

# Party status — claim group member

## *Kulkalgal People v Queensland* [2003] FCA 163

Drummond J, 28 February 2003

### Issue

This case concerned an application brought pursuant to s. 84(5) of the *Native Title Act 1993* (Cwlth) (NTA) by a member of the native title claim group seeking to become a party to that group's claimant application.

### Background

Party status was sought because the person concerned was dissatisfied with the progress of the application. She felt that her views had been disregarded and claimed that rights would effectively be given to a group whom she did not believe should receive those rights.

The NTA provides that an application must be accompanied by an affidavit sworn by the applicant deposing to have the authority of all persons in the native title claim group to make the application. The person named as applicant is held to have authority to deal with all matters arising under the NTA in relation to the application—see ss. 62(1)(a)(iv) and 62A.

### Decision

Justice Drummond found that the only avenue for a dissatisfied claim group member is to apply pursuant to s. 66B for an order to replace the applicant, an action that requires the authorisation of the claim group. The statutory scheme:

- '[u]nfortunately ... seems ... to be clear and designed to prevent an application' of this kind from succeeding; and
- 'leaves no room for the principle ... that a person represented in an action by a representative applicant under O 6 r 13 of the Federal Court Rules can, if dissatisfied with the conduct of the action, be joined as a respondent in the proceedings'—at [7] to [8].

The application was dismissed.