

***Dann v Western Australia* [2011] FCA 99**

Barker J, 14 February 2011

Issue

The issue before the Federal Court was whether to order that the 'current applicant' for a claimant application be replaced pursuant to an application made under s. 66B(1) of the *Native Title Act 1993* (Cwlth) (NTA).

Background

The group of people comprising the 'current applicant' moved for orders that they be replaced by another group of persons, apparently in accordance with the resolutions made at a community meeting on 11 March 2010 where it was decided to elect a replacement applicant with a single representative from each of the native title claim group's apical ancestors. One of the persons who comprised the current applicant opposed the inclusion of three persons who were to comprise the replacement applicant. It was also argued that the notice of the community meeting was flawed because it incorrectly indicated that more detail about the meeting was included in an attached agenda when no agenda was, in fact, attached.

Objection to members of the replacement applicant

Justice Barker held that:

- to the extent that objections to particular persons being members of the replacement applicant relied upon genealogical submissions, they were matters that should be worked out, if necessary, at a final hearing of the application;
- it was sufficient to proceed to a final hearing on the genealogical opinion provided by the representative body that all relevant replacement applicant members were appropriately connected;
- objections concerning other persons being members of the replacement applicant, on the grounds of process and procedure leading up to the meeting on 11 March 2010, were 'weakly founded';
- the resolution of the community meeting held on 11 March 2010 was not defective for failing to describe 'more amply' the names of a particular person or persons who might be nominated as a replacement applicant;
- the question of authorisation of the claim group was fairly and squarely raised as an agenda item in the notices—at [41] and [46] to [47].

Decision

An order was made under s. 66B(2) to replace the current applicant with the group of people chosen at the community meeting on 11 March 2010.