# *Doctor v Queensland* [2010] FCA 1406

**Collier J, 15 December 2010**

**Issue**

The issue before the Federal Court was whether to replace the current applicant for a claimant application pursuant to s. 66B(2) of the *Native Title Act 1993* (Cwlth) (NTA).

**Background**

At a meeting of the Bigambul People held in June 2010 (the authorisation meeting), a resolution was passed authorising the replacement of four of the seven people who constituted the 'current applicant' on a claimant application made on their behalf. One of the four people constituting the 'current applicant' had refused to sign an ILUA. All four (referred to as the dissenting applicants) opposed the application to remove them.

At [33], Justice Collier adopted the summary of the issues by those making the s. 66B(1) application:

- was the authorisation meeting properly conducted and, in particular, was the will of the meeting 'corrupted' by the activities of individuals who wanted to replace the current applicant?
- were those in attendance members of the claim group and thereby authorised to vote on resolutions?
- were those in attendance representative of the claim group?
- was there a requirement that the 'replacement' applicant represent the composition of the claim group and, if so, was it less representative than the current applicant?

Her Honour was satisfied on the evidence that the authorisation meeting was properly conducted and that the will of the meeting was not corrupted by the activities of individuals who wanted to replace the current applicant. Collier J was not satisfied that there was actual attendance by persons who were not Bigambul people. Further, the NTA does not require that there be sufficient representatives of all the apical ancestors at an authorisation meeting. Nor is there any requirement in the NTA that the applicant be comprised of representatives from each of the family groups within the claim group—see [35] to [67], where her Honour cites with approval *Coyne v Western Australia* [2009] FCA 533 at [22] to [26].

**Comment – only applies if no traditionally mandated decision making process**

This decision, and the cases referred to by her Honour, all relate to circumstances where the claim group does not have a process mandated by traditional law and custom for making decisions like who should be authorised to make a claimant application, i.e. this reasoning does not necessarily apply if s. 251B(a) is relied upon.

**Decision**

The court was satisfied that the native title claim group resolved with significant majorities at a properly convened and conducted authorisation meeting:

- to no longer authorise the current applicant; and
- to authorise a new applicant in respect of the native title claim.

The court exercised its discretion to make an order to replace the current applicant pursuant of s. 66B(2) notwithstanding the deficiencies in the notices of meeting or any irregularities in relation to the conduct of the meeting.