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A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

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Form 59
Rule 29.02(1)

Affidavit

No. VID622 of 2021

Federal Court of Australia
District Registry: Victoria
Division: General

PABAI PABAI AND GUY PAUL KABAI

Applicants

COMMONWEALTH OF AUSTRALIA

Respondent

Affidavit of: **Jennifer Enosa**
Address: [REDACTED]
Occupation: Radio presenter
Date: 22 January 2023

I, **JENNIFER ENOSA** of [REDACTED] radio presenter, swear:

1. I make this affidavit from my own knowledge unless otherwise stated. Where I make statements on the basis of information provided to me, I set out the source of my information and my belief that that information is true.

Personal Background

2. My full name is Jennifer Enosa.
3. I was born on [REDACTED] 1960, and I am currently 62 years old. I was born on Thursday Island, but at the time I was born, my family lived on Saibai.

Filed on behalf of	Pabai Pabai and Guy Paul Kabai, Applicants
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4. Both of my parents are from Saibai. They have both passed away. My mother is buried on Saibai and my dad is buried on Badu (he made Badu his home after his second marriage). I also have extended family on Badu.
5. The centre of my universe connects me to the sky, the land and the sea. My clan or totem is *koedhal* (crocodile) and my wind is *sager* (easterly). The Morning Star (in language, this is known as *e*) is the star of my people. This comes from my dad's side of the family. Usually, your clan and your totems or winds come from your father's side. On my mother's side, my clan is *dhoeybaw* (wild yam) and my wind is *zey* (southerly).
6. I spent most of my childhood on Saibai. I started school on Saibai in the late 1960s. My siblings and I grew up moving around Boigu, Dauan and Badu too because of my dad's work. I kept going to primary school on Saibai during this time. I went to high school in Bamaga. My dad was an IBIS store manager. IBIS is the local grocery store.
7. Since 1991, I have been living and working on Thursday Island.
8. I work in local media at the radio station as a radio presenter. I interview people about matters affecting the community like health, education and politics.
9. I have 3 sons and one adopted daughter. My daughter was traditionally adopted from my eldest brother. I also have numerous grandchildren and a couple of great grandchildren.

Ayth (Ait)

10. My ancestors are originally from an area on Saibai called *Ayth (Ait)*. It was a little island located in the swamp area, and was on a little bit of higher land. My people were tribal warriors, and would have battles with the villagers on the Papua New Guinea coast.
11. No one has lived at *Ayth* since the London Missionary Society came to Saibai in the 1870s. When they came to Saibai, they (the missionaries) convinced all of the ancestors to move to one area – which is where Saibai village is today. However, the descendants of those people still identify as belonging to *Ayth*. This is why my clan is called *ait koedhal*. This is a place that is very special to me and to my family. It is connected to my great grandparents.
12. Below at paragraph 13 is a map of Saibai. I have marked the area where I understand that *Ayth* used to be located (marked in a red circle).

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13.



14. When I was small, the aunties and uncles would take us children to *Ayth* to teach us all of the survival skills that we would need. The young boys would go with the uncles and be taught things like hunting and fishing. For young girls like me, we would go with the aunties, older sisters and cousins and they would teach us how to gather certain foods, where to look for them, how to read the weather to know when to hunt for or gather certain food, when was a good time to go fishing and what to look for in the tides, and other skills like that.
15. The aunties would also tell us stories about Saibai, and especially stories about *Ayth*. They would take us to those places when they told us the stories. One of those stories is the story of *Wakemab*. This story comes from my grandmother's side of the family. My grandmother was *suy baydham* clan. *Wakemab* was a man who lived at a place known as *Kagar*. Near *Kagar* there used to be a sandbar. I have drawn the approximate location of *Kagar* and the sandbar on the map at paragraph 13 above, in yellow.
16. The story of *Wakemab* is in Margaret Lawrie's book "*Myths and Legends of the Torres Strait*". Part of the story involves men's business that I will not discuss. At the end of the story *Wakemab* crawled to the sandbar at *Kagar*, and then into the sea, and after a long time he was swept away by the current. The current took *Wakemab* near to *Malu Kawa*,

an island near the coast of *Daudai*, in Papua New Guinea. There, the water was very deep, and he sank to the bottom of the sea and turned to stone.

17. In the 1970s and 1980s, when I was a young child, the sandbar that is mentioned in *Wakemab's* story was still visible. A photo of the sandbar appears in Margaret Lawrie's book "*Myths and Legends of the Torres Strait*". Below at paragraph 18 is a copy of a photo of the sandbar which appears in that book. This is how I remember the sandbar looking when I was a young girl.

18.

The partly submerged natural jetty of sand and dead coral running out from Kagar, at the eastern end of Saibai



19. My family would sometimes go to *Kagar* and the sandbar area. It was a place where we would go to connect to our land, and to tune into the environment. We would always ask for permission from our ancestors to be on that land, to hunt or to gather food. It was a very special place for us. We would go there to rest and enjoy its beauty.

20. Once, when my family was visiting this area, a beautiful big stingray floated gracefully by us. We could have speared this stingray, as it would have been a big meal for our family all on its own, but we did not. This is because we respected the land, and we acknowledged that this stingray was in fact an ancestor coming out to visit us. It was acknowledging our presence.
21. When you are there, you tune in to the land, you tune in to your environment. You listen, you see, you feel. This is where you are immersing yourself into the land, and becoming connected, to become one with your ancestors and your inner being within yourself. You connect to the land.
22. Now, I'm not sure if that sandbar is still there or not. The water was already higher in the 1980s than it was in the photo.
23. I am worried that soon I will not be able to show the next generations this area, and that my grandchildren will not be connected to it. I want my grandchildren to be able to dig in the sand at *Kagar* and be able to talk to their ancestors – to connect and listen to their ancestors.
24. While I can tell them the stories, it is important for them to think and feel those stories. They need to be able to talk to the land, to hear it, to see it. I want them to be able to experience that, and it makes me very sad to think that they might not.

Current impacts of climate change

Seasons

25. The seasons are interconnected with our way of life. There are traditional songs about the weather, in which the composers talk about the seasons and the weather they experience.
26. When I was a young girl, I was taught by the aunties what the seasons all meant, and how to read the weather. This included things like what signs to look out for to know when the seasons were changing. This was important because it would tell us when was a good time to go and look for certain foods, or to tell us what foods were available. It would also tell us when to garden, and when to hunt for and gather things.
27. In our culture, men are the hunters and women are the gatherers. Women have always used the seasons to guide our roles.
28. For example, when the *goeragar* (a native earleaf acacia) flowers, that will tell you when/where to go to catch a certain fish. The fish is found at a certain spot, and when that

flower blooms they should be fat. But if it is dry and there is no rain, that plant might bloom late, so we will not know when to catch the fish. When the flower blooms now, the fish is not as fat as it used to be, and you can't find it where you used to.

29. When it's turtle mating season in around September, the beach almond leaves should be new and leafy, and there is another oak that blossoms. I remember this time of year as a child: I would wake up on Saibai and the uncles would be cooking turtle eggs. We cook the egg in the beach almond leaf and roast the yolk.
30. My childhood memories are about how the seasonal calendar speaks to you.
31. One of the roles of gatherers is reading the tides. When I was young, still in primary school, I followed the aunties around collecting mud shells. Noticing the high water mark tells you where to go to find what. Now you can't see the high tides because of the seawall on Saibai.
32. We did not use calendars to tell these things. Instead, we would look at the weather, and read things like the tides. The tides would tell us when was a good time to go crabbing for example. You could find crabs at low tides. When I was younger, *akul* (which is a type of shellfish) were found in the mangroves, usually around low tides. We would go and look for crabs or go and look for *akul* when the tides were right, filling our baskets full. Often, the girls and the aunties would have a little bit of an entrée of these shells in the mangroves, before we would take the rest of the bigger shells back to share with the families! The aunties would also teach us how to cook these shells in different ways.
33. After high tides, the boys could go spear fishing in the swamps, because some of the fish would come up stream. The boys were taught when was the right time to go, but it was usually after high tides. This is because all of the water would run in the inland river system, and certain types of fish, like barramundi would be there then.
34. Another example is that I was taught to look for the *pirro pirro/birro birro* (rainbow bee-eater) birds, that migrated through the Torres Strait (including Saibai) in about September. The arrival of these migratory birds meant that it was the start of turtle mating season. They also came with the *naigai* (dry northerly breeze). You could hear the birds everywhere.
35. I also followed the aunties around gardening. I was taught that November was the time of year to sow your garden crops. This is because November is when the rains come in. In the months leading up to November, I was taught you should prepare your garden bed,

weed it, get the soil ready, and then to place your seeds in around November. Then, you would wait for the rains to come and the crops would grow. The families would help other families in the community to prepare their garden beds for the rains to come. When it was harvesting time, the foods were shared around.

36. On Rogation Sunday in May, the families would go to their gardens and bring yam, taro, banana and sugar cane and their gardening and hunting tools down to the church for the priest to bless. Then, the families would come together to have a feast.
37. Turtle mating season would continue until the first thunder cracks which used to be around November. This aligns with *tagai* (the Southern Cross star constellation) throwing his spear in the southern sky. This signifies the start of the heavy rains. This is also when *baidam* (the shark constellation) touches his nose on the horizon in the northern sky. When the thunder cracks and the lightning appears, it comes out of the gills of *baidam*. This was a good time for the brothers, fathers and uncles to go out turtle hunting. Once the thunder started (around November), turtle mating season was over and the turtles would sink back into the water.
38. During the Christmas Eve service in the church, you would usually have the *naigai* wind coming from Papua New Guinea and you can smell all the flowers. We call this *dhubu ganu*. The flowers only bloom around Christmas time, they are gone not long after that. The feeling in the air is beautiful as you know there will be feasting, dancing and families coming home. Feasting at this time of year would include things like turtle eggs, turtles, dugong, fish, crabs, shells, shellfish, and garden vegetables.
39. By February, there would be a lot more heavy rain. We called this type of rain *waku dhoebu moepal*. I was taught that if you leave a certain type of mat out in this rain, the mat will get so wet it will start to come apart. This would give the soil enough moisture for the crops to shoot and grow.
40. During this rainy season, we would make drainage systems in the garden beds to make sure that the gardens didn't get too wet, and the crops would be safe. This was to make sure there was just enough moisture in the soil to grow.
41. I remember my grandparents and uncles growing huge purple yams and taros. They were really big. They would grow banana bunches that were just about as tall as a person.
42. I remember walking through big cassava plants almost as tall as an adult. Now, the plants are only waist high and there are not as many.

43. I do not see as much gardening happening in the Torres Strait as before, because of the high tides reaching all the way through to the gardening sites. Because of the lack of fresh gardens, much of the peoples' diets are processed. I don't see many people growing their own produce in backyards.
44. The seasons are also different from before. I am worried because initially I thought these changes were just on Saibai, but it's now a common thread throughout the region.
45. The rhythm is now broken. The migrating birds come at different times. Sometimes they come in late September, sometimes they come in early September, or sometimes they come in late August. Sometimes they are still on time. There are not as many of them either, you don't hear them as much. It is not as regular as when I was a kid.
46. There has been a reduction in the turtle population, which has an impact on all aspects of culture, including hunting, traditional foods, male coming of age ceremonies, and totems. It impacts upon hunting because there are less turtle eggs, so you don't always see turtles like I used to when I was a girl. Sometimes, there are more turtles being spotted in the sea in front of the village (which isn't where you would normally find them). This is in part because the sea grasses are going, so the turtles come in closer to land for food.
47. Last year my auntie told me the *naigai*/smell of the flowers came earlier than usual. The flowers came in earlier than Christmas Eve, earlier in December. It was really strange. So we didn't have the beautiful smell at Christmas, it came earlier. It was gone by Christmas, so it didn't feel like Christmas that we used to have because the smell was gone.
48. It is also noticeably hotter than it used to be. It stops people from being outside. We are more outdoor people, growing up we were always outside. It is in our culture for the men to sit together outside and talk about men's business and for the women to sit together outside and talk about women's business, and tend to the little ones. The women would teach cultural practices to the little ones. We are a practical people and our culture is to do our practices together outside. We only go inside when it is time to go to sleep. Now, because it is hotter, we can't be outside together as much. We can't do our cultural practices and our teaching as much. I learnt about our culture, relationships and women's business sitting outside with the women in my family. For example, I would lie on my adopted mother's lap while she was sewing and she would teach me about my spirituality and my connection to the land.

49. There have also been changes to my totems. The crocodiles have more presence. And for the first time in the history of Saibai Village, either in 2022 or 2021, a crocodile went into the actual village. This has never ever happened before. It walked on the street. This was a very strange behaviour for the crocodile. It was not something that I ever expected to see or hear about. When you look through the cultural lens, where crocodile is my totem, the change in behaviour could mean that there is a break in the balance of our spirituality and something bad, or something good, could happen for the whole community.
50. The changes have been happening since about the 1980s, but it has been much quicker and much more noticeable in the last 10 years or so. Nothing is the same.

Coral bleaching

51. I used to live on Horn Island and travel on the channel, south-east from Thursday Island village, to go home from work during low tide. In the late 1990s and early 2000s I remember the corals being bleached. They were all white and smelly. The coral eventually grew back.
52. I recall another coral bleaching event around the same time at the wharf on Horn Island.
53. This has an impact on the fish. At certain times of the year, on certain tides, you expect particular types of fish. When the coral gets bleached, this throws out when those fish are around.
54. I would be very worried if coral bleaching happens on Saibai. Families rely on the sea for our survival. It is our jobs, our economy and our way of life.

Continuation of culture

55. When I was growing up into an islander woman, every day was about learning about the culture from my aunties and uncles. Learning was hands on. The uncles would teach me about respect, understanding the clan structure and tell me stories. The uncles and the aunties taught us how to be a female child and know right from wrong.
56. We are trying to teach our children about this culture, but they are noticing inconsistencies between the teachings and the environment. Traditional knowledge is being questioned by the young people, which has had an impact on the cultural authority of older people.
57. If the seasons remained consistent it would encourage people to stay in touch with their culture. At this time the young people have so many modern conveniences at the touch of a button and they are so distracted.

58. My cousin composed a song about the *sager* wind (our wind). It's praising the *sager* wind as it comes from our forefathers, and takes me as a listener up to *Ayth*. The tune that goes with it made me cry. I was sitting out on the waterfront and feeling so sad. Songs are one way that we connect to our land and our culture. We sing to tell stories and express who we are.
59. I've lost the last of my father's siblings, and now I have a responsibility as an aunty, as a cousin and as a grandmother to pass on this knowledge to the younger generations. I am concerned that the climate change will contradict what we teach them and what they are seeing today. They will say 'well you are lying' but what we know about the seasons connects us to our culture and land. I'm sad because this is the knowledge I want to have planted in the young people but they will think we are lying because the balance is not right, it's not what they are seeing.
60. I am deeply embedded in our culture. My roots are strong. As I have said, my worry is about the generations to come. I am worried about how to connect my grandchildren to their motherland, to be able to immerse them into their own country. How will my grandchildren know that they are from Saibai, from *Ayth*? They don't have the same grounding as me. I am sad that they might not have that, and that they will end up having an unbalanced life (with the western lifestyle dominating them). It's a different lens. You've got to think and feel and let go to talk to the land, to hear the land, to see the land to experience that. It's deeper than the skin.
61. Many of our people are also leaving the islands. This includes many young people who are leaving for further study and accommodation that are not available on the islands. Some young people are still trying to learn the traditional culture, but a lot of our elders have gone.
62. Nevertheless, we remain strong in our storytelling through songs. It is good that we have maintained this aspect of our culture and young people are engaging in songs in schools.

Burials

63. Having grown up on Saibai, the island is the centre of my universe. I identify with my wind. I identify with the Morning Star. I identify with the crocodile. I am who I am as a Saibai person today. I want my children, wherever they go in this world, to say first that they are from Saibai.

64. In our culture that connection extends after death and people are laid to rest on their traditional land. This is *Ailan Kastom* across the entire Torres Strait. We visit our ancestors at their gravesites and talk to them. Not just about big decisions, but also about little day to day things – for example, if I misplace my key, I might go to the cemetery and ask my sister where it is.
65. When somebody in our community dies, the process for telling the community of the death is to tell a story that connects the individual to their totems, their winds and their whole life. Our cultural system is to gently share the person's entire story before naming the person that has died. We do this out of respect for the person and their family, preparing them for the mourning process. This is because our land and our culture are central to our identity in life and after death.
66. I am concerned that if I am buried on Saibai, my generations to come after me won't be able to visit me, because Saibai is eroding. They won't be able to come and talk to me if Saibai is not there. Spiritually, I am wherever my children are, but it's not the same as when you visit wherever someone is laid to rest. The connection is so much stronger, more deeper, when you are able to be where the person is.
67. I have said to my children, one day when I am voiceless and cannot decide for myself, that I don't want to go back home. I want the future generations to visit me in a place where I am safe. I have already said to my son that I want my children to be able to visit me, see my photo, see my grave, and connect with me.
68. But, as a Saibai person, that is where I am rooted – my eyes and ears are there, that is where my grandfather, brothers, sisters, and all of my family is. So it's a very hard decision for me, it brings me to tears.

1947 Saibai king tide event

69. I have listened to the stories of the people who left Saibai for Bamaga after the king tide event in 1947. I've been told that my adopted sister, who has since passed away, was six years-old when she left on her mother's lap in a dinghy, begging to stay.
70. When I spoke with my late sister who left for Bamaga, she said that two of the people staying on Saibai, my grandad (an elder and head of the family) and his youngest brother, were pleading with my aunty not to take my late sister away. She said that she expected them to only walk down waist-deep in water before they let go of the dinghy carrying those who were leaving – but they walked down chest deep before they let go. The people

remaining on the island lit fires and held out mirrors to make sure that those leaving knew that they were saying goodbye. It must have been the saddest day and a very long goodbye.

71. These people still identify with Saibai. They will say they are Saibai/Bamaga, or Saibai/Seisia. From my observations the younger people speak the *Kala Kawa Ya* language (spoken on Saibai) over there and engage in dance and initiation ceremonies of Saibai. So there is still that strong connection with the communities. They also travel back to Saibai.
72. My clan, my grandad, decided to stay at Saibai because we had already moved from *Ayth* to the village. They did this to look after the village, the local church and the whole island.
73. If people were told again that they had to leave Saibai, it would cause great sadness. When I was told this story, I felt very strongly for my sister. Because that's lived experience. I never thought that I would feel that way, but I can see myself in her shoes, as to what that day might look like for me. It would be devastating. It's a very hard question to have to think about.
74. It's tough to think about my great-grandchildren not having that connection to Saibai.

The future

75. We want a solution that will last not fifty years, but a hundred. I am no expert in scientific solutions, but with scientific and traditional knowledge combined I believe we can find an answer. The solution will be to listen more to the people, rather than just coming with ideas.
76. The people of the Torres Strait will not go if they are asked about relocation. They will stay until the last coconut tree.

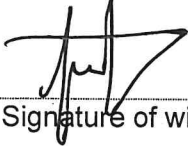
Sworn by the deponent
at Cairns
in Queensland
on 22 January 2023

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Signature of deponent

Before me:



Signature of witness

Grahame Best

An Australian Legal Practitioner within the meaning of the Legal Profession Uniform Law
(Victoria).