Native Title Information Handbook
Australian Capital Territory
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Australian Capital Territory
Updated to January 2014

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1. Native Title Legislation
The Australian Capital Territory (ACT) enacted the *Native Title Act 1994 (ACT)* on 1 November 1994. The purpose of this Act is to validate past acts invalidated because of the existence of native title (s 3(a)) and to confirm existing rights to natural resources and access to waterways and public places (s 3(b)). Unlike most other jurisdictions, the ACT has not introduced legislative amendments to validate intermediate period acts. This was not seen as necessary because of the nature of land tenure in the ACT (there are rural leases, but no pastoral leases).

The ACT Government has not enacted any legislation confirming extinguishment of native title by particular types of tenure. The *Native Title Act 1994 (ACT)* confirms Crown ownership of all natural resources, rights to use, control and regulate the flow of water and existing fishing access rights; as well as existing public access to and enjoyment of waterways, beds, banks and foreshores of waterways and areas that were public places as at 31 December 1993.

The ACT Government has not enacted any alternative state native title regimes.
2. Native Title Policy & Procedures

- Territory Government
- Native Title Claims Policy
- Consultative Processes
- Land and Resource Activity

Territory Government
The Office of Multicultural, Aboriginal and Torres Strait Islander Affairs within the ACT Department of Community Services coordinates a whole-of-government approach to issues affecting Aboriginal and Torres Strait Islander residents in the Australian Capital Territory (ACT).

The ACT Government has stated its policy position on traditional custodians on their website ‘How to Organise a Welcome to Country’.

Native Title Claims Policy
On 1 January 2001, the ACT Government reached agreement with regard to two native title applications made on behalf of the Ngunnawal People. These applications are listed in the National Native Title Tribunal under the Federal Court File Numbers ACD6002/1998 and ACD6001/1998. Under the agreement, the ACT offered to grant a special Aboriginal lease over Namadgi National Park for 99 years, on the condition that all native title claims be either fully determined or withdrawn.

The two claims listed above were subsequently withdrawn (discontinued), and the parties agreed to implement interim arrangements for the involvement of Aboriginal people in the management of Namadgi National Park until the Special Lease commences (see Agreement between the Australian Capital Territory and ACT Native Title Claim Groups). An interim Namadgi Advisory Board was established comprising five Aboriginal members and five non-Aboriginal members, but ceased to function in August 2006. The Namadgi National Park Plan of Management 2010 (PDF 4.04MB) contains a statement of this agreement as it currently operates, see p. 14.

Consultative Processes
In 2002 the United Ngunnawal Elders Council (UNEC) was formed comprising representatives from Ngunnawal family groups. The Office of Aboriginal and Torres Strait Islander Affairs provides secretariat support for the Council. UNEC also provides advice to the ACT Aboriginal and Torres Strait Islander Elected Body in accordance with ss 8(j) and 9 of the Aboriginal and Torres Strait Islander Elected Body (ATSIEB) Act 2008 (ACT).

Land and Resource Activity
The Department of Territory and Municipal Services is responsible for land management issues in the ACT.
3. Native Title Representative Body

- Overview
- Map
- Contact Details

Overview
There is no Native Title Representative Body located within the Australian Capital Territory (ACT), however NTSCORP Limited (formerly New South Wales Native Title Services) provides native title services to native title applicants within New South Wales and the ACT.

From 20 September 2007 New South Wales Native Title Services Limited (NSWNTS) became known as NTSCORP. NTSCORP is a native title service delivery agency. NTSCORP has a Board of Directors made up of Member-Directors (who are members of the company), elected by the membership at the annual general meeting and up to three Non-Member-Directors (who are not members of the company) who are appointed by the Member-Directors on the basis of their professional or technical skills.

The purpose of NTSCORP is to ‘assist Traditional Owners in NSW and the ACT in achieving cultural, social and economic benefits through native title and related processes’ (New South Wales Native Title Services Limited Annual Report 2003-2004 p.6). NSWNTS has a head office located in Redfern, Sydney and a regional office located in Coffs Harbour.

Map
The Native Title Representative Bodies Map (PDF 718kB) provides details of the Native Title Representative Bodies and their respective boundaries as at 01 July 2010.

Contact Details
Table 1 Contact Details of NTSCORP

<table>
<thead>
<tr>
<th>Street Address</th>
<th>Postal Address</th>
<th>Phone</th>
<th>Fax</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level1, 44-70 Rosehill St Redfern NSW 2016</td>
<td>PO Box 2105 Strawberry Hills NSW 2012</td>
<td>(02) 9310 3188 1800 111 844</td>
<td>(02) 9310 4177 <a href="mailto:information@ntscorp.com.au">information@ntscorp.com.au</a></td>
<td></td>
</tr>
</tbody>
</table>

For more information see the NTSCORP website or the Agreements Treaties and Negotiated Settlements website.
4. Native Title Applications

- **Overview**
- **Native Title Applications Map**

**Overview**

As at 22 January 2014, six native title applications had been lodged within the Australian Capital Territory (ACT), all of which were claimant applications. The table below provides a summary of the status of native title applications in the ACT. There are currently no active claims in the ACT.

**Table 2 Native Title Applications in the Australian Capital Territory**

<table>
<thead>
<tr>
<th>Application Status</th>
<th>Claimant</th>
<th>Non Claimant</th>
<th>Compensation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Active</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Finalised: Discontinued</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>3*</td>
</tr>
<tr>
<td>Finalised: Dismissed</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Finalised: Full Approved Determination</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Finalised: Non-Approved Determination</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Finalised: Pre-Combination</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Finalised: Rejected</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
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<td>Finalised: Struck out</td>
<td>0</td>
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<td>0</td>
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<tr>
<td>Finalised: Withdrawn</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>6</strong></td>
<td><strong>0</strong></td>
<td><strong>0</strong></td>
<td><strong>6</strong></td>
</tr>
</tbody>
</table>

*Note the total figure involves two jurisdictions.


For the most up to date information regarding native title applications refer to the NNTT Applications Search function on the National Native Title Tribunal (NNTT) website.

**Native Title Applications Map**

The [New South Wales, Australian Capital Territory and Jervis Bay Territory Native Title Applications and Determination Areas Map](http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx) (30 June 2014) [PDF 4.3 MB] highlights the boundaries of claimant applications recognised by the Federal Court in NSW, ACT and Jervis Bay. The map is updated quarterly and reflects applications and determinations to the most recent quarter.
5. Native Title Determinations

- Overview
- Native Title Determinations Maps

Overview
As at 22 January 2014, there are no native title determinations within the Australian Capital Territory.

For the most up to date information regarding native title determinations refer to the NNTT search determinations function within the National Native Title Tribunal (NNTT) website.

The Native Title Research Unit (NTRU) provides information about determinations in its monthly “What’s New” service, with links to the determination summaries on the National Native Title Tribunal (NNTT) website, relevant case law on the Australasian Legal Information Institute (Austlii) website and determinations information on the Agreements, Treaties and Negotiated Settlements (ATNS) Database website.

Native Title Determinations Maps
Native Title Applications and Determination Areas National Map (30 June 2014) [PDF 6.4 MB] – This map depicts the geographic extent of claimant applications as per the schedule of applications, federal court status, and determinations of native title as per the national native title register. Federal court reference numbers are used to show the determination areas. The map is updated quarterly; it reflects applications and determinations to the most recent quarter.

New South Wales, Australian Capital Territory and Jervis Bay Territory Native Title Applications and Determination Areas Map (30 June 2014) [PDF 4.3 MB] – This map highlights the boundaries of determinations of native title as per the national native title register in NSW, ACT and Jervis Bay. The map reflects applications and determinations to the most recent quarter.
6. Registered Native Title Bodies Corporate and Prescribed Bodies Corporate

- Overview
- Registered Native Title Bodies Corporate – Compliance Regime
- Native Title Corporations Website
- RNTBC and PBC Funding and Training Guides
- Map

Overview
Under ss 55-57 of the Native Title Act 1993 (Cth) (NTA) native title groups are required to nominate a ‘prescribed body corporate’ (PBC) to hold (as trustee) or manage (as agent) their native title following a determination of native title. PBCs are entered onto the National Native Title Register. At this point, the corporation becomes a registered native title body corporate (RNTBC).

In the Australian Capital Territory (ACT), as at 22 January 2014, there are no determinations of native title and therefore there are no RNTBCs.

Registered Native Title Bodies Corporate – Compliance Regime
The NTA and the Native Title (Prescribed Bodies Corporate) Regulations 1999 (PBC Regulations) require corporations to register under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth) (CATSI Act) if they are determined by the Federal Court to hold and manage native title rights and interests. The CATSI Act began on 1 July 2007 and the Native Title (Prescribed Bodies Corporate) Regulations were amended in 2011.

The Office of the Registrar of Indigenous Corporations (ORIC) supports and regulates the corporations incorporated under the CATSI Act. This support includes the provision of advice on such things as how to incorporate, training for members and office holders and good corporate governance.

Native Title Corporations Website
The Native Title Research Unit (NTRU) manages the Native Title Corporations website. This resource profiles all RNTBCs in Australia. The PBC profiles contain information (where available) about the organization, including:

- profile information: name, geographic details, contact details, and website;
- history of the organisation;
- administrative information: corporation number, corporation date, and links to relevant corporation documents
- native title determination information: links to NNTT determination details, and links to relevant case law;
- agreements information: links to Indigenous Land Use Agreements (ILUAs) details; and
- additional information: media releases.
The Native Title Corporations website also contains hyperlinks to information about relevant PBCs and RNTBs held within ORIC, the Australasian Legal Information Institute (Austlii), the National Native Title Tribunal (NNTT), and the Agreements, Treaties and Negotiated Settlements (ATNS) website.

RNTBC and PBC Funding and Training Guides
The NTRU has compiled Funding and Training Guides for RNTBCs and PBCs, also known as Toolkits. These Guides are also available on the Native Title Corporations website and have been created to assist native title holders to access information and resources regarding relevant funding and training opportunities. The need for such toolkits was highlighted in the 2007 Australian Government report ‘Structures and Processes of Prescribed Bodies Corporate’ (Recommendation 2).

There is no Funding and Training Guide for RNTBCs and PBCs for the ACT.

Map
Determinations and Native Title Prescribed Bodies Corporate Map [PDF 3.6 MB] – This map shows the areas covered by RNTBCs and also shows where PBCs are still to be created over determined areas. The map also contains a table which details the areas in each state by square kilometres in which registered PBCs exist as well as the areas by square kilometres in which PBCs are yet to be established. It is provided by the NNTT and updated to the most recent quarter.
7. Indigenous Land Use Agreements

- **Overview**

- **ILUA Maps and Table**

**Overview**
As at 22 January 2014, no ILUAs have been registered in the Australian Capital Territory.

For the most up to date search of registered ILUAs refer to the Register of Indigenous Land Use Agreements of the National Native Title Tribunal (NNTT) website. It is also possible to search for ILUA information on the Agreements, Treaties and Negotiated Settlements (ATNS) website.

**ILUA Maps and Table**
The Indigenous Land Use Agreements Map [PDF 1.4 MB] depicts the external boundaries of registered ILUAs as well as ILUAs in notification but not yet registered. The map also shows whether these ILUAs are area agreements or body corporate agreements. The map reflects applications and determinations to the most recent quarter.

The Registered Indigenous Land Use Agreements ILUA Updates [PDF 47.5 KB] and the Registered Indigenous Land Use Agreements Areas and Percentages Table complement the NNTT ILUA Map. The updates contain the name, tribunal number and agreement type and reflect applications and determinations for the most recent quarter, while the table lists the percentages of land and sea areas covered by ILUAs for each state and territory.
8. Future Acts

A future act is an act done after 1 January 1994 (the date of the commencement of the *Native Title Act 1993 (Cth)* (NTA)) which affects native title. If a native title claimant application satisfies the conditions of the registration test, the claimant gains the right to negotiate proposed developments over land and waters in the registered area. The right to negotiate does not allow claimants to stop a project going ahead and only applies to certain types of future acts, such as mining. Where a proposed future act meets the criteria set out in s 237 of the NTA, it may attract an expedited procedure. This means that the act may be validly done without negotiations if there are no objections to the act.

The *National Native Title Tribunal (NNTT)* administers the future act processes that attract the right to negotiate (generally future acts relating to mining) and provides information and support on future act related questions. The NNTT’s role includes mediating between parties, conducting inquiries and making future act determinations where parties cannot reach agreement.

States and territories may also establish their own right to negotiate regimes (see *alternative state native title regimes*). Such regimes need to mirror the NTA scheme and gain Commonwealth ministerial approval. The Australian Capital Territory Government has not enacted any alternative state native title regimes.

For the most up to date information on future acts see the future acts section of the NNTT website.
9. Other Native Title Agreements

The Agreements, Treaties and Negotiated Settlements (ATNS) Database provides details of agreements involving Aboriginal and Torres Strait Islander peoples. The ATNS Database contains information about agreements in the Australian Capital Territory (ACT) relating to joint management, shared responsibility agreements and land transfers. Links to these agreements are provided in the table below.

**Table 3 Agreements in the Australian Capital Territory**

<table>
<thead>
<tr>
<th>Name of Agreement</th>
<th>Type of Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement Between the Australian Capital Territory and ACT Native Title Claim Groups (2001)</td>
<td>Joint Management</td>
</tr>
</tbody>
</table>

10. Land Rights

- **Overview**
- **Legislation**
- **Indigenous owned or controlled land in the ACT**

**Overview**
The ACT Government has not implemented any Aboriginal land rights legislation, however, land in the Jervis Bay Territory has been granted under Commonwealth legislation to the Wreck Bay Aboriginal Community Council (WBACC).

**Legislation**

**Aboriginal Land Grant (Jervis Bay Territory) Act 1986 (Cth)**
The *Aboriginal Land Grant (Jervis Bay Territory) Act 1986 (Cth)*, provides for the WBACC to be granted title to land in the Jervis Bay Territory. In December 2003, the Act was amended by the *Aboriginal Land Grant (Jervis Bay Territory) Amendment Act 2003 (Cth)* in order to facilitate the operations of the WBACC.

The *Aboriginal Land Grant (Jervis Bay Territory) Act 1986 (Cth)* provides for the WBACC to apply to the relevant Minister for additional grants of Territory land, which may be declared Aboriginal Land if the relevant Minister considers it appropriate and is satisfied that the land is vacant Crown land; adjoins existing Aboriginal land; and is of significance to the Aboriginal community. As at November 2013, the Act is managed by the Department of the Prime Minister and Cabinet and the relevant Minister is the Prime Minister. Change of the Minister responsible can be sourced through the Department of the Prime Minister and Cabinet’s Parliamentary Information website.

The *Aboriginal Land Grant (Jervis Bay Territory) Act 1986 (Cth)* originally granted 403 hectares of land surrounding the Jervis Bay Village to the WBACC. In 1995, under the *Aboriginal Land Grant And Management (Jervis Bay Territory) Legislation Amendment Act 1995 (Cth)*, the National Park and Botanic Gardens were granted to the WBACC who leased them to the Director of National Parks for 99 years under the *Jervis Bay (Booderee) National Park and Botanical Gardens Land Transfer agreement*. These areas are jointly managed by the WBACC and Department of the Environment.

In January 1997 the WBACC made an application under the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986 (Cth)* with respect to all remaining Commonwealth land in the Jervis Bay Territory. Ninety-two per cent of the Jervis Bay Territory has been granted to WBACC.

**Indigenous owned or controlled land in the ACT**
The *Overcoming Indigenous Disadvantage: Key Indicators 2011 report (PDF 4.2MB)* contains information about Aboriginal and Torres Strait Islander owned or controlled land (excluding native title) as at September 2010. It was produced by the Steering
Committee of the Review of Government Service Provision and was published in August 2011.

The Steering Committee undertook a review of the Overcoming Indigenous Disadvantage report in 2012 and, in response, is proposing changes to the next edition of the report. The Committee has provided no timeframes for this update, as at 22 January 2014.
11. Land Acquisitions & Management

- **Overview**
- **ILC Land Acquisitions**
- **ILC Land Acquisitions Map**

**Overview**

The **Indigenous Land Corporation** (ILC) is an independent statutory authority of the Federal Government, established in 1995. Its enabling legislation is the *Aboriginal and Torres Strait Islander Act 2005 (Cth)*. The ILC fulfils two primary functions, as outlined below.

The **Land Acquisition Program** acquires and grants properties to Indigenous organisations to achieve Indigenous benefits. Applicants must be able to demonstrate the capacity to achieve and implement the land use to deliver ongoing benefits. Properties acquired by the ILC range from small urban blocks to larger rural properties.

The **Land Management Program** assists Indigenous landholders to deliver Indigenous benefits by building capacity to sustainably manage land and develop viable land uses. Projects are varied and may include the development of property management plans, purchasing plant and equipment or developing infrastructure to support viable enterprises on Indigenous-held land (e.g. fencing and construction).

**ILC Land Acquisitions**

As at 22 January 2014, the ILC had not purchased any properties in the Australian Capital Territory (ACT).


**ILC Land Acquisitions Map**

ILC provides the [ILC Land Acquisition Activity Map (PDF 1.2MB)](https) – This map provides details of the land acquisitions across the country including the ACT as at 8 April 2014. It highlights ILC owned and ILC granted land.
12. Indigenous Protected Areas

- Overview
- Indigenous Protected Areas
- Map of Indigenous Protected Areas

Overview
The Australian Government's Department of the Environment funds a range of programs to support Indigenous Australians caring for country including Indigenous Protected Areas.

An Indigenous Protected Area (IPA) is an area of Indigenous-owned land or sea where traditional owners have entered into an agreement with the Australian Government to promote biodiversity and cultural resource conservation. Indigenous Protected Areas make a significant contribution to Australian biodiversity conservation, making up nearly a third of Australia's National Reserve System.

Indigenous Protected Areas
As at 22 January 2014, there were no IPAs within the Australian Capital Territory. For further information refer to the Department of Environment: Indigenous Protected Areas Program website.

Map of Indigenous Protected Areas
Indigenous Protected Areas National Map (PDF 1.5 MB) – This map highlights the 65 nationally-declared Indigenous Protected Areas (as of June 2014), as well as Indigenous Protected Area Consultation Projects. The map also provides locations for IPA Consultation Projects.
13. Population Profile

- Overview
- Further Information

Overview
The 9 August 2011 census count calculated that, at the time of the census, the Australian Aboriginal and Torres Strait Islander population was 548,370 and the total population in Australia was 21,507,719.

The total population in the Australian Capital Territory (ACT) in 2011 was calculated to be 356,586 of which 5,157 or 1.5% were Aboriginal and Torres Strait Islander people. This data can be found in the Australian Bureau of Statistics (ABS) report on Population Distribution, Aboriginal and Torres Strait Islander Australians 2011.

In the ACT Closing the Gap Report 2013 (PDF 2.4MB) the ACT Government writes: ‘The number of Aboriginal and Torres Strait Islander people in the ACT increased 33.8 per cent from the 3,875 counted in 2006 and was also above the 3,548 people counted in 2001. This was the fastest rate of increase in any State or the Northern Territory and is also substantially above the 9.2 per cent increase between 2001 and 2006’ (p. 8).

Table 4 Indigenous Population Profile in the Australian Capital Territory, 2006 and 2011

<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>no.</td>
<td>%</td>
<td>no.</td>
</tr>
<tr>
<td>Aboriginal &amp; Torres Strait Islander people</td>
<td>5,156</td>
<td>1.4</td>
<td>5,185</td>
</tr>
<tr>
<td>Total</td>
<td>356,586</td>
<td>–</td>
<td>357,222</td>
</tr>
</tbody>
</table>


Further Information
The table below sets out the estimated resident Aboriginal and Torres Strait Islander and non-Indigenous population of Australia and of the ACT, as at 30 June 2006. This information is from the Australian Bureau of Statistics’ report “Experimental Estimates of Aboriginal and Torres Strait Islander Australians, June 2006”.
Table 5 Australian Capital Territory Experimental Estimate Resident Population, June 2006

<table>
<thead>
<tr>
<th></th>
<th>Indigenous no.</th>
<th>Non-Indigenous no.</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Capital Territory</td>
<td>4,282</td>
<td>329,837</td>
<td>334,119</td>
</tr>
<tr>
<td>Australia(^{(a)})</td>
<td>517,043</td>
<td>20,180,837</td>
<td>20,697,880</td>
</tr>
</tbody>
</table>

\(^{(a)}\) Includes Other Territories

14. **Sources**

1. **Native Title Legislation**

2. **Native Title Policy & Procedures**
   - Agreements, Treaties and Negotiated Settlements (ATNS) project: [http://www.atns.net.au/](http://www.atns.net.au/)

3. **Native Title Representative Body**
   - Agreements, Treaties and Negotiated Settlements (ATNS) project: [http://www.atns.net.au/](http://www.atns.net.au/)
   - Native Title Representative Bodies and Service Providers: [https://www.ntrb.net/](https://www.ntrb.net/)

4. **Native Title Applications**

5. **Native Title Determinations**

6. **Registered Native Title Body Corporate**

7. **Indigenous Land Use Agreements**
- AIATSIS, Native Title Research Unit: http://www.aiatsis.gov.au/ntru/

8. Future Acts

9. Other Native Title Agreements
- Agreements, Treaties and Negotiated Settlements (ATNS): http://www.atns.net.au/
- AIATSIS, Native Title Research Unit: http://www.aiatsis.gov.au/ntru/

10. Land Rights
- Agreements, Treaties and Negotiated Settlements (ATNS): http://www.atns.net.au/
- Department of the Prime Minister and Cabinet: http://www.dpmc.gov.au/

11. Land Acquisitions & Management

12. Indigenous Protected Areas

13. Population Profile