

## QLD Regional PBC Meeting

The Native Title Research Unit at AIATSIS is organising a series of regional PBC meetings designed to create an opportunity for native title holders to share ideas with each other and engage with government departments and programs that are relevant to the management of native title lands.

The next workshop is scheduled to be held in **Cairns from 25-27 October 2011**. It will involve Queensland native title holding groups, representing over 20 native title determinations. The Queensland PBC meeting will look at issues such as PBC economic development needs and opportunities, funding opportunities and strategic planning.

For more information on the workshops please contact Matt O'Rourke on (02) 6246 1158 or at [morourke@aiatsis.gov.au](mailto:morourke@aiatsis.gov.au)

## What's New

### Recent Cases

**Barunga v State of Western Australia (No 2) [2011] FCA 755**

**25 May 2011**

**Federal Court of Australia, Perth WA**

**Gilmour J**

This was an application before Gilmour J to join eight members of the Mayala native title claim group as respondents to the present application by the Dambimangari people. The Mayala individuals asserted that the boundary between the Dambimangari claim and the Mayala claim is in the wrong place, and that some of the land and waters in the Dambimangari claim area should instead be in the Mayala claim area. Gilmour J found that the Court had the power under s.84(5) of the *Native Title Act 1993* (Cth) to join the eight individuals, but declined to do so.

Gilmour J emphasised that the eight Mayala individuals do not speak for the Mayala claim group, and represent only a small minority. His Honour found that the boundary lines asserted by them are at odds with the boundary lines agreed at several previous meetings, and with the boundaries claimed in the Mayala native title application. His

Honour considered detailed facts about the conduct of various meetings involving Mayala and Dambimangari claim groups, and concluded that there was an arguable case, though not a strong one, that the interests of the eight Mayala individuals may be affected by a determination in the proceedings. His Honour noted that while the Mayala individuals were not authorised to speak for the Mayala claim group, they nevertheless assert that it is not just themselves individually who are the traditional owners of the disputed area, but the entire Mayala people. Accordingly, it was always open to them to seek to persuade the body of the Mayala native title claim group as a whole to their point of view as to the disputed boundary. There is no evidence that their views are supported by the Mayala claim group as a whole. It was also open to seek to convince the named applicants to file a new application over the larger area, or to authorise the substitution of new named applicants who would be willing to file a new application. Yet they did not do any of these things. Gilmour J also noted that the eight Mayala individuals had ample opportunity over the last two years to apply to become respondents, and yet had only done so some two weeks before the consent determination was set down for judgment.

**Smith v Marapikurrinya Pty Ltd (No 2) [2011] FCA 733**

**28 June 2011**

**Federal Court of Australia, Perth WA**

**Gilmour J**

In this judgment, Gilmour J dismissed an application by six Aboriginal applicants (three of whom are members of the claimant group in the Kariyarra Peoples Native Title Claim WAD 6169 of 1998) who sought a declaration that Marapikurrinya Pty Ltd and its directors do not have and have not previously had authority to act for or on behalf of the applicants in relation to any matters.

The background to this application is the arrangements and agreements between Marapikurrinya Pty Ltd and both Fortescue Metals Group Ltd and BHP Billiton Iron Ore Ltd, in relation to heritage surveys. The applicants alleged that Marapikurrinya Pty Ltd had made these arrangements on the false basis that they were authorised to represent the 'Kariyarra People'. Their application failed for two reasons. First, there was uncontradicted evidence that the agreements and arrangements between Marapikurrinya Pty Ltd and the mining companies were expressly authorised by the legal representative of the Kariyarra Native Title Claim Group. Second, the applicants themselves were not authorised by the Kariyarra people to sue