

# Amendment application opposed by overlapping claim group

## *Munn v Queensland* [2002] FCA 1111

Emmett J, 28 August 2002

### Issue

An overlapping native title claim group opposed an application to amend that was brought to facilitate negotiation of a consent determination because they had not had sufficient time to consider the effect of the proposed amendments and any proposed consent determination on their claim.

### Background

The applicant sought leave to amend one of the Gunggari People's claimant applications to reduce the area covered to four identified town lots and to reduce the respondent parties to the State of Queensland and Telstra. This was in order to facilitate an agreement as to the making of a consent determination over those lots. The Kooma People, who had applications on foot that overlapped some of those brought by the Gunggari People, opposed the making of the orders on the basis that, due to late notice of the application to amend, they were not in a position to consent. Justice Emmett identified two reasons for the possible opposition:

- a concern as to the authority of Mr Munn to make the application on behalf of the Gunggari People;
- while the application, as amended, would relate only to four parcels of land in the town of Dunkeld, the material relied on by Mr Munn in support of that application, is material that would also be relied on in relation to a far more extensive Gunggari application.

While noting that the Kooma People may not have an interest in the first matter, his Honour commented they may, from a pragmatic point of view, want to ensure that any negotiations with the Gunggari People are conducted with a duly authorised person. On the second, his Honour referred to some earlier decisions in which he expressed the view that the making of a consent determination over one area 'would not give rise to any presumption' as to the existence or not of native title over another area not subject to the consent determination: see *Munn v Queensland* (2001) 115 FCR 109; [2001] FCA 1229. However, as the Kooma People were party to those proceedings, they were given the opportunity to get advice and to consider whether or not there were any adverse consequences for them if a consent determination was made in this matter—at [4] and [6].

### Decision

Orders substantially as sought by Mr Munn were made but stayed until 13 November to allow the Kooma People to take advice and inform the court whether they wish to oppose the orders.