

Application Name: Yaegl,Bundjalung,Gumbaynggirr  
Application (NNTT) No: NC96/38  
Application (Fed Crt) No: NG6052/98  
State: NSW  
Region: NSW/ACT  
Date Application Made: 27/11/96  
Date Registration Test: 24/02/2000  
Decision made:  
Decision: Not Accepted  
Decision Type: Abbreviated Decision

### **Information relevant to the decision**

The delegate has considered all information and documents in the working file NC96/38 and the registration test file.

The Tribunal wrote to the applicants on 30 September 1998 and 18 December 1998 to advise that the Registrar would be considering the application for the registration test. On 1 April 1999 the Tribunal wrote to the applicant's representative advising that the Registration Test would be applied if a Notice of Motion or amended application had not been filed in the Federal Court by 23 April 1999.

The Tribunal wrote to the applicants' representative on 14 May 1999 advising them of a revised timetable for registration testing to be applied to the application by 20 October 1999.

On 20 October 1999 the applicants' representative met with the Delegate and the Case Manager for the application to discuss delays in compiling an amended application and requested an extension. An extension was granted to 6 December 1999.

The applicants' representative wrote to the Tribunal on 2 December 1999 and requested a further extension in view of Federal Court decisions in *Strickland v Native Title Registrar* [1999] FCA 1530, *State of Western Australia v Native Title Registrar* [1999] FCA 1594 and *Moran v Minister for Land & Water Conservation* [1999] FCA 1637. The Tribunal initially granted an extension to 14 December 1999.

After consideration regarding difficulty for the applicants caused by the time of the year the Tribunal wrote to the applicants' representative on 15 December 1999 granting an extension to 7 February 2000. The letter stated that should the applicants not have filed a Notice of Motion to amend the application by that date the abbreviated registration test would be applied.

The applicants have not filed a Notice of Motion to amend with the Federal Court to date. On 7 February 2000 the applicants' representative informed the Tribunal that the applicants would not be amending the application at this stage and acknowledged that the abbreviated test would now be applied.

### **Reasons for Decision**

1. The application has not been amended, nor has additional information been provided, nor things done, in order that it might satisfy the provisions of the amended Native Title Act 1993 relating to registration.
2. There has been generally no attempt to satisfy the formal and procedural conditions as set out in 190C(2), 190C(4) and 190C(5).
3. In particular, the applicants have not provided affidavits (as specified in 62(1)(a)) and as required for the satisfaction of 190C(2). I do not accept that the affidavit lodged with the original application satisfies the full substantive requirements of s62(1)(a)(i) to s62(1)(a)(v).

4. Further, the applicants have not provided evidence that the application has been certified by each representative Aboriginal/Torres Strait Islander body that could certify the application (as set out in 190C(4)(a)). In the alternative, the applicants have not provided evidence that the applicants are members of the native title claim group and are authorised to make the application and to deal with matters arising in relation to it, by all the other persons in the native title claim group (that is, to satisfy the requirements as set out in 190C(4)(a) and 190C(4)(b)).

5. Finally, the applicants have not supplied a statement to the effect that the requirement set out in paragraph 190C(4)(b) has been met, and that sets the grounds on which the Delegate should consider that it has been met. For this reason I am not satisfied that the conditions in subsection 190C(4) is met.

6. Given the failure in respect to 190C(2) and 190C(4) I have not considered it necessary to apply the test in respect to the merits questions in 190B.

## **DECISION**

The application IS NOT ACCEPTED for registration pursuant to s190A of the *Native Title Act 1993*.

Written notice of the decision and the reasons for the decision, are to be provided to the applicant and to the Federal Court, in accordance with s190D of the *Native Title Act 1993*.