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# Native Title Information Handbook

**National**

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## 1. Introduction

The National Native Title Information Handbook collates publicly available resources and information relating to key areas of native title including: legislation, applications, determinations, future acts and Indigenous land use agreements; government agencies, policies and procedures; and native title organisations. The Handbook also includes information about cultural heritage and land rights legislation and related government agencies and other organisations; Indigenous Land Corporation land acquisitions; Indigenous protected areas and the Aboriginal and Torres Strait Islander population. See also the state and territory handbooks for information specific to each jurisdiction.

Information has been gathered through desktop research primarily from government agencies and other organisations that have a direct role in native title matters. A list of sources is provided at the end of the Handbook. Where technical terminology is used hyperlinks are provided to the National Native Title Tribunal glossary or other sources and wherever possible hyperlinks to the information sources are provided and readers are encouraged to refer to these sources for more detailed and current information.

## 2. Native title

Native title is the recognition in Australian law, under the [Native Title Act 1993 \(Cth\)](#) (NTA), that Aboriginal and Torres Strait Islander peoples had a system of law and ownership of their lands before European settlement. The historic High Court decision in [Mabo and Others v State of Queensland \(No 2\) \[1992\] HCA 23; \(1992\) 175 CLR 1](#) (*Mabo*) was the first recognition that native title continues to exist through the common law in Australia. The native title of a particular group is defined by the traditional laws and customs observed by that group of people.

[Section 223](#) of the NTA defines the native title rights and interests that are the subject of a determination of native title under [s 225](#) of the Act. In s 223(1), the term ‘native title or native title rights and interests’ means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where:

- the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders; and
- the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters; and
- the rights and interests are recognised by the common law of Australia.

The significance of the *Mabo* decision lies in the recognition that native title is a pre-existing right, inherent to Indigenous peoples by virtue of their distinct identity as first owners and occupiers of the land and their continuing systems of law. Native title is not a grant or right that is created by the Australian government nor is it dependent upon the government for its existence, although it is dependent on recognition by the common law in order to be enforceable in the Australian legal system. This distinguishes native title from other legislative land rights systems that operate in Australia whereby the government grants the title. Native title may be recognised in places where Aboriginal and Torres Strait Islander people continue to follow their traditional laws and customs and have maintained a link with their traditional country. Native title in each instance is recognised as having its source in, and deriving its content from, the laws of Aboriginal and Torres Strait Islander people. The rights and interests that are recognised as native title may vary from group to group, from one area to another, and may differ depending on what is claimed and what might be negotiated between all of the parties with an interest in the area under claim. Native title rights may include the exclusive possession, use and occupation of traditional country or non-exclusive native title rights such as the right to access and camp or the right to hunt and fish on traditional country. Native title rights do not extend over minerals or petroleum.

The *Mabo* decision recognised Aboriginal and Torres Strait Islander peoples' rights over their land, and also recognised the system of laws from which those rights are derived. As a result of the *Mabo* decision and the subsequent enactment of the NTA Aboriginal and Torres Strait Islander people can apply to the Federal Court of Australia to have their native title rights recognised under Australian law. Native title may be recognised in relation to vacant Crown land, state forests, national parks, public reserves, pastoral leases, beaches, foreshores and waters, government or other public land and Indigenous held land (under land rights legislation).

A body of native title jurisprudence has been developed through the decisions following *Mabo*, and includes the following principles:

- The High Court has interpreted the term 'traditional' in s 223(1)(a) of the NTA to require evidence of a society 'united in and by its acknowledgment and observance of a body of law and customs': [\*Yorta Yorta v Victoria\* \[2002\] HCA 58; \(2002\) 214 CLR 422](#) (*Yorta Yorta*). The body of law and customs and the manner in which it is acknowledged and observed may vary throughout the claimed area: [\*Akiba v Commonwealth\* \[2013\] HCA 33; \(2013\) 250 CLR 209](#) (*Akiba*); [\*Sampi v Western Australia\* \[2005\] FCA 777](#).
- The laws and customs that sustain native title must have a normative character and have enjoyed 'a continuous existence and vitality since sovereignty'. Although, they may change and evolve in their exercise and do not have to be identical to that earlier body of laws and customs: *Yorta Yorta*.

- Whether native title rights and interests have been extinguished is determined by applying the clear and plain intention test, which means that native title rights and interests will not be extinguished in the absence of a clear and plain intention to do so in the relevant statute: [Western Australia v Ward \[2002\] HCA 28; \(2002\) 213 CLR 1](#) (Ward); [Wik v Queensland \[1996\] HCA 40; \(1996\) 187 CLR 1](#) (Wik); *Akiba*; [Queensland v Congoo \[2015\] HCA 17](#) (Congoo). This contrasts with the test of ‘actually consistency’ in *Mabo*.
- Extinguishment is also determined by applying an inconsistency of rights analysis. Where the relevant statute does not contemplate native title, those rights will only be extinguished where the existing native title rights cannot be exercised without impacting on the exercise of the statutory right: *Wik*; *Ward*; *Akiba*; [Western Australia v Brown \[2014\] HCA 8; \(2014\) 253 CLR 507](#) (Brown).
- Legislation regulating the way in which native title rights and interests may be exercised is not inconsistent with their continued existence, and does not of itself establish extinguishment in the absence of a clear and plain intention to do so: [Yanner v Eaton \[1999\] HCA 53; \(1999\) 201 CLR 351](#); *Akiba*; [Karpany v Dietman \[2013\] HCA 47; \(2013\) 252 CLR 507](#).
- Certain pastoral and mining leases may coexist with native title rights and interests: *Wik*; *Brown*.
- Native title rights are characterised as a ‘bundle of rights’. Native title rights may be ‘non-exclusive’ or partially extinguished by extinguishing individual rights within the bundle. However, native title rights and interests cannot be reduced to a list of activities or ‘lesser rights’: *Ward*; *Akiba*
- The exercise of native title rights and interests can be suppressed without extinguishing those rights for the period of a grant of title, such as a mining lease, and revived at its expiration: *Brown*
- Native title rights, such as the right to take resources, can be used for any purpose, including trading or commercial purposes aimed at deriving income: *Akiba*; [Western Australia v Pilki \[2015\] FCAFC 186](#)

For further discussion on the requirements of connection see: [What’s needed to prove native title? Finding flexibility within the law on connection](#).

See also [Native title](#) on the [Agreements, Treaties and Negotiated Settlements](#) website.

## 3. Legislation and reforms

### Overview

The [Native Title Act 1993 \(Cth\)](#) (NTA) is the Australian Government's legislative response to the High Court decision in [Mabo v Queensland \(No 2\) \[1992\] HCA 23; \(1992\) 175 CLR 1](#) which recognised Indigenous Australians' rights and interests in land and waters according to their own traditional laws and customs under [s 223](#). The NTA provides the legal principles for the recognition of native title, the processes involved in having native title recognised and the role and responsibilities of the different bodies involved in this process.

Since it was introduced the NTA has been the subject of numerous reviews and legislative amendments. The annual native title reports of the Aboriginal and Torres Strait Islander Social Justice Commissioner provide detailed information about these reviews, reform processes and related legislative amendments, see: [Native Title Reports](#) (1994-2012) and [Social Justice Reports](#) (2013-) on the [Australian Human Rights Commission](#) website for more information. A review of the NTA was undertaken in 2015 by the Australian Law Reform Commission, see below for an overview or read the full report [here](#). A brief overview is also provided below.

### Native title legislation

#### **[Native Title Act 1993 \(Cth\)](#)**

In summary, the [Native Title Act 1993 \(Cth\)](#) provides for the recognition and protection of native title, establishes a mechanism for the determination of native title claims, and provides for the validation of past acts and intermediate period acts that were invalidated because of the existence of native title. The NTA also establishes a mechanism for regulating future activities affecting native title.

### Native title amendment acts

#### **[Native Title Amendment Act 1998 \(Cth\)](#)**

The [Native Title Amendment Act 1998](#) (Cth) was the Australian Government's legislative response to the High Court's decision in [The Wik Peoples v The State of Queensland & Ors; The Thayorre People v The State of Queensland & Ors \[1996\] HCA 40; \(1996\) 187 CLR 1](#) (*Wik*). In this ruling, the High Court of Australia found that the granting of pastoral leases did not necessarily extinguish all native title rights and interests that might otherwise exist. This meant that the Court held that native title rights could coexist on land held by pastoral leaseholders and further that if there was an inconsistency between native title and non-native title rights then the non-native title rights prevail. These amendments changed significant aspects of the NTA including: giving the states and territories powers to validate intermediate period acts and authorise previous exclusive possession acts; introducing the registration test for

native title applications; confirming past extinguishment; enabling state and territory governments to set up their own right to negotiate regime and increasing the emphasis on agreement making.

In introducing the legislation, the Howard Government stated that the amendments were needed to provide 'certainty' after the *Wik* decision. However, many groups argued that the amendments resulted in the reduction of only Indigenous peoples' rights. See the links below for more information:

#### [Aboriginal and Torres Strait Islander Social Justice Commissioner's:](#)

- [Native Title Report 1997](#)
- [Native Title Report 1998](#)
- [Native Title Report 1999](#)

#### [Aboriginal and Torres Strait Islander Commission:](#)

- [Proposed Amendments to the \*Native Title Act 1993\* Issues for Indigenous Peoples \(1996\)](#)
- [The Ten Point Plan on Wik and Native Title: Issues for Indigenous Peoples \(June 1997\)](#)
- [Native Title Amendment Bill 1997: Issues for Indigenous Peoples \(October 1997\)](#)
- [Report on the Senate Amendments to the Native Title Amendment Bill \(May 1998\)](#)
- [Detailed Analysis of the \*Native Title Amendment Act 1998\* \(October 1998\)](#)

#### ***Native Title Amendment Act 2007 (Cth) and the Native Title Amendment Act (Technical Amendments) Act 2007 (Cth)***

In 2005 the Commonwealth Attorney-General announced plans to reform the native title system. These reforms sought to address issues relating to the costs and time taken to resolve native title claims and focused on: the native title claims resolution process; native title representative bodies and prescribed bodies corporate and the funding of respondents to native title claims. One of the stated aims of these reforms was to promote the resolution of native title claims through agreement. The [Native Title Amendment Act 2007 \(Cth\)](#) and [Native Title Amendment \(Technical Amendments\) Act 2007 \(Cth\)](#) introduced a number of changes including: allowing non-Indigenous corporations (native title service providers) to perform the functions of representative Indigenous bodies; limiting the requirement on prescribed bodies corporate to consult with native title holders about decisions concerning their lands and restricting who is eligible to receive respondent funding assistance and provide greater safeguards against misuse of the scheme. See the [Aboriginal and Torres](#)

[Strait Islander Social Justice Commissioner's: 2007 Native Title Report](#) for more information. See also the publications listed below:

- [Frith, A. \(with Ally Foat\). 2008. 'The 2007 Amendments to the \*Native Title Act 1993 \(Cth\)\*: Technical Amendments or Disturbing the Balance of Rights?' \*Native Title Research Monograph\*, no. 3/2008](#)
- [French, R. 2008. 'Plus ca change, plus c'est le meme chose? – The 2007 Amendments to the \*Native Title Act\*', \*Land, Rights, Laws: Issues of Native Title\*, vol. 3, no. 12, February 2008](#)

### ***Native Title Amendment Act 2009 (Cth)***

The [Native Title Amendment Act 2009 \(Cth\)](#) amended the NTA to: give the Federal Court full control over the management of native title claims and the power to rely on an agreed statement of facts between the parties; give the Federal Court the power to make consent orders about matters beyond native title (and thereby facilitate broader agreements); provide for the application of amendments to the [Evidence Act 1995 \(Cth\)](#) to native title proceedings; and change the provisions for recognition of NTRBs; and the extension, variation and reduction of NTRB areas. See the [Aboriginal and Torres Strait Islander Social Justice Commissioner's 2009 Native Title Report](#) for more information.

### ***Native Title Amendment Act (No. 1) 2010 (Cth)***

The [Native Title Amendment Act \(No. 1\) 2010 \(Cth\)](#) created a new future act process relating to the construction of public housing, staff housing, and public facilities within communities on Indigenous held land (specifically ss 24AA, 24AB, 24JAA, 222 and 253). This amendment was passed to support the National Partnership Agreement on Remote Indigenous Housing. See the [Aboriginal and Torres Strait Islander Social Justice Commissioner's 2011 Native Title Report](#) for more information.

Proposed amendments to the NTA

### ***Native Title Amendment (Reform) Bill 2014 (Cth)***

In March 2014, the [Native Title Amendment \(Reform\) Bill 2014 \(Cth\)](#) was introduced to the Senate. This Bill addresses two areas relating to native title claimants: the barriers claimants face in making the case for a determination of native title rights and interests; and procedural issues relating to the future act regime. The Bill proposes a range of fundamental changes to the NTA, including:

- a presumption that claimants have connection with the lands claimed and that there has been continuity in the claim group's observance of traditional laws and customs

- that any substantial interruption in a claimant groups' relationship with their land be disregarded where this interruption has been caused by a State, Territory or non-Indigenous party or person
- the term 'traditional' be redefined to mean existing laws and customs that remain identifiable over time
- clarify that native title rights may include commercial rights and interests;
- clarify the meaning of 'negotiation in good faith' within the 'Right to Negotiate' procedure, and require that the party which requests that an arbitral body make a determination prove that the negotiation proceedings have been in good faith
- extend the 'Right to Negotiate' procedure to future acts within off shore places
- allow parties to agree to disregard prior extinguishment and
- disregard prior extinguishment of native title rights where the extinguishing act is the creation of a national, state, or territory park.

These provisions are designed to increase the fairness of the right to negotiate regime for native title claimants by strengthening one of the few legal safeguards for claimants under the future act provisions. See the [Native Title Amendment \(Reform\) Bill 2014 Explanatory Memorandum](#) for more information. At the time of writing, the Native Title (Reform) Bill 2014 remains before the Senate, see [Native Title Amendment \(Reform\) Bill 2014](#) on the Australian Parliament website for updates on this Bill. Many of the policies raised in this Bill are currently being considered by the Australian Law Reform Commission Review, see below. Senator Siewert placed a similar Bill before the Senate in 2012, this Bill has lapsed.

### Australian Law Reform Commission Review of the Native Title Act

In June 2013 the Commonwealth Attorney-General released draft terms of reference for an [Australian Law Reform Commission](#) (ALRC) inquiry into the operation of certain aspects of the NTA. Following a period of public consultation the final terms of reference required the ALRC to inquire and report on two areas of native title law:

- connection requirements relating to the recognition and scope of native title rights and interests and
- authorisation and joinder provisions of the NTA.

The ALRC inquiry commenced in August 2013. The ALRC released an [Issues paper](#) (March 2014) and [Discussion paper](#) (October 2014).

In June 2015 the Law Reform Commission published its report, '[Connection to Country: Review of the Native Title Act 1993 \(Cth\)](#)'. The Report makes five central recommendations for amendments to s 223(1) in order to clarify the definition of native title to provide that:

- Traditional laws and customs under which native title rights and interests are possessed may adapt, evolve or otherwise develop.
- Acknowledgement of traditional laws and the observance of traditional customs need not have continued substantially uninterrupted since sovereignty.
- It is not necessary to establish that each generation since sovereignty has acknowledged and observed traditional laws and customs.
- A society united in and by its acknowledgement and observance of traditional laws and customs need not have continued in existence since prior to sovereignty.
- Native title rights and interests may be transmitted or transferred between Aboriginal and Torres Strait Islander groups in accordance with the traditional laws and customs.

Additional recommendations and findings were made, including that:

- s 62(1)(c) and s 190B(7) which reference a ‘traditional physical connection’ be repealed as they appear to be in potential conflict with the substantive law regarding connection
- a presumption of continuity was not necessary given the recommendations to amend the definition of native title
- the NTA should provide that the Court may draw inferences from contemporary evidence that the claimed rights and interests are possessed under traditional laws and observed customs by the claimant group
- clarify that native title rights may be commercial and non-commercial; and may include a right to trade
- s 251B be amended to provide that a claim group may authorise an applicant either by a traditional decision-making process or a process agreed to and adopted by the group.

For more information and the full list of recommendations go to the [Australian Law Reform Commission native title inquiry](#) webpage.

## Related legislation

### ***Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth)***

The [Corporations \(Aboriginal and Torres Strait Islander\) Act 2006 \(Cth\) \(CATSI Act\)](#) governs Aboriginal and Torres Strait Islander corporations and many of its provisions align with corporate governance standards and corporations law. Registration under the CATSI Act is mostly voluntary. However, the NTA (and [PBC Regulations](#)) require corporations determined by the Federal Court to hold or manage native title rights and interests to register under the CATSI Act as Aboriginal and Torres Strait Islander

corporations. These corporations are referred to as prescribed bodies corporate (PBCs). Once a PBC is entered on the National Native Title Register, it becomes a Registered Native Title Body Corporate (RNTBC). The CATSI Act is administered by the [Office of the Registrar of Indigenous Corporations](#) (ORIC). The CATSI Act includes provisions for native title and RNTBCs to ensure there is appropriate interaction between the NTA and CATSI Act. See the [native title resources](#) section of the ORIC website for more information and also section 7 below.

### ***Courts and Tribunals Legislation Amendment (Administration) Act 2013 (Cth)***

The [Courts and Tribunals Legislation Amendment \(Administration\) Act 2013 \(Cth\)](#) amended the NTA to facilitate the transfer of the National Native Title Tribunal's appropriations, staff and some of its administrative functions to the Federal Court of Australia. Under these changes the National Native Title Tribunal continues to operate as an independent statutory authority, but is serviced from within the Federal Court administration rather than as a prescribed agency under the FMA Act.

### ***Tax Laws Amendment (2012 Measures No. 6) Act 2013 (Cth)***

The [Tax Laws Amendment \(2012 Measures No. 6\) Act 2013 \(Cth\)](#) amends the [Income Tax Assessment Act 1936 \(Cth\)](#) and the [Income Tax Assessment Act 1997 \(Cth\)](#) to clarify that certain native title payments and benefits are not subject to income tax and that certain capital gains from native title rights are not taxable.

### ***Charities Act 2013 (Cth)***

The [Charities Act 2013 \(Cth\)](#) amends the definition of a 'charitable purpose' to account for registered native title bodies corporate (RNTBCs), potentially increasing the number of RNTBCs that can claim not-for-profit status.

See also sections 10, 11 and 12 below for information about Commonwealth legislation relating to cultural heritage, land rights and the Indigenous Land Corporation. Section 4 below provides information about the native title organisations review.

## **Policy**

The [White Paper on Developing Northern Australia](#) was released by the federal Government in June 2015, and sets out a policy framework for developing business in the top end of Australia over the next 20 years. The report was developed based on community views expressed through the Select Committee on Northern Australia's report 'Pivot North — Inquiry into the Development of Northern Australia' and submissions to the Government's Green Paper on Developing Northern Australia. The federal Government, together with the Western Australian, Northern

Territory and Queensland governments, seeks to address the impediments to development in Northern Australia through a broad approach, including:

- supporting the native title system (\$110 million a year over the next four years) with the aspiration of finalising all existing native title claims within a decade
- more efficient native title processes that create more certainty for investors and opportunities for native title claimants and holders (through the COAG Indigenous land review)
- \$20.4 million to better support native title holders engage with potential investors
- consult on options to use exclusive native title rights for commercial purposes (through the COAG Indigenous land review)
- consulting on new models to manage native title funds for development
- exploring mechanisms to support long term leasehold arrangements for exclusive native title holders.

For more information and to download the paper, see the Australian Government's [White Paper on Developing Northern Australia website](#). A Developing Northern Australia Conference is scheduled to be held in Darwin in June 2016: see the [conference website](#) for more information.

## 4. Organisations involved in the native title system

### Overview

There are a number of organisations involved in the native title system in Australia. This section identifies the roles and responsibilities of organisations directly involved in the administration of the NTA as well as other organisations with responsibilities for related legislation and programs including corporate governance of native title corporations, and the provision of research and services within the native title sector. The operation of the NTA is also annually reviewed by the Aboriginal and Torres Strait Islander Social Justice Commissioner.

See sections 4, 6 and 7 below and each of the state and territory handbooks for information about native title representative bodies, native title service providers; and registered native title bodies corporate and related reviews. See sections 10, 12 and 14 below for information about Australian government agencies with responsibilities relating to Indigenous heritage protection, Indigenous land acquisitions and management and Indigenous protected areas.

## Federal Court of Australia

Under the NTA, the [Federal Court of Australia](#) (FCA) is responsible for the management and determination of all applications relating to native title in Australia. The FCA has wide powers in native title cases including: deciding who may be a party to a native title case; adjourning proceedings to allow the parties to negotiate; and making a determination that native title is to be held in trust.

On 1 July 2012, the Federal Court assumed responsibility for the corporate administration of the National Native Title Tribunal. The Tribunal and the Federal Court entered into a Memorandum of Understanding to preserve the operational independence of the Tribunal. The [Courts and Tribunals Legislation Amendment \(Administration\) Act 2013 \(Cth\)](#) amended the NTA to transfer some of the functions of the National Native Title Tribunal to the FCA. These amendments gave legislative effect to the Machinery of Government changes which had occurred administratively the previous year.

The NTA sets out the role of the FCA in native title matters. The [Federal Court of Australia Act 1976 \(Cth\)](#) sets out the approach of the Court to all cases. The Court has established a National Native Title Co-ordination Unit to provide advice to the Chief Justice and other Judges on management of native title cases. For more information see the [FCA website](#).

The FCA develops a list of priority native title cases within the pending native title case load. The Court considers many factors in deciding the order in which to deal with native title cases including: whether the case involves a matter of the public interest; whether the resolution of the case will impact on other cases; the level of future act activity; and the age of the case. A list of priority native title cases is published on the FCA website, see [Priority native title cases](#).

The FCA also hosts a database of Australian and selected international materials material relating to native title and land claims, see the [Native Title Infobase](#) section of the FCA website.

## National Native Title Tribunal

The [National Native Title Tribunal](#) (NNTT) was established by the NTA and came into operation in 1994. The NNTT is an independent statutory authority within the Commonwealth Attorney-General's portfolio. As noted above, on 1 July 2012, the Federal Court assumed responsibility for the corporate administration of the NNTT. The NNTT is responsible for a wide range of functions and services under the NTA including:

- assisting people at any stage of proceedings brought under the NTA, including providing assistance in the preparation of native title applications

- applying the registration test to native title claimant applications and registering applications that meet all the registration test conditions
- notifying individuals, organisations, governments and the public of native title applications and Indigenous land use agreements
- administering future act processes that attract the right to negotiate under the NTA and mediating between parties to assist them to reach agreement
- making arbitral decisions about some future act matters
- assisting parties to negotiate Indigenous land use agreements
- maintaining the Register of Native Title Claims, the National Native Title Register (the register of determinations of native title) and the Register of Indigenous Land Use Agreements.

The NNTT is not a court and does not decide whether native title exists or does not exist, but it does make arbitral decisions (future act determinations). The [\*Courts and Tribunals Legislation Amendment \(Administration\) Act 2013 \(Cth\)\*](#) amended the NTA so that the Federal Court is now responsible for the mediation of native title claims and claims-related Indigenous Land Use Agreements (ILUAs). All of the NNTT's other existing statutory functions remained with the NNTT. See the [NNTT](#) website for more information and sections 5, 6, 8 and 9 below for information about native title applications, native title determinations, Indigenous land use agreements and future acts.

## Attorney-General's Department

The Commonwealth Attorney-General is responsible for the administration of the NTA. The parts of the NTA relating to native title representative bodies and prescribed bodies corporate are administered by the Minister for Indigenous Affairs (see below). The [Native Title Unit](#) within the [Attorney-General's Department](#) (AGD) has a range of native title-related responsibilities including:

- advising the Australian Government on the operation of the NTA
- managing federal government involvement in native title mediation and litigation
- developing and implementing native title policy and legislative proposals
- facilitating co-ordination between Commonwealth, state and territory governments on native title matters
- compiling evidence on the state of the native title system and impact of legislation and policy reforms.

The AGD also provides assistance to native title respondents through the [native title respondent funding scheme](#) and the [native title officer funding scheme](#). The AGD also administers the [native title anthropologist grants program](#) which is designed to:

attract junior anthropologists to native title work and encourage senior anthropologists to remain within the native title system.

Together with the Minister for Indigenous Affairs the Commonwealth Attorney-General co-hosted a meeting of state and territory ministers with native title responsibilities in August 2014. This was the first time such a meeting had been held since 2009. The Communiqué from the most recent Native Title Ministers' Meeting (December 2014) is available on the Attorney-General's website: [Communiqué: Native Title Ministers' Meeting](#). For more information see the [Native title section](#) of the AGD website.

## Department of the Prime Minister and Cabinet

Following the Federal election in September 2013, responsibility for Indigenous policy, programmes and services was transferred from the (then) Department of Families, Housing, Community Services and Indigenous Affairs to the [Indigenous Affairs Group](#) within the [Department of the Prime Minister and Cabinet](#) (PM&C). The [Prime Minister](#) is supported by the [Minister for Indigenous Affairs](#) and the [Parliamentary Secretary Assisting the Prime Minister of Indigenous Affairs](#). The Prime Minister established the [Prime Minister's Indigenous Advisory Council](#) in September 2013. The role of the Council is to provide advice to the Australian Government on Indigenous affairs. See section 4 below for information about the [review of native title organisations](#).

From 1 July 2014, the Australian Government introduced the [Indigenous Advancement Strategy](#) (IAS) replacing over 150 individual programmes and activities with five broad-based programmes: Jobs, Land and Economy; Children and Schooling; Safety and Wellbeing; Culture and Capability and Remote Australia Strategies. Native title sits within the [Jobs, Land and Economy](#) programme which supports a wide range of activities relating to: Indigenous owned land, land tenure and administration; native title agreement making and native title corporations' capacity. PM&C supports Indigenous native title claimants or holders through funding the network of native title representative bodies (NTRBs) and native title service providers (NTSPs). See also the [speech by the Minister for Indigenous Affairs at the National Native Title Conference 2014](#). Indigenous heritage protection sits within the [Culture and Capability](#) programme. Information about native title and related matters can be accessed by using the search tool on the [Indigenous Affairs](#) section of the PM&C website (there is no central webpage providing access to native title related information). See also [www.indigenous.gov.au/](http://www.indigenous.gov.au/).

## The Treasury

In 2010, [the Treasury](#) released a discussion paper [Native Title, Indigenous Economic Development and Tax \(PDF 236KB\)](#). The discussion paper outlined the interaction between native title, Indigenous economic development and the income

tax system and considered options for reform in this area. In March 2013 the Australian Government established the [Taxation of Native Title and Traditional Owner Benefits and Governance Working Group](#) to examine the tax treatment of native title and other land-related payments. The Working Group was chaired by the executive Director of the Revenue Group within the Treasury and reported in July 2013 and the Government released a response in August 2013. Several matters arising from the Working Group's report were referred to the Government's [Review of the roles and functions of native title organisations](#), see section 4 below.

## Australian Human Rights Commission

The [Australian Human Rights Commission](#) (AHRC) is an independent statutory authority that works to protect and promote the human rights of all people in Australia. The position of the [Aboriginal and Torres Strait Islander Social Justice Commissioner](#) within the AHRC was established in 1993. Under the NTA the Aboriginal and Torres Strait Islander Social Justice Commissioner (the Commissioner) is required to prepare an annual report on the operation of the NTA and its effect on the exercise and enjoyment of human rights by Aboriginal peoples and Torres Strait Islanders. The Commissioner's [Native Title Reports](#) provide detailed information about native title review and reform processes, legislative amendments and related matters. Since 2013 the Commissioner's Native Title Report has been included in the Social Justice Report, see the [Social Justice and Native Title Reports](#) section of the AHRC website.

## Indigenous Property Rights Network

In May 2015, Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda, and Human Rights Commissioner, Tim Wilson, co-convened a roundtable on Indigenous property rights on Yawuru country in Broome. The roundtable was attended by Aboriginal and Torres Strait Islander people from areas including the Torres Strait, the Gulf of Carpentaria, Cape York, Sydney, the Kimberley and Darwin.

The roundtable came after the consultations on property rights undertaken by the Commissioners in the Kimberley in late 2014.

The key themes emerging from the Roundtable were:

- fungibility and native title
- financing economic development within the Indigenous Estate
- governance, business development support and succession planning
- compensation
- promoting Indigenous peoples right to development.

In response to the roundtable, the AHRC proposed a process for moving forward which involves:

- The formation of three expert working groups bringing together experts and relevant stakeholders to outline current knowledge and gaps in the research on the five key themes outlined above through literature reviews, and identify key factors in enabling economic development. The working groups would focus on governance, finance and risk, and land title and tenure.
- Issue specific discussion papers to underpin consultations and engagement.
- Roundtables to develop the agenda for a new dialogue between Aboriginal and Torres Strait Islander peoples and government about property rights and economic development. This would involve:
  - roundtables in different regions to consider the research and progress dialogues with government
  - specific identified sector roundtables, e.g. with the banking and finance sector, other stakeholders (the mining sector and pastoralists), and business development specialists
  - a national roundtable of experts on land use and tenure arrangements in Australia and in comparable situations internationally
  - tripartite dialogues with state and territory and federal government representatives to address state and territory specific issues.

The AHRC proposed that the process be led by an Indigenous Steering Committee facilitated by the Aboriginal and Torres Strait Islander Social Justice Commissioner and the Human Rights Commissioner.

A second roundtable was held in Sydney in December 2015. A reference group and three expert working groups were established, and Attorney-General Senator the Hon George Brandis made an announcement committing funding to the work of the Indigenous Property Rights Network.

For more information, see the AHRC's [Social Justice and Native Title Report 2015](#) and the AHRC's [website](#).

## Council of Australian Governments

The [Council of Australian Governments](#) (COAG) is the peak inter-governmental forum in Australia. In 2008 COAG agreed to six targets to address the disadvantage faced by Indigenous Australians in life expectancy, child mortality, education and employment. While these targets do not relate directly to native title, some of the activities of COAG are relevant to the native title sector, including the [Investigation into Indigenous land use and administration](#) which was announced in October 2014. The [Investigation into Indigenous Land Administration and Use](#) report was delivered on 11 December 2015. It was authored by the Senior Officers Working Group, made

up of members representing the Commonwealth, New South Wales, Northern Territory, Queensland, South Australian and Victorian governments. The Expert Indigenous Working Group ensured the prominent place of Indigenous perspectives throughout the process. The report identifies five key areas of focus and a set of recommendations for governments to better enable Indigenous people to use their land to drive economic development. These canvass:

- gaining efficiencies and improving effectiveness in the process of recognising rights
- supporting bankable interests in land
- improving the process for doing business on Indigenous land
- investing in the building blocks of land administration
- building capable and accountable land holding and representative bodies.

For more information and the full list of recommendations go to the [COAG Investigation into Indigenous land administration and use](#) webpage.

## Productivity Commission

The [Productivity Commission](#) provides secretariat and research support to the inter-governmental Steering Committee for the Review of Government Service Provision (Steering Committee). In 2002 COAG commissioned the Steering Committee to produce a regular report against key indicators of Indigenous disadvantage. The [Overcoming Indigenous Disadvantage Report](#) provides information about outcomes across a range of indicators and includes information and statistics about Indigenous owned and controlled land and land affected by native title determinations and Indigenous land use agreements. The most recent report was published in 2014. See the [Overcoming Indigenous Disadvantage](#) section of the Productivity Commission's website for more information.

The Productivity Commission also released a report in March 2014 relating to the regulatory approvals involved in mineral and energy resource extraction. This report includes information about native title, Indigenous held land and an overview of Indigenous cultural heritage regimes in Australia. See [Mineral and Energy Resource Exploration Inquiry](#) on the Productivity Commission's website for more information.

## National Native Title Council

The [National Native Title Council](#) (NNTC) is an alliance of NTRBs and NTSPs from around Australia. It was established after the Aboriginal and Torres Strait Islander Commission (ATSIC) was abolished, and was formally incorporated in 2006. The mission of the NNTC is to provide a national voice for native title representative bodies (NTRBs) and native title service providers (NTSPs) on matters of national

significance affecting the rights of Aboriginal and Torres Strait Islander people to protect and maintain ownership of land. See the [NNTC website](#) for more information.

## Agreements, Treaties and Negotiated Settlements Project

The [Agreements, Treaties and Negotiated Settlements Project](#) (ATNS) is hosted by the University of Melbourne and began in 2002 as an Australian Research Council (ARC) Linkage project to examine treaty and agreement-making with Indigenous Australians and the nature of the cultural, social and legal rights encompassed by past, present and potential agreements and treaties. The ATNS project has involved a further two ARC research projects and number of other research collaborations which have produced an extensive range of publications, see [ATNS publications](#). In addition the ATNS team have created a comprehensive online database of information relating to agreements between indigenous people and others in Australia and overseas. The database includes background information on each agreement; links to related agreements, organisations, signatories, legislation, case law, events; a glossary of relevant terminology as well as direct access to published and on-line resources. Hyperlinks to entries within the ATNS database are provided throughout the state and territory native title information handbooks. See the [ATNS website](#) for more information.

## Australian Institute of Aboriginal and Torres Strait Islander Studies

The [Australian Institute of Aboriginal and Torres Strait Islander Studies](#) (AIATSIS) hosts the [Native Title Research Unit](#) (NTRU). The NTRU began in 1993 and is supported by a funding agreement with the Department of the Prime Minister and Cabinet. The NTRU supports the native title sector through a range of activities including: monitoring outcomes and developments in native title; providing independent assessment of the impact of policy and legal developments; conducting longitudinal research and case study research designed to feed into policy development; providing theoretical background and recommendations for policy development. The NTRU co-convenes the annual [National Native Title Conference](#) with a local native title representative body (NTRB) or native title service provider (NTSP). The NTC is hosted by the local traditional owners upon whose country the conference is held. The NTRU also co-ordinates workshops, produces [native title publications and resources](#) and provides a native title collections service. See the AIATSIS website for information about [current projects](#).

## National Congress of Australia's First Peoples

The [National Congress of Australia's First Peoples](#) is an independent, national Indigenous representative body which advocates for the rights Aboriginal and Torres Strait Islander people. The Congress advocates on issues relating to Indigenous peoples' land rights, native title, cultural heritage and intellectual property, as well as

[Constitutional recognition](#). See the [Country](#) section of the Congress website for more information.

## The Aurora Project

[The Aurora Project](#) (Aurora) was established in 2006 as a result of recommendations from report on the professional development needs of native title representative body lawyers. Aurora provides training, professional development, internships, placements, scholarships and other services to support staff working in native title organisations. Some Aurora programs are also open to prescribed bodies corporate representatives. Aurora also produces resources for NTRBs and PBCs. See the [native title](#) section of the Aurora website for more information.

# 5. Native title representative bodies

## Overview

Native Title Representative Bodies (NTRBs) and Native Title Service Providers (NTSPs) are organisations appointed under the NTA to represent Indigenous Australians within their designated region on native title matters. NTRBs and NTSPs are recognised by the Australian Government. As at 31 January 2015 there were ten NTRBs and five NTSPs. Most NTRBs existed prior to the commencement of the NTA and represent the interests of Aboriginal and Torres Strait Islander people in relation to a wide range of issues including: land rights; protecting Indigenous cultures and languages; community development and infrastructure; and promoting economic development.

In a region where no NTRB has been appointed, an NTSP may be funded to perform the same functions as a NTRB. As of 31 January 2015 NTSPs provide native title services exclusively in Victoria, New South Wales and South Australia, and along with NTRBs in Queensland and Western Australia. The Northern Territory is unique in only having NTRBs.

NTRBs and NTSPs play a central role in the native title system. Their functions include: facilitation and assistance; certification; dispute resolution; notification; agreement making; internal review and other functions conferred by the NTA or by any other law (see [s 203B](#) of the NTA). While the majority of native title claimants use the services provided by NTRBs or NTSPs, they are not compelled to use the services of a representative body in pursuing matters related to native title.

The following table provides a listing of NTRBs and NTSPs as at 31 January 2015. It includes hyperlinks to the NTRB's or NTSP's websites.

**Table 1: Native title representative bodies & native title service providers in Australia**

State/Territory	Corporation name	Type
Australian Capital Territory	<a href="#">NTSCORP</a>	NTSP
New South Wales	<a href="#">NTSCORP</a>	NTSP
Northern Territory	<a href="#">Central Land Council</a> <a href="#">Northern Land Council</a>	NTRB NTRB
Queensland	<a href="#">Cape York Land Council</a> <a href="#">Carpentaria Land Council Aboriginal Corporation</a> <a href="#">North Queensland Land Council</a> <a href="#">Queensland South Native Title Services</a> <a href="#">Torres Strait Regional Authority</a>	NTRB NTRB NTRB NTSP NTRB
South Australia	<a href="#">South Australian Native Title Services</a>	NTSP
Victoria	<a href="#">Native Title Services Victoria</a>	NTSP
Western Australia	<a href="#">Central Desert Native Title Services Ltd</a> <a href="#">Goldfields Land and Sea Council</a> <a href="#">Kimberley Land Council</a> <a href="#">South West Aboriginal Land and Sea Council</a> <a href="#">Yamatji Marlpa Aboriginal Corporation</a>	NTSP NTRB NTRB NTRB NTRB

Source: [http://www.nntt.gov.au/Maps/RATSIB\\_map.pdf](http://www.nntt.gov.au/Maps/RATSIB_map.pdf)

## Map

The NNTT's [Representative Aboriginal/Torres Strait Islander body areas map \(PDF 663KB\)](#) shows the geographic areas covered by native title representative bodies (NTRBs) and native title service providers (often both commonly called NTRBs) across Australia.

## Review of the roles and functions of native title organisations

In 2012 the then Minister for Families, Community Services and Indigenous Affairs announced a review of the role and functions of native title representative bodies (NTRBs) and native title service providers (NTSPs). The purpose of this [review of native title organisations](#) was to evaluate whether these organisations continue to meet the needs of the native title system, particularly the needs of native title holders after claims have been resolved. The review was completed by [Deloitte Access Economics](#). The final review report was released by the Australian Government in May 2014: see [Final Report of the Review of roles and functions of Native Title Organisations \(PDF 1.9MB\)](#). The Review found that NTRBs and NTSPs continue to be heavily involved in supporting native title holders and that the demands on the native title system are not expected to decrease significantly in the near future. As a result of the review NTRBs and NTSPs have been asked to align their work more closely to the Australian Government's IAS and focus on how they can support PBCs path to independence. The Review proposed that the efficiency and effectiveness of the native title system largely depends on the ability of NTRBs and NTSPs to

continue supporting native title holders and their RNTBCs. More information about the review is available in the [Native title](#) section of Deloitte's website. See also the [Minister for Indigenous Affairs](#) and the [Jobs, Land and Economy section](#) of the Department of Prime Minister and Cabinet website for updates on the Australian Government's review response.

## 6. Native title applications

### Overview

Native title applications are made to the Federal Court under the NTA. There are three types of native title applications: [claimant applications](#), [compensation applications](#) and [non-claimant applications](#). See [Native title claims](#) on the NNTT website for information about native title applications. Once a native title claimant application is filed, the Federal Court refers it to the Registrar so the application can be registration tested. The outcome of the [registration test](#) determines whether the native title claim group will get certain procedural rights while their claim is active in the Court, see the NNTT publication [A guide to understanding the requirements of the registration test \(PDF 678KB\)](#).

As at 31 December 2015 there had been a total of 2,162 native title applications, comprising 1,766 claimant applications, 38 compensation applications and 355 non-claimant applications. As at 31 December 2015, there was a total of 367 active applications, the majority of which are in the Northern Territory (see Table 2 below for a summary of the type of applications by state/territory). For up to date information about native title applications and registered native title claimant applications use the [Search applications and determinations](#) or [Search Register of native title claims](#) tools on the NNTT website.

A native title claimant application (sometimes referred to as a native title claim or native title determination application) is an application for the legal recognition of the rights and interests held by Indigenous Australians over a particular area of land or waters, according to traditional laws and customs. A compensation application may be made by Aboriginal or Torres Strait Islander people seeking compensation for the loss or impairment of their native title rights or interests. Non-claimant applications are made by a person who does not claim to have native title to an area, but who seeks a determination as to whether native title does or does not exist in a particular area.

**Table 2: Summary of active native title applications in Australia**

State/Territory	Claimant	Compensation	Non-claimant	Total
Australian Capital Territory	0	0	0	0
New South Wales	20	0	7	27
Northern Territory	137	1	4	142
Queensland	68	0	15	83
South Australia	19	1	1	21
Tasmania	0	0	0	0
Victoria	3	0	0	3
Western Australia	88	4	0	92
<b>TOTAL</b>	<b>334</b>	<b>6</b>	<b>27</b>	<b>367</b>

Source: <http://www.nntt.gov.au/searchRegApps/NativeTitleClaims/Pages/default.aspx> at 31 December 2015.

## Maps

The NNTT's national [Native title claimant applications map \(PDF 649KB\)](#) shows claimant application areas as per the Schedule of Applications – Federal Court. See also the NNTT's national [Register of Native Claims Map](#) (PDF, 592KB) which shows claimant applications that have complied with the registration test and/or have been determined; and the [Determinations of native title and claimant applications map \(PDF, 1.5MB\)](#) as per the Schedule of Applications – Federal Court. See state and territory handbooks for links to the NNTT's state/territory and regional maps.

## 7. Native title determinations

### Overview

A determination of native title is a decision made by the Federal Court of Australia, the High Court of Australia or another recognised body that native title does or does not exist in relation to a particular area of land or water (the determination area). A determination may be reached through three processes:

- Consent: the parties reach an agreement, usually through mediation. A consent determination may be made by the court or a recognised body.
- Litigation: when an application is contested, the parties put their case in a trial process for determination by a judge.
- Unopposed: when an application is not contested, the court or a recognised body may make an unopposed determination.

A determination may be a result of one or many of these processes. If the Court decides that native title exists in relation to a particular area of land or water, the Court must also specify which people hold native title and rights, the nature and extent of those rights and interests, the relationship between native title rights and interests and any other interests, and whether native title rights and interests operate to the exclusion of others. Some determinations may be conditional upon a future event occurring, such as requiring the registration of an Indigenous land use agreement (ILUA) or the establishment of a prescribed body corporate (PBC). The determinations will not be registered on the National Native Title Register (NNTR) until the conditions have been met.

The NNTR contains information about determinations of native title by the Federal Court, High Court, recognised State/Territory bodies, or other determinations of, or in relation to, native title decisions of courts or tribunals. Since amendments to the NTA in 2009 there has been an increased focus within the native title sector on the benefits of resolving native title matters through negotiation and agreements. In Western Australia and Victoria the state governments have also sought to resolve native title issues through alternative settlement processes (see the Western Australia and Victoria Native Title Information Handbooks for more information).

As at 31 December 2015, there were 350 native title determinations on the NNTR, comprising 303 claimant determinations, 2 compensation determinations and 45 non-claimant determinations. See Table 3 below for a summary of native title determination types by state/territory. Native title had been found to exist in all or part of the determination areas in 248 of the 263 claimant determinations, see Table 4 below.

**Table 3: Summary of native title determinations in Australia (NNTR)**

State/Territory	Claimant determination	Compensation determination	Non-claimant determination	Total
Australian Capital Territory	0	0	0	0
New South Wales	11	1	39	51
Northern Territory	88	0	0	88
Queensland	117	0	6	123
South Australia	25	1	0	26
Tasmania	0	0	0	0
Victoria	7	0	0	7
Western Australia	57	0	0	57
<b>TOTAL*</b>	<b>303</b>	<b>2</b>	<b>45</b>	<b>350</b>

\*Note the total figure is overall determinations, not the sum of state/territory figures, as two determinations involve two jurisdictions.

Source: <http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-National-Native-Title-Register.aspx> at 31 December 2015

**Table 4: Summary of native title claimant determination outcomes in Australia (NNTR)**

State/Territory	Native title exists in the entire determination area	Native title exists in parts of the determination area	Native title does not exist	Total
Australian Capital Territory	0	0	0	0
New South Wales	4	4	3	11
Northern Territory	6	80	2	88
Queensland	83	27	7	117
South Australia	0	25	0	25
Tasmania	0	0	0	0
Victoria	0	4	3	7
Western Australia	18	37	2	57
<b>TOTAL</b>	<b>111</b>	<b>176*</b>	<b>16*</b>	<b>303*</b>

\*Note the total figure is overall determinations, not the sum of state/territory figures, as two determinations involve two jurisdictions.

Source: <http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-National-Native-Title-Register.aspx> at 31 December 2015

For up to date information about native title determinations use the [Search applications and determinations](#) or the [Search national native title register](#) tools on the NNTT website. [AIATSIS's Native Title Research Unit \(NTRU\)](#) also provides information about native title determinations in its monthly 'What's New' service and includes information about native title claimant determinations in its [Registered Native Title Bodies Corporate Summary](#) compiled from data provided by the NNTT every two months.

### Native title determinations maps

The NNTT national [Native title determinations map \(PDF 1.3MB\)](#) shows determination areas as per the National Native Title Register. This map includes a table of determination outcomes, including a summary of the area (sq km) covered by native title determinations. See state and territory handbooks for links to the NNTT's state/territory and regional maps.

### More information

The Productivity Commission's [Overcoming Indigenous Disadvantage: Key Indicators 2014](#) report (using data provided by the NNTT) includes information about the proportion of land where native title has been found to exist wholly or partially; or

has been extinguished (as at 30 June for 2004-2013), see [Chapter 9 \(PDF,5.5MB\)](#) (section 9.2 and Table 9A.2.3).

## 8. Registered native title bodies corporate

### Overview

Under ss 55-57 of the [Native Title Act 1993 \(Cth\)](#), 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 that native title exists. A nominated PBC is entered onto the National Native Title Register and at this point the corporation becomes known as a registered native title body corporate (RNTBC). RNTBCs and PBCs are often commonly both referred to as PBCs.

The NTA and the [Native Title \(Prescribed Bodies Corporate\) Regulations 1999 \(Cth\)](#) (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 [Office of the Registrar of Indigenous Corporations](#) (ORIC) is an independent statutory office holder with responsibility for administering the CATSI Act. ORIC supports and regulates corporations that are incorporated under the CATSI Act. This includes advising PBCs and RNTBCs about how to operate effectively; providing training and education for directors, members and key staff in corporate governance, ensuring that corporations comply with the law, and intervening where needed. See [Native Title Resources](#) on the ORIC website for more information. Indigenous Corporation details are also available on the ORIC website using the corporations search tool.

The PBC Regulations were amended in 2011 to implement a number of recommendations arising from a review of PBCs. See the [Native Title Corporations](#) website for more information.

As at 17 March 2015, there were 139 RNTBCs in Australia, see Table 5 below for a summary by state/territory.

**Table 5: Summary of registered native title corporations in Australia**

State/Territory	RNTBCs
Australian Capital Territory	0
New South Wales	6
Northern Territory	19
Queensland	70
South Australia	15
Tasmania	0
Victoria	4
Western Australia	34
<b>TOTAL</b>	<b>148</b>

Source: <http://aiatsis.gov.au/publications/products/registered-native-title-bodies-corporate-prescribed-bodies-corporate-summary> using data provided by the NNTT at 21 December 2015

For up to date information about native title claimant determinations and PBCs/RNTBCs use the [NNTT Search applications and determinations](#) tool on the NNTT website. The [NTRU](#) also provides information about PBC/RNTBCs in its monthly 'What's New' service; its '[Registered Native Title Bodies Corporate Summary](#)' compiled from data provided by the NNTT; and on the [Native Title Corporations](#) website (see below).

### National native title determinations and PBC map

The NNTT [Prescribed Bodies Corporate Map \(PDF 1.1MB\)](#) shows determined areas covered by PBCs and also shows where PBCs are still to be nominated over determined areas. This document includes a table of the areas in each state/territory (in square kilometres) covered by native title determinations.

### Native title corporations website

The NTRU at AIATSIS manages the [Native Title Corporations](#) website, a resource for RNTBCs and for those engaging with them. It provides information about: legislation and policies, events, resources and publications, training and running a RNTBC. Information about individual RNTBCs is provided in detailed [PBC profiles](#) (including links to PBC websites where available). See the [Native Title Corporations](#) website for more information.

## 9. Future acts

### Overview

A [future act](#) is a proposed activity on land or waters that may affect native title rights and interests. Section 227 NTA sets out that: ‘an act affects native title if it extinguishes the native title rights and interests or if it is otherwise wholly or partly inconsistent with their continued existence, enjoyment or exercise’. Examples of future acts include the grant of a mining tenement, building public infrastructure, services or facilities and the compulsory acquisition of land. A future act is invalid to the extent it affects native title unless it complies with certain provisions in the NTA (see Subdivisions D-M of Division 3 of the [NTA](#)). These provisions include that a future act will be valid if parties to an Indigenous Land Use Agreement (ILUA) consent to it being done and details of the agreement are on the NNTT’s [Register of ILUAs](#).

The future act process provides registered native title applicants and native title holders with specified rights, known as [procedural rights](#) from the time a claim is registered. The type of procedural rights which the native title group can exercise will vary (from the right to comment, be consulted, object or negotiate) depending on the type of future act that is being proposed. Generally the [right to negotiate](#) applies to future acts such as mining, exploration, prospecting, gas and petroleum exploration or extraction.

The [NNTT](#) administers the future act processes that attract the right to negotiate 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 when parties cannot reach agreement. 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. For more information see the [future acts section](#) of the NNTT website.

States and territories may also legislate to establish their own right to negotiate regimes, known as ‘alternative procedures’ or an [alternative to 'right to negotiate'](#). Such regimes must mirror the NTA regime and gain Commonwealth ministerial approval and currently operate in New South Wales and South Australia, see [State and Territory alternative to 'right to negotiate'](#) on the Attorney-General's Department website for more information. See the state and territory handbooks for more information about future act management in each jurisdiction. See also the [annual reports](#) section of the Federal Court website (from 2012-2013 incorporating the NNTT) for an annual review of future act matters.

## Future act applications

A [future act determination application](#) refers to an application for a determination about whether a future act, attracting the right to negotiate may be done, subject to conditions, or must not be done. A [future act expedited procedure objection application](#) refers to an objection lodged by a native title party who considers that the expedited procedure does not apply to the proposed future act. See the [future acts section](#) of the NNTT website for more information.

As at 31 December 2015 there had been a total of 24,917 future act applications in Australia, the majority of which have been lodged in Western Australia. See Table 6 below for a summary by state/territory. Use the NNTT [Future act applications and determinations](#) search tool to find information about particular applications.

**Table 6: Summary of future act applications in Australia**

State/Territory	Future act determination applications	Future act expedited procedure objection applications	Total future act applications
Australian Capital Territory	0	0	0
New South Wales	7	6	13
Northern Territory	3	311	314
Queensland	105	1,884	1,989
South Australia	1	0	1*
Tasmania	0	0	0
Victoria	10	0	10
Western Australia	2,928	19,662	22,590
<b>TOTAL</b>	<b>3,054</b>	<b>21,863</b>	<b>24,917</b>

\*See the South Australia NTIH for information about the state's alternative future act regime.

Source: <http://www.nntt.gov.au/searchRegApps/FutureActs/Pages/default.aspx> at 31 December 2015

## Future act determinations

As at 31 December 2015 there had been a total of 3,551 future act determinations in Australia. Table 7 below provides a summary of the number of future act determinations by state/territory. Use the NNTT [Future act applications and determinations](#) search tool to find information about particular determinations.

**Table 7: Summary of future act determinations in Australia**

State/Territory	Future act determinations
Australian Capital Territory	0
New South Wales	11
Northern Territory	185
Queensland	158
South Australia	1
Tasmania	0
Victoria	13
Western Australia	3,183
TOTAL	3,551

Source: <http://www.nntt.gov.au/searchRegApps/FutureActs/Pages/default.aspx> at 31 December 2015

## Future act agreements

A future act agreement is an agreement made under [s 31](#) of the NTA with native title parties about an activity that may affect native title. Once an agreement has been made the parties are required to lodge a copy of the agreement with the NNTT. In some cases parties may make agreement information public and information about (some of) these future act agreements are available on the ATNS website, see [Future act agreements \(Native Title Act\)](#).

# 10. Indigenous land use agreements

## Overview

An [Indigenous Land Use Agreement](#) (ILUA) is a voluntary and legally binding agreement between a native title group or groups and others (including mining companies, government and pastoralists). An ILUA is most commonly used where a proposed act is incompatible with determined, or claimed (but yet to be determined) native title rights. The requirements for establishing an ILUA are set out within the NTA, see the [Indigenous land use agreement](#) section of the NNTT website for more information. The parties involved in and the process for making an ILUA vary depending on the situation. Under the NTA there are three types of ILUAs: area agreements, body corporate agreements and alternative procedure agreements. As at 30 April 2015 only area agreements and body corporate agreements have been registered on the [Register of Indigenous land use agreements](#). Area agreements are made between the native title group for the agreement area and other parties. An area agreement can be made even where there is no registered native title claimant for, or where no determination of native title has been made over, the agreement area. Body corporate ILUAs are agreements that involve registered native title body

corporates and can only be made after a determination recognising native title has been made and where the determination of native title covers the entire area of the land or waters subject to the ILUA.

Area and Body Corporate Agreements can cover a range of issues including future acts that are to be done; the surrender of native title rights and interests; the relationship between native title rights and interests and other rights and interests; compensation; or other matters such as cultural heritage, employment and economic development opportunities. Once negotiations between parties are completed, an application for the ILUA to be registered by the Native Title Registrar (the Registrar) is lodged by the parties. The Registrar notifies certain people with interests in the affected area (including commonwealth, state, territory and local government; any representative body in the area; and other persons including members of the public considered appropriate) that the ILUA has been lodged. Depending on the type of ILUA, parties have either one month or three months in which to object to the registration. A Register of ILUAs is established under [s 199A](#) of the [NTA](#). The conditions of registration for an ILUA differ depending on the type of agreement. See the [Registration of ILUAs](#) section of the NNTT website for more information.

As at 31 December 2015, there were 1038 registered ILUAs in Australia, 777 of these are area agreements and 261 are body corporate agreements. The majority of ILUAs relate to areas of Queensland. Table 8 below provides a summary of the number and type of ILUAs by state/territory.

**Table 8: Summary of Indigenous land use agreements in Australia**

State/Territory	Area agreement	Body corporate agreement	Total
Australian Capital Territory	0	0	0
New South Wales	10	0	10
Northern Territory	99	8	107
Queensland	515	153	668
South Australia	74	31	105
Tasmania	0	0	0
Victoria	49	6	55
Western Australia	31	62	93
<b>TOTAL</b>	<b>777</b>	<b>261</b>	<b>1,038</b>

Source: <http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-Register-of-Indigenous-Land-Use-Agreements.aspx> at 31 December 2015

For up to date ILUA information use the [Register of Indigenous land use agreements](#) search tool on the NNTT website. The [NTRU](#) also provides information about ILUAs in its monthly [‘What’s New’](#) service.

## ILUA map

The NNTT [Indigenous Land Use Agreements Map \(PDF 2.02MB\)](#) shows the external boundaries of registered ILUAs (area agreements and body corporate agreements) as well as ILUAs in notification but not yet registered. It also includes a summary table of the area and proportion of land covered by ILUAs in each jurisdiction.

## More information

The Productivity Commission's [Overcoming Indigenous Disadvantage: Key Indicators 2014](#) report (using data provided by the NNTT) includes information about the total area of registered ILUAs (as at 30 June for 2004-2013), see [Chapter 9 \(PDF,5.5MB\)](#) (section 9.2 and Table 9A.2.5).

# 11. Cultural heritage

## Overview

In general Australia's states and territories are responsible for the protection of Indigenous cultural heritage in line with their original constitutional responsibilities. All states and territories have enacted laws to protect Indigenous heritage. However there is considerable variation in the scope and nature of these laws and several jurisdictions are currently undertaking review and reform processes. In recent years some of these laws have been reformed to take account of the rights and interests of native title holders. See state and territory handbooks for more information.

At the Commonwealth level Aboriginal and Torres Strait Islander heritage is protected under the [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)](#) (EPBC), which was amended to include heritage provisions in 2004; and the [Aboriginal and Torres Strait Islander Heritage Protection Act 1984 \(Cth\)](#) (ATSIHIP Act). The Minister for the Environment is responsible Commonwealth Minister for these Acts. In addition the [Aboriginal Land Rights \(Northern Territory\) Act 1976 \(Cth\)](#), includes provisions for the protection of sacred sites (see the Northern Territory handbook for more information). Moveable cultural heritage, including Indigenous cultural objects is protected under the [Protection of Movable Cultural Heritage Act 1986 \(Cth\)](#) which is currently under review.

In 2009 the Australian Government began a consultation process to consider proposed reforms to the ATSHIP Act, see: [reform of Indigenous heritage protection laws](#). This process has occurred in parallel with a related review of the EPBC Act which concluded in 2009, see [EPBC Act independent review](#). This review recommended that the EPBC Act be amended to include provisions relating to the protection of Aboriginal and Torres Strait Islander heritage. In 2011 the Australian Government released its response to the review agreeing to consider this recommendation. As at January 2015 no further announcements have been made in

regard to these proposed reforms. See the [heritage section](#) of the Department of Environment for more information.

In November 2013 the Australian Government announced reviving the [Australian Heritage Strategy](#) as a key heritage priority. The Minister for the Environment released a draft of the Australian Heritage Strategy for public comment in April 2014. The [Draft Australian Heritage Strategy](#) and [public submissions](#) are available on the Department of the Environment website.

In December 2014 the Minister for the Arts announced a review of the [Protection of Movable Cultural Heritage Act 1986 \(Cth\)](#) which is expected to report in September 2015. See the [Review of the Protection of Moveable Cultural Heritage Act](#) section of the Attorney-General's Department (Ministry for the Arts) website for more information.

Note that the Department of Environment's [Indigenous Heritage Program](#) (IHP) which provided funding to support the identification, conservation, and promotion of heritage places important to Aboriginal and Torres Strait Islander people was transferred to the [Department of the Prime Minister and Cabinet](#) in November 2013. On 1 July 2014, the [Indigenous Advancement Strategy](#) replaced the IHP.

## Legislation

### ***Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)***

The [Aboriginal and Torres Strait Islander Heritage Protection Act 1984 \(Cth\)](#) gives the responsible Commonwealth Minister power to protect significant Aboriginal and Torres Strait Islander areas or objects which may be under threat of injury or desecration. Following an application from an Indigenous person or group seeking the protection of an area or object, the Minister may make a declaration to protect and preserve the area or object. It is an offence to contravene such a declaration.

The Act is designed as a 'last resort' where state or territory laws have not provided effective protection. The legislation does not exclude or limit the operation of the law of a state or territory that is capable of operating concurrently with the Act. Under the Act, the Minister cannot make a declaration without consulting the appropriate State Minister as to whether, under a State law, the area or object is effectively protected from threat, injury or desecration. If the Minister makes a declaration, they must take reasonable steps to notify people who are likely to be substantially affected by the declaration as soon as possible.

### ***Environment Protection and Biodiversity Conservation Act 1999 (Cth)***

The [Environment Protection and Biodiversity Conservation Act 1999 \(Cth\)](#) (EPBC Act) establishes the [National Heritage List](#), which includes Indigenous as well as

natural and historic places that are considered to be of outstanding heritage value to the nation. The Act also establishes the [Commonwealth Heritage List](#), which comprises Indigenous, natural and historic places located on Commonwealth lands and waters or under Australian Government control, that are identified by the Minister for the Environment (the Minister) as having Commonwealth heritage values. The [Australian Heritage Council](#) provides expert advice to the Minister on heritage matters assessing nominations for National and Commonwealth heritage listing. The Council includes two Indigenous heritage experts. The EPBC Act also established the [Indigenous Advisory Committee](#) which provides advice to the Minister on the operation of the EPBC Act. See the [Indigenous heritage](#) section of the Department of Environment website and the [Culture and Capability programme](#) on the Department of Prime Minister and Cabinet website for more information.

### ***Protection of Movable Cultural Heritage Act 1986 (Cth)***

The [Protection of Movable Cultural Heritage Act 1986 \(Cth\)](#) protects moveable cultural heritage (objects) including objects relating to Aboriginal and Torres Strait Islander people. See the [moveable cultural heritage](#) section of the Attorney-General's Department (Ministry for the Arts) website for more information.

### **More information**

The [NTRU](#) has compiled a [Native title and Indigenous cultural heritage bibliography \(PDF 772kB\)](#), as part of its [Native title and cultural heritage research project](#). See the NTRU website for more information about Indigenous heritage protection in Australia including links to relevant publications.

## **12. Land rights**

### **Overview**

Australia does not have a national land rights regime for Aboriginal people and Torres Strait Islanders. As described above, land rights are rights to land that are created by governments under Commonwealth, state or territory laws, whereas native title refers to pre-existing Indigenous rights and interests according to Aboriginal and Torres Strait Islander laws and customs.

While the struggle for land rights has been ongoing since European settlement, the modern land rights movement is generally considered to have begun in 1963 when Yolgnu people of north-east Arnhem Land (Northern Territory) presented a [bark petition](#) to the Australian Parliament protesting an excision from their reserve lands at Yirrkala and seeking recognition of their land rights. In 1966 Gurindji people in the Northern Territory started the [Wave Hill walk-off](#) as a protest against unfair wages and bad working conditions and demanded the return of some of their traditional lands. In 1971, Yolgnu people sought an injunction against mining activity on their

lands claiming that they enjoyed sovereign rights over this land ([\*Milirrpum v Nabalco Pty Ltd \(1971\) 17 FLR 141\*](#), also known as the Gove Land Rights Case). In the Northern Territory Supreme Court, Justice Blackburn acknowledged that the claimants observed a system of laws that regulated relations with, and use of the land. However, Justice Blackburn held that such laws could not be recognised under Australian Common Law and stated that if native title had existed it had been extinguished.

In response to the decision of Justice Blackburn, the Federal Government commissioned the Counsel for the plaintiffs in the Gove case, A.E Woodward to inquire into Aboriginal land rights. The findings and recommendations of this inquiry formed the basis of the legislative regime of land rights introduced in the Northern Territory, through the [\*Aboriginal Land Rights \(Northern Territory\) Act 1976 \(Cth\)\*](#) (ALRA). This was the first legislation in Australia to establish a land claim process by which traditional owners could claim various areas of land that were listed as available for claim. Prior to this the South Australian Government had enacted the [\*Aboriginal Lands Trust Act 1966 \(SA\)\*](#) which established the [Aboriginal Lands Trust](#) for the purpose of holding land in trust for the benefit of the Aboriginal people of South Australia. In addition to the ALRA the Australian Government has also passed laws relating to land in Victoria, [\*Aboriginal Land \(Lake Condah and Framlingham Forest\) Act 1987 \(Cth\)\*](#) and the ACT, [\*Aboriginal Land Grant \(Jervis Bay Territory\) Act 1986 \(Cth\)\*](#). The [Northern Land Council](#) has further information about the history of land rights in Australia, see [Northern Land Council: Modern Land Rights Movement Chronology](#).

The process by which land may be claimed, or granted or transferred varies both across and within jurisdictions depending upon the particular legislative regime. The areas recognised as available for claim are often very limited and a grant of title is often preconditioned on the leasing back of the land to the government for use as a national park or for other public purposes. Accordingly, many Indigenous people cannot gain recognition of their land rights under these regimes. The state and territory handbooks provide information about relevant legislation in each jurisdiction.

## Indigenous owned or controlled land in Australia

Information about Indigenous owned or controlled land is compiled by the Productivity Commission as part of its [Overcoming Indigenous Disadvantage](#) reports. The most recent report, [Overcoming Indigenous Disadvantage: Key Indicators 2014](#), was released on 19 November 2014. Chapter 9 (section 9.2 and Table 9A.2.1) of this report provides information about Indigenous owned or controlled land (which includes Indigenous owned or controlled land that is freehold, leasehold, crown, license, Aboriginal Deed of Grant in Trust or not stated tenure). Table 9 below provides a summary of Indigenous owned or controlled land in Australia.

**Table 9: Estimated Indigenous owned or controlled land in Australia (ILC data at 30 April 2014) <sup>(a)</sup>**

Land tenure type	Unit	Total
Freehold (alienable)	km <sup>2</sup>	1,9061.2
Freehold (inalienable – Granted or transferred under QLD ALA or TSILA)	km <sup>2</sup>	11,724.9
Leasehold (Crown Lease)	km <sup>2</sup>	226,204.1
Leasehold (other than Crown Lease)	km <sup>2</sup>	44.5
License	km <sup>2</sup>	63.6
Aboriginal Deed of Grant in Trust	km <sup>2</sup>	12,616.8
Tenure not stated (includes Freehold inalienable)	km <sup>2</sup>	968,171.8
<b>Total Indigenous land</b>	km <sup>2</sup>	1,237,886.8
Total land area of Australia (b)	km <sup>2</sup>	7,692,024.0
Indigenous land as a proportion of total land area of Australia	%	16.1
<b>Number of land parcels (c)</b>	no.	<b>13,592</b>

<sup>(a)</sup> The ILC makes no warranties as to the currency or accuracy of this information. Non-ILC land information data date - 2000.

<sup>(b)</sup> Total land area figures based on GeoScience Australia's published "Area of Australia - States and Territories" data as calculated from GeoScience Australia's GEODATA Coast 100K 2004 product.

<sup>(c)</sup> Parcels are individual geographic features rather than legal entities. That is, a legal parcel may be dissected into two or more parcels by, for example, a road, and are represented in these data as two parcels while being only a single legal land entity.

– Nil or rounded to zero.

Source <http://www.pc.gov.au/research/ongoing/overcoming-indigenous-disadvantage/key-indicators-2014/09-key-indicators-2014-chapter9.pdf>

## 13. ILC land purchases

### Overview

In 1993 the Australian Government announced a three-stage response to [Mabo & others v Queensland \(No 2\) \[1992\] HCA 23; \(1992\) 175 CLR 1:](#)

- o establishing native title legislation to recognise and protect native title in Australia [Native Title Act 1993 \(Cth\)](#)
- o setting up the [National Native Title Tribunal](#) (NNTT) to assist people to resolve native title issues
- o establishing a land fund (the Aboriginal and Torres Strait Islander Land Fund) and the [Indigenous Land Corporation](#) (ILC) to assist Aboriginal and Torres Strait Islander people buy and manage land.

The ILC was established in 1995 on the commencement of the [Land Fund and Indigenous Land Corporation \(ATSIC Amendment\) Act 1995 \(Cth\)](#). The ILC is a [Corporate Commonwealth Entity](#) under the [Public Governance, Performance and](#)

[Accountability Act 2013 \(Cth\)](#) and is a portfolio agency of the [Department of Prime Minister and Cabinet](#). Since 2005 the ILC has been administered under the [Aboriginal and Torres Strait Islander Act 2005 \(Cth\)](#) (see part 4A of the Act). The ILC receives its primary funding from the Aboriginal and Torres Strait Islander Land Account. See below for information about a recent review of the ILC and proposed legislative amendments.

The ILC is accountable to Parliament through the [Minister for Indigenous Affairs](#), and it is this Minister who appoints the [ILC Board](#). The ILC Board is responsible for all policy and land purchase decisions and is not under the direction of the Minister. The ILC's purpose is to assist Indigenous people to acquire and manage land to achieve economic, environmental, social and cultural benefits. The ILC acquires and grants properties to Indigenous organisations and assists Indigenous landholders to sustainably manage land and develop viable and sustainable land uses including: developing property management plans, purchasing equipment, or developing infrastructure.

The ILC has recently made changes to its program delivery structure, combining its land acquisition and management functions into a single program, [Our Land Our Future](#). This replaces the previous model of an annual call for either Land Acquisition or Land Management applications. The new approach provides greater flexibility to work in partnership with Indigenous land holders to develop projects that deliver and maximize sustainable benefits. Indigenous organisations can contact the ILC at any time to discuss projects; there are no longer specific 'calls' for applications or ideas.

For information about the ILC's national, state and territory land strategies, see the [Corporate documents](#) section of the ILC website. The ILC's current strategy documents cover the period 2013-2017. The ILC also has policies relating to [Indigenous heritage](#) (PDF 2.78MB) and contributing to [native title](#) settlements.

The ILC has a nominated role as a default PBC under s 57 of the NTA, following the regulation amendments made in 2011. To date, this provision has not been enacted.

## ILC land purchases

As at 30 June 2015, the ILC had purchased 251 properties covering 6,149,154.33 hectares. See Table 10 below for a summary of ILC land purchases by state/territory. The state/territory handbooks provide information about land transfers to Indigenous organisations. For up to date information see the ILC website: [ILC Land Purchased](#).

**Table 10: ILC land purchases**

State/Territory	No. of ILC land purchases	Hectares
Australian Capital Territory	0	0
New South Wales	58	250,641.18
Northern Territory	18	841,201.55
Queensland	56	1,477,383.50
South Australia	25	834,747.47
Tasmania	8	18,536.62
Victoria	33	4,970.69
Western Australia	53	2,721,673.31
<b>TOTAL</b>	<b>251</b>	<b>6,149,154.33</b>

Source: <http://www.ilc.gov.au/Home/Land-Purchased/Land-Purchased-All-States> at 30 June 2015

## Map

See the [land purchased](#) section of the ILC website to view a map of land purchases.

## ILC review and proposed legislative amendments

In December 2013, the Australian Government announced a review of the ILC and Indigenous Business Australia (IBA). The Government appointed Ernst & Young to complete the review and a copy of the review report is available on the IBA website: [Review of the Indigenous Land Corporation and Indigenous Business Australia \(PDF, 1.34GB\)](#). In response to this review the ILC Board released an exposure draft of a Bill known as the [Stronger Land Account Bill](#). In June 2014, the Aboriginal and Torres Strait Islander Amendment (A Stronger Land Account) Bill 2014 was introduced to Parliament and was subsequently referred to the [Community Affairs Committee](#) of the Senate for inquiry and report. The submission process closed in August 2014 and the Committee tabled its report on 25 March 2015 recommending that the Senate not pass the Bill. For information about this inquiry go to the [Community Affairs Committee Aboriginal and Torres Strait Islander Amendment \(A Stronger Land Account\) Bill 2014](#) website.

## More information

See also the [Australian Law Reform Commission's Review of the Native Title Act 1993 Discussion Paper 82](#) (Chapter 3: The Land Fund and social justice package) on the [Australian Law Reform Commission](#) website.

## 14. Indigenous protected areas

### Overview

An Indigenous Protected Area (IPA) is an area of Indigenous-owned land (or sea) where Indigenous landowners have entered into a voluntary agreement with the Australian Government for the purposes of promoting biodiversity and cultural resource conservation. The declaration of an IPA over Indigenous owned lands results in that land being part of the [National Reserve System](#). The IPA program is administered by the [Indigenous Affairs Group](#) within the Department of the Prime Minister and Cabinet.

In 2007 to celebrate the 10<sup>th</sup> anniversary of the IPA program the Australian Government published [Growing Up Strong: the first 10 years of Indigenous Protected Areas in Australia](#). During the first 10 years of the program 23 IPAs were declared. As of November 2015 there are 72 declared IPAs throughout Australia (see Table 11 below). There are an additional 24 IPA consultation projects being undertaken by landowners and the Department of the Prime Minister and Cabinet. A full list of IPAs and more information about the program is available on the [Indigenous Protected Areas](#) website.

**Table 11: Indigenous protected areas in Australia**

State/Territory	No. of IPAs
Australian Capital Territory	0
New South Wales	10
Northern Territory	12
Queensland	13
South Australia	19
Tasmania	8
Victoria	5
Western Australia	14
<b>TOTAL</b>	<b>72</b>

Source: <https://www.dpmc.gov.au/indigenous-affairs/about/jobs-land-and-economy-programme/indigenous-environment-branch/project-locations> at November 2015

### Map of Indigenous protected areas

The [Indigenous Protected Areas Map](#) shows declared IPAs and IPA consultation projects throughout Australia.

## 15. Aboriginal & Torres Strait Islander population

### Overview

The [Australian Bureau of Statistics](#) conducts a census of the Australian population every five years. This is known as the [Census of Population and Housing](#). It collects information about the number and characteristics of people who are in Australia on Census night and the dwellings in which they live. The most recent Census was conducted on 9 August 2011. See Table 12 below and the ABS catalogue number 2075.0 [Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2011](#) for more information.

**Table 12: Aboriginal & Torres Strait Islander population (Census 2006 and 2011)**

	Australia 2006		Australia 2011	
	No.	%	No.	%
Aboriginal & Torres Strait Islander population	455,028	2.3	548,369	2.5
Total population	19,855,287		21,507,719	

Source: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/2075.0> Table 3b: 2011 Census Counts Indigenous Status 2001-2011 (by state and territory) at 19 July 2012

The ABS estimates that the 2011 Census did not count around 17 per cent of Aboriginal and Torres Strait Islander Australians (see ABS Catalogue no. 2940.0: [Census of Population and Housing - Details of Undercount, 2011](#) on the ABS website for details). To address this problem of undercounting the ABS adjusts the Census count to derive the estimated resident Indigenous population (see ABS Catalogue no. 3238.0.55.001: [Estimates of Aboriginal and Torres Strait Islander Australians, June 2011](#) on the ABS website). The estimated resident Aboriginal and Torres Strait Islander population in Australia at 30 June 2011 was 669,881.

### More information

The ABS has a number of publications providing further information about Australia's Aboriginal and Torres Strait Islander population, see: [Aboriginal and Torres Strait Islander peoples](#) section of the ABS website. The Centre for Aboriginal Economic Policy Research (CAEPR) at the Australian National University has also published a number of research papers relating to Census data and the Aboriginal and Torres Strait Islander population; see [Census papers](#) on the [CAEPR](#) website.

## 16. Sources

### 1. Native title legislation and reforms

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>
- Australian Government ComLaw: <http://www.comlaw.gov.au/Home>
- Australian Human Rights Commission: <https://www.humanrights.gov.au/>
- Australian Law Reform Commission (Review of the NTA): <http://www.alrc.gov.au/inquiries/native-title-act-1993>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- Office of the Registrar of Indigenous Corporations (ORIC): <http://www.oric.gov.au/>
- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>

### 2. Organisations involved in the native title system

- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Attorney-General's Department: <http://www.ag.gov.au/>
- Australian Government Indigenous portal: <http://www.indigenous.gov.au/>
- Australian Human Rights Commission: <https://www.humanrights.gov.au/>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Council of Australian Governments: <https://www.coag.gov.au/>
- Deloitte Access Economics (Review of native title organisations): <http://www.deloitteaccesseconomics.com.au/our+services/economic+analysis+and+policy/native+title/about+the+review>
- Department of the Prime Minister & Cabinet: <http://www.dpmc.gov.au/>
- Federal Court of Australia: <http://www.fedcourt.gov.au/>
- Minister for Indigenous Affairs: <http://minister.indigenous.gov.au/>
- National Congress of Australia's First Peoples: <http://nationalcongress.com.au/>
- National Native Title Council: <http://nntc.com.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>

- Parliament of Australia: <http://parlinfo.aph.gov.au/>
- Productivity Commission: <http://www.pc.gov.au/>
- The Treasury: <http://www.treasury.gov.au/>

### 3. Native title representative bodies & native title service providers

- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Cape York Land Council: <http://www.cylc.org.au/>
- Carpentaria Land Council Aboriginal Corporation: <http://www.clcac.com.au/>
- Central Desert Native Title Services: <http://www.centraldesert.org.au/>
- Central Land Council: <http://www.clc.org.au/>
- Goldfields Land and Sea Council: <http://www.glsc.com.au/>
- Deloitte Access Economics (Review of native title organisations): <http://www.deloitteaccesseconomics.com.au/our+services/economic+analysis+and+policy/native+title/about+the+review>
- Department of the Prime Minister & Cabinet: <http://www.dpmc.gov.au/>
- Kimberley Land Council: <http://www.klc.org.au/>
- Minister for Indigenous Affairs: <http://minister.indigenous.gov.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- Native Title Services Victoria: <http://www.nts.vic.gov.au/>
- North Queensland Land Council: <http://nqlc.com.au/>
- Northern Land Council: <http://www.nlc.org.au/>
- NTSCORP: <http://www.ntscorp.com.au/>
- Queensland South Native Title Services: <http://www.qsnts.com.au/>
- South Australian Native Title Services: <http://www.nativetitlesa.org/>
- South West Aboriginal Land and Sea Council: <http://www.noongar.org.au/>
- Torres Strait Regional Authority: <http://www.tsra.gov.au/>
- Yamatji Marlpa Aboriginal Corporation: <http://ymac.org.au/>

### 4. Native title applications

- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>

## 5. Native title determinations

- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- Productivity Commission: <http://www.pc.gov.au/>

## 6. Registered native title bodies corporate

- AIATSIS - Native Title Corporations: <http://www.nativetitle.org.au/>
- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- Office of the Registrar of Indigenous Corporations (ORIC): <http://www.oric.gov.au/>

## 7. Future acts

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>
- Attorney-General's Department: <http://www.ag.gov.au/>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>

## 8. Indigenous land use agreements

- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Productivity Commission: <http://www.pc.gov.au/>

## 9. Cultural heritage

- AIATSIS - Native Title Research Unit: <http://aiatsis.gov.au/research/research-themes/native-title>
- Attorney-General's Department: <http://www.ag.gov.au/>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Department of Environment: <http://www.environment.gov.au/>
- Department of the Prime Minister & Cabinet: <http://www.dpmc.gov.au/>

## 10. Land rights

- Agreements, Treaties and Negotiated Settlements (ATNS): <http://www.atns.net.au/>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Australian Productivity Commission: <http://www.austlii.edu.au/>
- Department of Prime Minister & Cabinet: <http://www.dpmc.gov.au/>
- Northern Land Council: <http://www.nlc.org.au/>
- Productivity Commission: <http://www.pc.gov.au/>

## 11. ILC land acquisitions

- Australian Law Reform Commission (Review of the NTA): <http://www.alrc.gov.au/inquiries/native-title-act-1993>
- Australasian Legal Information Institute: <http://www.austlii.edu.au/>
- Department of Prime Minister & Cabinet: <http://www.dpmc.gov.au/>
- Indigenous Business Australia: <http://www.iba.gov.au/>
- Indigenous Land Corporation (ILC): <http://www.ilc.gov.au/>
- Minister for Indigenous Affairs: <http://minister.indigenous.gov.au/>
- National Native Title Tribunal (NNTT): <http://www.nntt.gov.au/>
- Parliament of Australia: <http://parlinfo.aph.gov.au/>

## 12. Indigenous Protected Areas

- Department of the Prime Minister and Cabinet: Indigenous Affairs Group: <https://www.dpmc.gov.au/indigenous-affairs>
- Indigenous Protected Areas Program: <http://www.environment.gov.au/indigenous/ipa/index.html>

## 13. Aboriginal and Torres Strait Islander population

- Australian Bureau of Statistics: <http://www.abs.gov.au>
- Centre for Aboriginal Economic Policy Research: <http://caepr.anu.edu.au/>