

**BEFORE THE INDEPENDENT PERSON
OBJECTION UNDER SECTION 24 MD (6B)
NATIVE TITLE ACT 1993 (CTH)**

**IN THE MATTER OF NOTICE OF INTENTION TO TAKE NATIVE TITLE
RIGHTS AND INTERESTS DATED 26 MAY 2011 AND REGISTERED 13
JUNE 2011 (NO. L651569 YB)**

BETWEEN

BUURABALAYJI THALANYJI ABORIGINAL CORPORATION

OBJECTOR

AND

THE STATE OF WESTERN AUSTRALIA

GOVERNMENT PARTY

DECISION

There is a degree of development occurring in and around Onslow in the North West of the State which it is anticipated will lead to substantial growth in the resident population. In order to meet anticipated demand for residential land in the area, the Government Party wishes to compulsorily acquire the Objector's Native Title rights and interests in an area adjoining the existing Onslow town site.

The Government Party lodged a Notice of Intention to Take dated 26 May 2011. The Objector's then lodged an objection to that notice dated 20 June 2011. The matter was then referred to me as an Independent Person under Section 24MD (6B)(f).

By consent, the Objector and the Government Party agreed that the Government Party file and serve documents on or before 21 September 2012 and that the Objector file and serve documents on or before 26 October 2012. It was further agreed that if the Objector did not file and serve documents by 26 October 2012 I was to consider the Government Party's documents and decide the matter on the papers without the need for any further hearing.

The Government Party lodged documents but the Objector did not.

The criteria in Section 24MD (6B)(e) are the relevant matters for consideration when determining an objection. In the case of a compulsory acquisition it is difficult to take into account ways of minimising the act's impact on the Registered Native Title rights and interests, any access to the land or the way in which anything authorised by the act might be done.

It is not necessarily for me to determine whether there would be circumstances when an objection to compulsory acquisition could be upheld.

In this case I do not have the benefit of any evidence or submissions from the Objector. In order for me to properly consider an objection and to determine whether it should be upheld or whether conditions should be imposed, the Objector is required to provide some evidence as to the use and enjoyment of the relevant land and how the use and enjoyment will be adversely affected by the act. In the absence of evidence and submissions I cannot be satisfied that the extinguishment of the Objector's Native Title rights is sufficient to uphold the objection or determine whether there are any conditions that should be imposed.

The objection is dismissed.

A handwritten signature in blue ink, appearing to read 'Steven Heath', with a stylized, flowing script.

Steven Heath
Independent Person

1 November 2012