites and passing on knowledge to children in the community.¹⁸⁹

[153] I am satisfied that the factual basis material establishes that at least one member of the claim group currently has a traditional physical connection with the lands and waters of the claim area. As such, I am satisfied that the Amended Application meets the requirements of s 190B(7).

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

[154] Section 190B(8) provides that a claimant 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.

[155] **Section 61A(1)** provides that a native title determination application must not be made in relation to an area for which there is an approved determination of native title. Paragraph 3 of each of the Applicant Affidavits states that none of the area covered by the application is also covered by an approved determination of native title. This is confirmed in the Geospatial Assessment and my own searches of the NNTT's geospatial database.

[156] **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. Paragraphs 4 and 6 of Schedule B indicate that the Amended Application does not cover any areas where a previous exclusive possession act was done, subject to ss 47 to 47C.

[157] **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. Having regard to paragraph 1 of Schedule E, I am satisfied that the Amended Application is not made contrary to s 61A(3).

[158] Having regard to the information contained in the Applicant Affidavits, the Geospatial Assessment and Schedules B and E, I am satisfied that there is no failure to comply with s 61A. The Amended Application meets the requirements of s 190B(8).

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

[159] Section 190B(9) provides that a claimant application and accompanying documents must not disclose, and the Registrar must not otherwise be aware, that claimed native title rights and interests include claims to ownership of minerals, petroleum or gas wholly owned by the

¹⁸⁸ Form 1, Attachment E(3), Affidavit of [claim group member 13] affirmed 15 October 2025 [10].

¹⁸⁹ Form 1, Attachment E(4), Affidavit of [claim group member 14] affirmed 15 October 2025 [8].

Crown, exclusive rights to waters in an offshore place (outside the limits of a State or Territory) or extinguished native title rights and interests (except where such extinguishment can be disregarded under certain provisions of the Act).¹⁹⁰

[160] Schedules N and O confirm that the Amended Application does not include claims to minerals, petroleum or gas or to any waters in an offshore place.

[161] Paragraph 7 of Schedule B indicates that the Amended Application does not cover any areas where native title rights and interests have been otherwise extinguished.

[162] Having regard to Schedules B, N and O, I am satisfied that the Amended Application meets the requirements of s 190B(9).

End of reasons

¹⁹⁰ See ss 47(2), 47A(2), 47B(2) or 47C(8) of the Act.

Attachment A

Information to be included on the Register of Native Title Claims

Application name	Gomeroid People
NNTT No.	NC2011/006
Federal Court of Australia No.	NSD37/2019

Section 186(1): Mandatory information

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

Application filed/lodged with:

Federal Court of Australia

Date application filed/lodged:

20 December 2011

Date application entered on Register:

20 January 2012

Applicant:

Sidney Chatfield, Peter White, Richard Green, Chris McGrady, Madeline McGrady, Dorothy Tighe, Ian Brown, Lee-Ann Pearl Davern, Shannon Draper, Christine Porter, Susan Smith, Elaine Binge, Bradley Fernando, Barry Toomey, Leon Winters

Applicant's address for service:

[As per the Schedule (with fax number removed)]

Conditions on Applicant's authority

[As per amended Form 1, Schedule HA – extract as an attachment to the Register Extract]

Area covered by application:

[As per the Schedule – Attachments B and C to be extracted from the amended Form 1]

Persons claiming to hold native title:

[As per the Schedule]

Registered native title rights and interests:

[As per the Schedule]

Michael Raine

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

8 May 2026