

## ***MB (Deceased) v Western Australia* [2010] FCA 1110**

Siopis J, 25 June 2010

### **Issue**

The issue before the Federal Court was whether to replace the current applicant in a claimant application with a new applicant pursuant to an application made under s. 66B(1) of the *Native Title Act 1993* (Cwlth)(NTA).

### **Background**

At a meeting of the Yued People claim group held on 22 November 2008 (the authorisation meeting), a resolution was passed authorising the replacement of the current applicant with six claim group members (the authorised persons), only one of whom (Joe Narrier) was included in the group comprising the current applicant. Mr Narrier subsequently indicated he was no longer willing to be one of the persons who comprised the applicant. The other five who were authorised at the meeting then made an application under s. 66B(1) to replace the current applicant.

### **Authorisation**

Justice Siopis was satisfied on the evidence that:

- the process undertaken by the South West Aboriginal Land & Sea Council ensured the authorisation meeting ‘could properly be classified as a sufficiently representative meeting’ of the claim group and that it was competent to make decisions on behalf of that group in relation to authorisation;
- there was no traditional decision-making process as described in s. 251B(a) within the Yued People – at [6] and [7].

As the court noted, the resolution passed at the authorisation meeting:

- indicated that the replacement applicant would comprise the authorised persons ‘or such of them who remain willing and able, to act in respect of the application in the future’;
- made it clear ‘for the avoidance of any doubt’ that, if one or more of the authorised persons ceased to be willing and able to act, the other named persons or person would remain authorised to act as the applicant—at [9].

### **Decision**

The court ordered that the five authorised persons who made the s. 66B(1) application jointly replace the current applicant.