

Application Name: Kombumerri
Application (NNTT) No: QC96/69
Application (Fed Crt) No: QG6082/98
State: QLD
Region: Queensland
Date Application Made: 25/06/96
Date Registration Test: 08/11/99
Decision made:
Decision: Not Accepted
Decision Type: Abbreviated Decision

Information Relevant to the Decision

The delegate has considered all information and documents in the following files, databases and other sources:

The working file and the registration test file for claim QC96/69;
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 application has not been amended in relation to the registration test, nor has additional information been provided, nor things done, in order that it might satisfy the provisions of the Act in relation to registration.
2. On 1 October 1998 the Tribunal wrote to the applicant, care of their address for service, advising that any information to be considered by the Registrar for the purposes of registration should be provided no later than 1 January 1999.
3. On 23 November 1998 the Tribunal wrote to the applicant, via the nominated address for service, providing a preliminary registration test assessment in respect of the application and other information held by the Tribunal.
4. On 10 February 1999 the Tribunal wrote to the applicant, at the nominated address for service, advising that the delegate intended to consider the application for registration in March 1999 and that any amendments and/or additional information would need to be provided before this time.
5. On 24 February 1999 the Tribunal provided the applicant with a further copy of the correspondence sent on 23 November 1998.
6. A request for an extension of time dated 8 March 1999 was provided to the Tribunal. An extension was granted until 2 April 1999.
7. A letter dated 22 March 1999 was sent to the Tribunal requesting assistance with mapping. The Tribunal provided copies of the Queensland and New South Wales maps of the claim area to the applicant.
8. On 16 June 1999 a letter was sent to the applicant's representative, at the nominated address for service, advising that since the extension of time until 2 April was granted, there has been no further request for an extension to address issues for registration testing. The representative was also advised that the matter was scheduled for testing in June 1999.

9. An extension of time request was received from the applicant's representative on 17 June 1999. The extension was granted until 9 July 1999.
10. An extension of time request was received from the applicant's representative on 5 July 1999. A further extension was granted until 31 July 1999.
11. An extension of time request was received from the applicant's representative on 23 August 1999. A further extension was granted until 24 September 1999.
12. The applicant's representative requested a further extension on 21 September 1999. The extension was denied.
13. On several occasions the applicant's representative provided the Tribunal with draft copies of an amended Form 1 and supplementary articles for comment. No amendments were filed in the Federal Court.
14. On 28 October 1999 the Tribunal wrote to the applicant's representative advising 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 of time (until 4 November 1999) in which to provide further information or amend the application before the "abbreviated" test was applied.
15. As at 8 November 1999 (the date of this my decision), the Tribunal has not received an amended application or any further correspondence and/or material from or on behalf of the applicants.
16. In particular, I note that the applicant has not complied with 190C(2) of the Act in that the applicant has not provided an affidavit as required pursuant to s.62(1)(a) of the Act.
17. The applicant has not provided evidence that the application has been certified by a representative Aboriginal/Torres Strait Islander body that could certify the application as required pursuant to s.190C(4)(a) of the Act.
18. To meet the requirements of the alternative provisions, s.190C(4)(b), the applicants must have (pursuant to s.190C(5)) supplied a statement to the effect that the requirements set out in s.190C(4)(b) has been met, and also set out the grounds on which the Delegate should consider that it has been met.
19. The applicant has failed to provide evidence that he is a member of the native title claim group and duly authorised to make the application and to deal with matters arising in relation to it. For this reason I am not satisfied that the condition in subsection 190C(4) is met.
20. Given the failure by the applicant to comply with s.190C(2) and s.190C(4), I have not considered it necessary to apply the test in respect to the merits requirements contained in s.190B of the Act.