

***National Native Title Tribunal***  
**REASONS FOR DECISION COVER SHEET**  
**REGISTRATION TEST**  
**ABBREVIATED DECISION**

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| DELEGATE |  |
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|-------------------------|---------------|--------------|-----------|
| Application Name        | Djabugay      |              |           |
| Name(s) of Applicant(s) | Andrew Duffin |              |           |
| Region                  | FNQ           | NNTT No      | QC94/4    |
| Date Application Made   | 11 May 1994   | Fed Court No | QG6033/98 |

**DECISION – QC94/4 – Djabugay (QG6002/98)**

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*.

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Delegate of the Registrar pursuant to  
Sections 190, 190A, 190B, 190C, 190D

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***DATE***

The Delegate has considered the application against the conditions of the registration test contained in s190C(2) and s190C(4) of the *Native Title Act 1993*. The following material sets out the reasons for the decision.

### Information Relevant to the Decision

In determining this application I have considered and reviewed all of the information and documents from the following files, databases and other sources:

- The working file for claim QC94/4
- Other tenure information acquired by the Tribunal in relation to the area covered by this application;
- The National Native Title Tribunal Geospatial Database;
- The Register of Native Title Claims;
- The Native Title Register.

Note: Information and materials provided in the context of mediation have not been considered in making this decision due to the without prejudice nature of those conferences and the public interest in maintaining the inherently confidential nature of the mediation process

### Reasons for Decision

1. The National Native Title Tribunal ('the Tribunal') wrote to the applicants on 1 October 1998 informing them that the application would not be considered under the Registration Test pursuant to the *Native Title Act 1993* ('*The Act*').
2. On 10 March 1999, the Tribunal wrote to the applicant's legal representative Phillips Fox Solicitors informing them that contrary to the letter of 1 October 1998, the application would in fact be considered under the Registration Test because it included leasehold area.
3. On 6 July 1999, the Tribunal wrote to the applicant providing a preliminary assessment of the application in relation to the conditions of the registration test and advising that the Tribunal would commence consideration of the application on 1 August 1999.
4. On 2 August 1999, the North Queensland Land Council (NQLC) wrote to the Tribunal requesting an extension of time for the application of the registration test.
5. On 5 August 1999, the Tribunal wrote to the NQLC informing them that their request for an extension had been granted and that the application would be considered under the Registration Test from 8 September 1999.
6. On 3 December 1999, the Tribunal wrote to the NQLC informing them that the date by which the application was due to go through the Registration Test had passed. The Tribunal advised the NQLC that it was the intention of the Registrar's

delegate to apply the registration test in the “abbreviated” manner and allowing the applicants a further period (until 9 January 2000) within which to provide further information or amend the application before the “abbreviated” test was applied.

7. On 14 December 1999, the NQLC wrote to the Tribunal requesting a further extension of time before the application went through the Registration Test.
8. On 16 December 1999, the Tribunal wrote to NQLC informing them that their request for extension had not been granted and providing reasons for this decision.
9. As at 11 January 2000, 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 *Act* relating to registration.
10. There has been no attempt to satisfy the formal and procedural conditions as set out in sections 190C(2), 190C(4) and 190C(5) of the *Act*.
11. In particular, the applicants have not provided an affidavit meeting the requirement of section 62(1)(a)(iv) and (v), necessary to satisfy section 190C(2). I am satisfied that the condition in section 190C(2) is not met.
12. Further, the applicants have not provided evidence that the application has been certified by a Representative Aboriginal/Torres Strait Islander body that could certify the application (refer section 190C(4)(a)). In the alternative, there is no evidence of authorisation to satisfy the requirements of sections 190C(4)(b) and s190C(5). I am satisfied that the requirements of sections 190C(4) and 190C(5) have not been met.
13. Given the failure in respect to sections 190C(2), 190C(4) and 190C(5), I have not considered it necessary to apply the test in respect to the merits conditions in section 190B.

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