

National report: native title



NATIONAL NATIVE TITLE TRIBUNAL REPORT: NATIVE TITLE

SEPTEMBER 2010

This is the fifth in a continuing series of status reports published by the National Native Title Tribunal on a range of matters relating to Australia's native title system. Each report covers a six month period and briefly compares what happened during those six months with what happened in the previous six months, as well as providing a picture since 1 January 1994.

Previous reports have contained the Tribunal's *Substantive List* of claims. This report does not have that list because the Federal Court is developing its own priority list of claims which will require the Tribunal to revise its *Substantive List*.

Previous reports can be found on the Tribunal's website www.nntt.gov.au under the tab 'Native title in Australia.'

1. Native title applications: a status report

The *Native Title Act 1993* (Cwlth) (NTA) provides for the filing of various native title-related applications. As at 30 June 2010 there were 456 current applications comprising:

- 430 native title claimant applications
- 19 native title non-claimant applications
- seven native title compensation applications.

Thirteen new claimant applications were filed between 1 January and 30 June 2010. This compares with eight claimant applications filed during the period 1 July - 31 December 2009.

During the period 1 January - 30 June 2010, 17 claimant applications were determined, discontinued or dismissed as follows:

- two applications resolved following determinations of native title
- eight applications were discontinued
- seven applications were dismissed (one was dismissed under section 190F(6) NTA)
- no applications were struck out.

This above data represents a lower disposition rate than that of the period 1 July - 31 December 2009, during which 31 claims were determined, dismissed or otherwise disposed of by the Federal Court.

2. Disposition of native title applications since 1994

2.1 Native title determinations

Between 1 January 1994 (when the NTA came into effect) and 30 June 2010, 132 determinations of native title were registered under the NTA. Those determinations were in respect of a total of 159 applications (129 claimant applications, 29 non-claimant applications and one compensation application).

Of the 132 determinations:

- 95 were determinations that native title exists over the whole or part of the determination area
- 37 were determinations that native title does not exist.

During the NTA's operation, determinations that native title exist have been made in New South Wales, Queensland, South Australia, Victoria, the Northern Territory and Western Australia.

A total of 79 determinations were made by consent of the parties.

Most of the determinations that native title does not exist have been made in New South Wales in non-claimant proceedings.

At 30 June 2010, registered determinations of native title covered some 937,049sq km or 12.2 per cent of the land mass of Australia. There were 434 registered indigenous land use agreements (ILUAs) covering 1,147,956sq km or 14.9 per cent of the land mass of Australia and 4,793sq km over sea (below the high water mark).

Maps showing the locations of native title determinations and ILUAs may be found on the Tribunal's website: www.nmtf.gov.au.

2.2. Current rate of disposition

During the period 1 January 1994 to 30 June 2010:

- 1,837 native title applications were filed (1,511 claims, 292 non-claimant applications, 33 compensation applications, and one revised native title determination application)
- 1,381 (75 per cent) of those applications were determined, dismissed or otherwise disposed of (1,081 claimant applications, 273 non-claimant applications, 26 compensation applications, and one revised native title determination application).

An analysis of the 159 applications the subject of registered determinations between 1 January 1994 and 30 June 2010 shows that:

- the average timeframe for an application to be determined by consent was six years and one month (73 months)
- the average timeframe for an application to be finalised through litigation was six years and eleven months (83 months)
- the average timeframe for an unopposed application to be determined was 12 months.

It appears that the average timeframe within which matters are being determined by consent is not changing, and that the average timeframes for litigated outcomes and unopposed determinations are also static. As at 31 December 2009 the average time taken to determine a claim by consent was 73 months; for a litigated determination, 83 months; and for an unopposed determination, 12 months.

Of the 430 claimant applications which were current at 30 June 2010:

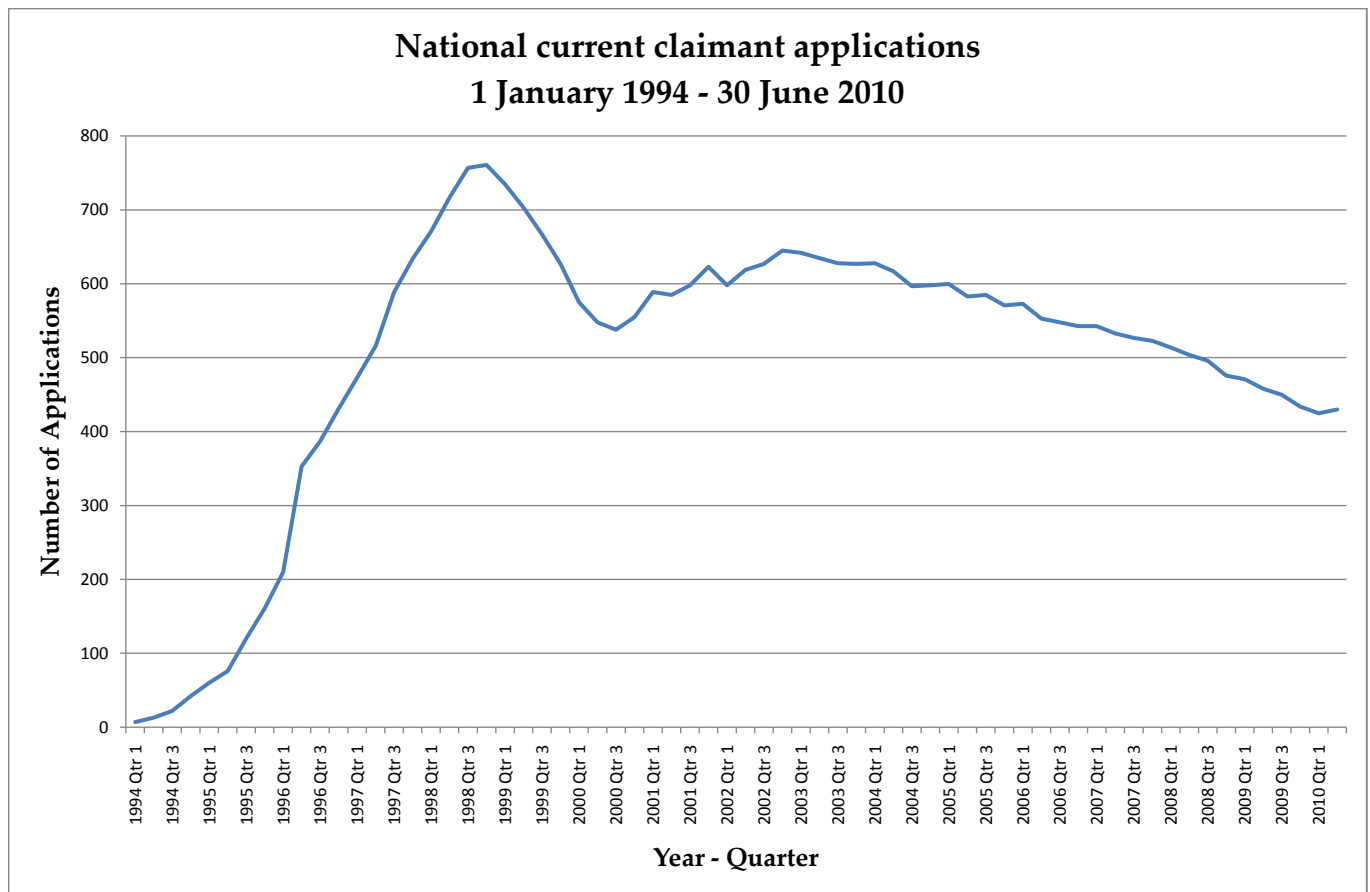
- 83 (or 19 per cent) had been filed in the five-year period 1 July 2005 to 30 June 2010
- 194 (or 45 per cent) had been filed in the five-year period 1 July 2000 to 30 June 2005 (i.e. are 5-10 years old)
- 153 (or 36 per cent) had been filed before 1 July 2000 (i.e. are more than 10 years old).

As at 31 December 2009, a total of 83 claimant applications had been filed in the previous five years; 194 had been filed in the five year period 1 January 2000 – 31 December 2004; and 157 had been filed prior to 1 January 2000. The number and proportion of claims in the third category (i.e. the oldest claims) has decreased slightly.

The figures noted above do not indicate which claims are in mediation, or the length of time that each relevant claim has been in mediation.

The following graph shows that the total number of current claims in the country peaked in 1998 and since then has gradually decreased, although new claims are filed each year.

Individual State and Territory jurisdictions have differing rates of disposition. Those rates are identified in section 4 of this report.



3. Native title claimant applications and the registration test

Registration of native title claimant applications is an administrative decision-making function undertaken by the Registrar. The decision to accept an application on the Register of Native Title Claims (RNTC) depends on whether the application satisfies all of the merit and procedural conditions prescribed in sections 190B and 190C of the NTA. This process is referred to as the ‘registration test’.

The registration test was introduced in the 1998 amendments to the NTA. It replaced the originally enacted ‘acceptance test’, with the intention that only meritorious or credible claims be registered on the RNTC.

Registration of a claim upon the RNTC confers access to the statutory benefits associated with registration, which benefits include a right to negotiate with respect to proposed future acts affecting the claim area.

Further amendments to the NTA in 2007 had two effects on registration outcomes. First, the transitional provisions of the *Native Title Amendment Act 2007* and the *Native Title Amendment (Technical Amendments) Act 2007* (Technical Amendments Act 2007) required the Registrar to apply the registration test to particular categories of claimant applications: claims that had been registration tested and were not on the RNTC as at 15 April 2007, and applications that were on the RNTC but were not previously required to go through the registration test. A total of 128 applications, which fell into either of those categories, were identified for testing.

Applicants were offered the opportunity to amend and/or provide additional material to meet the conditions of the test. However, many chose not to do so. Consequently, a large number of applications were not accepted for registration in the period between 15 April 2007 and 1 September 2008.

Second, the Technical Amendments Act 2007 inserted section 190A(6A) into the NTA, which requires the Registrar to accept an amended application for registration if the effect of the amendment(s) meets particular conditions. This means that some amendments which previously triggered the registration test no longer trigger all of the provisions being applied, which has resulted in a simplification of the registration test process for some amended applications.

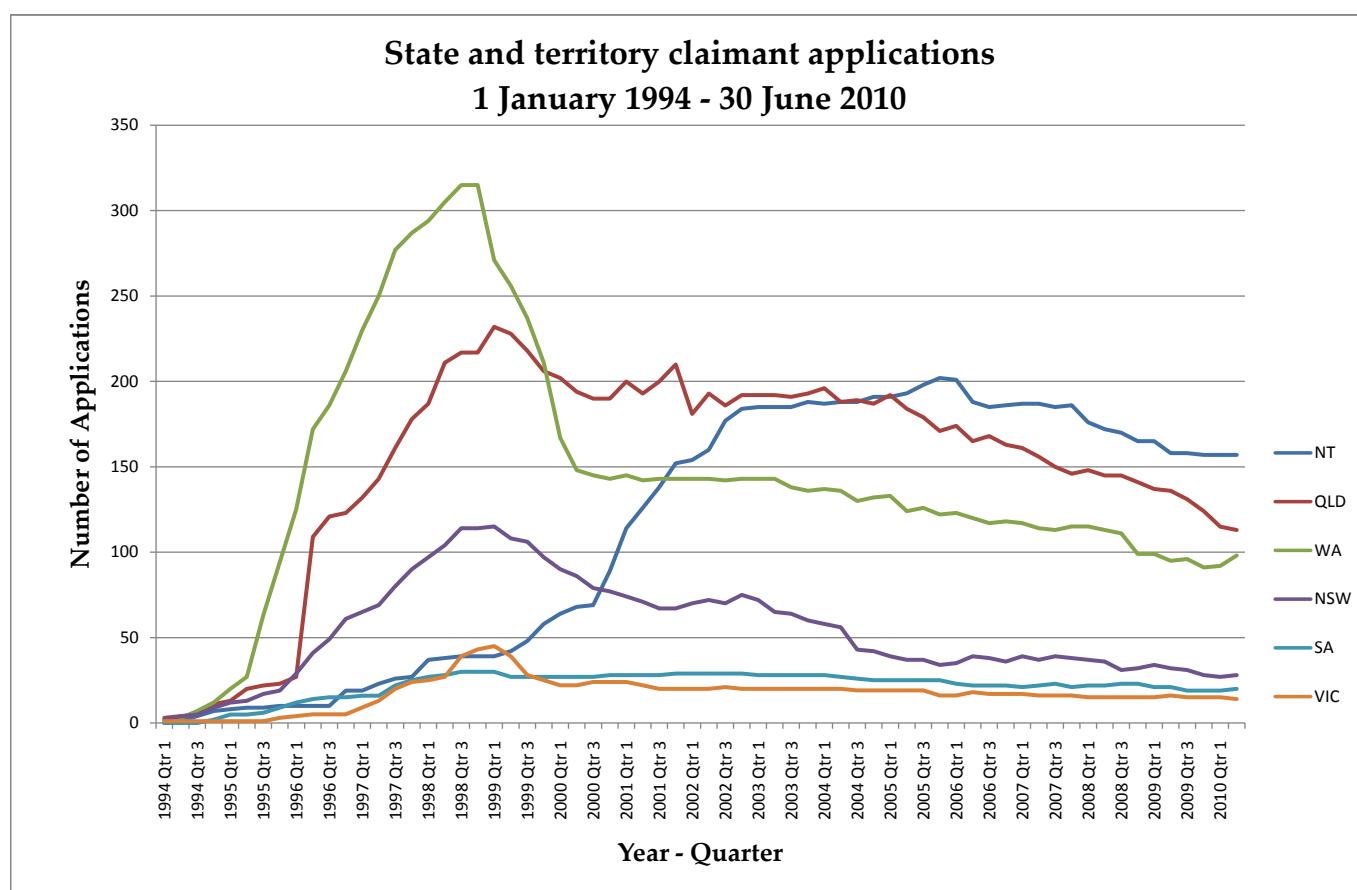
Between 1 September 2007 and 30 June 2010 the Registrar accepted 20 applications for registration pursuant to section 190A(6A), and this comprised 26 per cent of the total claimant applications accepted for registration over this period.

One of the principal hurdles for the registration of a claim is the requirement at section 190B(5) that an applicant sets out the factual basis for its claimed native title. Guidance on assessing the factual material presented to support a claimant application is provided by the Federal Court in the following decisions—*Gudjala People #2 v Native Title Registrar* [2007] FCA 1167, *Gudjala People #2 v Native Title Registrar* [2008] FCAFC 157, (2008) 171 FCR 3 and *Gudjala People #2 v Native Title Registrar* [2009] FCA 1572, (2009) 182 FCR 63. The Registrar also has produced a publication, *Native title claimant applications—a guide to understanding the requirements of the registration test*, which outlines information about the requirements of the registration test.

The Registrar applies the registration test to approximately 40 new and amended claimant applications per year, and the Tribunal expects that this trend will continue for the foreseeable future.

4. Snapshots: state and territory claimant applications

A brief outline of native title-related activity in each state and territory as at 30 June 2010 is set out below.



4.1 Western Australia

1. Determinations of native title:	
Total registered since 1 January 1994	25
Native title exists	24
Native title does not exist	1
Total registered from 1 July 2009 – 30 June 2010	1
Native title exists	1
Native title does not exist	0

Note: an unregistered determination that native title exists (Ngurrara, 2007) is awaiting the determination of a Prescribed Body Corporate (PBC).

2. Native title claimant applications determined:

Native title applications determined (in full or part) since 1 January 1994	30
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	1

Note: the above figures do not include the unregistered Ngurrara determination which, as noted above, is awaiting the determination of a PBC.

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):

Applications filed since 1 January 1994	507
Dispositions since 1 January 1994	408
Dispositions 1 July 2009 – 30 June 2010	8

4. Current claimant applications:

Current number of applications	99
Average time since filing	107 months
Number currently referred for Tribunal mediation	80

5. Non-claimant applications:

Current number of applications	0
Dispositions since 1 January 1994	6
Dispositions 1 July 2009 – 30 June 2010	0

6. ILUAs:

Number of currently registered ILUAs	21
Number of ILUAs registered 1 July 2009 – 30 June 2010	9

Disposition of claimant applications:

Two applications were finalised in the period January-June 2010 (compared with six in the period July-December 2009).

Litigation:

The reporting period has seen an increase in the number of applications referred to the Court's litigation stream and this trend may continue. It appears that parties are not unwilling for claimant applications to be tested in the litigation process.

Mediation:

One consent determination has been made in the Geraldton region over a large land area. The Pilbara area continues to dominate mediation activity, with the resolution of overlaps and settlement of connection reports forecast to peak over the next 6-12 months. In the Pilbara, consistent with Tribunal recommendations, the Court has removed a claim overlap mediation from the Tribunal and referred it to Court registrars.

State policy:

Delays are being experienced as connection assessments by the State are awaited. Additionally, the State of Western Australia has advised parties that it requires State land use aspirations to be addressed through the consent determination process.

The State has indicated that, by the end of 2010, it expects to develop a policy which will govern its preparedness to enter into consent determinations. It appears that those consent determinations would be conditional upon certain State land use requirements being met. In addition, the State has indicated that the assessment of connection would need to be aligned to a current/future land use analysis in respect of each claim.

In December 2009, the State of Western Australia and the South West Aboriginal Land and Sea Council executed a Heads of Agreement regarding alternative settlement negotiations in relation to the South West region. The Agreement establishes a two-year timeframe for the negotiation of a settlement package intended to resolve all current and future native title claims in this area. The Agreement also recognises the Noongar People as the traditional owners for the region and records that the Noongar People will be offered a settlement package that provides full and final settlement of their native title claims.

Future acts:

The Tribunal made seven determinations, involving 15 tenement applications, where the parties had reached agreement in the right to negotiate process, but were unable, for logistical reasons, to finalise a State Deed to allow the grant of lease/permits to proceed. A further two section 35 applications, one in relation to the compulsory acquisition of land in the Geraldton region, were determined.

The number of active future act mediations for the first half of 2010 was down significantly (59), when compared with the number in the preceding six-month period (80).

During the first half of 2010, 24 referrals to the Tribunal requesting mediation assistance were made, representing a decrease over the July – December 2009 period (54 referrals). With Tribunal assistance, 24 future act agreements were made, executed and lodged in this period.

The most common method of finalising expedited procedure objection applications in WA is by agreement, with 59 per cent withdrawn for this reason. In the reporting period, 21 expedited procedure inquiries were held, 16 of which determined that the expedited procedure should not apply.

4.2 Queensland

1. Determinations of native title:	
Total registered since 1 January 1994	49
Native title exists	47
Native title does not exist	2
Total registered from 1 July 2009 – 30 June 2010	6
Native title exists	6
Native title does not exist	0

Note: an unregistered determination that native title exists (Combined Dulabed and Malanbarra Yidinji Claim, 2009) is awaiting the registration of ILUAs.

2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	45
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	6

Note: the above figures do not include the unregistered combined Dulabed/Malanbarra Yidinji determination which, as noted, is awaiting the registration of ILUAs.

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	457
Dispositions since 1 January 1994	344
Dispositions 1 July 2009 – 30 June 2010	28

4. Current claimant applications:	
Current number of applications	113
Average time since filing	92 months
Number currently referred for Tribunal mediation	78

5. Non-claimant applications:	
Current number of applications	2
Dispositions since 1 January 1994	20
Dispositions 1 July 2009 – 30 June 2010	0

6. ILUAs:	
Number of currently registered ILUAs	226
Number of ILUAs registered 1 July 2009 – 30 June 2010	23

Disposition of claimant applications:

Thirteen applications were finalised in January-June 2010 (compared with 15 in July-December 2009). These comprised two determinations, four dismissals and seven discontinued.

Mediation:

The majority of matters in Queensland remain in mediation with the Tribunal. However, some matters have been removed from Tribunal mediation for closer management by the Federal Court, through case management conferences. The Yarrabah matters are notable recent examples. The Tribunal continues to provide ILUA negotiation assistance at the request of the parties, while the Court manages overall progression of the mediation towards consent determination via the case management conferences.

ILUAs:

ILUA negotiation activity has been high throughout Queensland so far in 2010 and is expected to increase further for the remainder of the year. There has been a slight increase in the requests for ILUA negotiation assistance on 'stand alone' ILUAs (i.e. those outside the claimant mediation process). There has also been an increase in ILUA negotiation assistance requests from parties who are no longer in Tribunal mediation, but have requested Tribunal assistance to negotiate agreements. An increase in ILUA registration work in early 2010 is a result of the ILUA activity related to the LNG pipeline, from Surat to Gladstone.

NTRBs/NTSPs:

Much of the work of native title representative bodies (NTRBs) and native title service providers (NTSPs) focuses on completing relevant connection research, prior to commencing negotiations with the State of Queensland. In the Queensland South Native Title Services (QSNTS) region, a number of matters are being prepared for trial. Matters with trial dates in 2011 are the primary focus.

4.3 Northern Territory

1. Determinations of native title:	
Total registered since 1 January 1994	13
Native title exists	12
Native title does not exist	1
Total registered from 1 July 2009 – 30 June 2010	2
Native title exists	2
Native title does not exist	0

2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	36
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	2

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	231
Dispositions since 1 January 1994	74
Dispositions 1 July 2009 – 30 June 2010	2

4. Current claimant applications:

Current number of applications	157
Average time since filing	104 months
Number currently referred for Tribunal mediation	4

5. Non-claimant applications:

Current number of applications	0
Dispositions since 1 January 1994	4
Dispositions 1 July 2009 – 30 June 2010	0

6. ILUAs:

Number of currently registered ILUAs	98
Number of ILUAs registered 1 July 2009 – 30 June 2010	3

Disposition of claimant applications:

No applications were finalised in January-June 2010. This compares with two dispositions in the period July-December 2009.

Mediation:

The Federal Court is managing most of the claimant applications in the Northern Territory through regular case management conferences and direction hearings. The Court has extended the timeframes for preparation of connection materials and certain anthropological work in respect of a number of applications affecting pastoral holdings and towns.

In preparation for resolution of claims on pastoral estates, the Northern Land Council (NLC) has agreed to file new claims based on pastoral lease boundaries. The existing claims were lodged in response to proposed mining tenure grants, and claim boundaries reflect those mining or exploration tenures. It is anticipated that one claim will be filed on each pastoral lease. Claim group descriptions will change, requiring the Tribunal to apply the registration test to the new claims and to re-notify them. The Tribunal has provided preliminary feedback on draft area descriptions and mapping. There are approximately 70 pastoral leases in the NLC region.

The Jabiru Township native title claim trial date was adjourned by consent in November 2009, a few days prior to the scheduled commencement of trial proceedings. Negotiations continue in relation to the detail of the in-principle agreement reached, and the matter remains on foot.

It is expected that national parks-related claims in the Central Land Council's region will be withdrawn following the handover of title to certain national parks by the Commonwealth Indigenous Affairs Minister. The Tribunal continues to assist parties by providing detailed geospatial analysis, mapping and tenure information.

ILUAs:

ILUA activity over the past six months has been at similar levels to recent years and that is expected to continue over the next 12 months. There has been an increase in pre-lodgement assistance by the Tribunal over the period.

Future acts:

Significant progress was made in the discussions between the NLC and the Northern Territory Government relating to a small miners' template agreement. However, whilst most aspects were agreed, some issues were not and the NLC withdrew from mediation. The NLC has indicated that it will continue to develop a draft agreement for consideration by small miners. It appears that cessation of this process might bring to an end an undertaking by the Northern Territory Government not to refer any other matters to Tribunal mediation whilst those discussions were on foot.

In four other matters (gold exploration tenement applications), mediation had been in abeyance due to the grantee party going into liquidation. Those mediation activities have been re-activated by the new purchaser of the applications.

Other matters in mediation have reached the 'agreement in-principle' stage.

4.4 South Australia

1. Determinations of native title:	
Total registered since 1 January 1994	8
Native title exists	8
Native title does not exist	0
Total registered from 1 July 2009 – 30 June 2010	0
Native title exists	0
Native title does not exist	0
2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	8
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	0
3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	47
Dispositions since 1 January 1994	27
Dispositions 1 July 2009 – 30 June 2010	2
4. Current claimant applications:	
Current number of applications	20
Average time since filing	126 months
Number currently referred for Tribunal mediation	14
5. Non-claimant applications:	
Current number of applications	0
Dispositions since 1 January 1994	3
Dispositions 1 July 2009 – 30 June 2010	0
6. ILUAs:	
Number of currently registered ILUAs	45
Number of ILUAs registered 1 July 2009 – 30 June 2010	8

Disposition of claimant applications:

No applications were finalised during the period January-June 2010. By comparison, two matters were disposed of during the period July-December 2009.

Mediation:

Currently all but eight South Australian claims are in Tribunal mediation. Of those which are not in mediation, two involve claim overlap issues that have not been resolved by mediation. One claim was lodged for the purpose of securing section 47 rights; in another, ILUA negotiations are being finalised. Four applications are being case managed by the Court to progress to determinations by consent. Several claims are being mediated by the Tribunal in conjunction with the Court. The Tribunal is dealing with certain key ILUAs (including some that deal with compensation), connection and claim overlap issues. The Federal Court, through case management conferences, is addressing matters relating to extinguishment and also in relation to compensation.

ILUAs:

Timing the finalisation of ILUAs in relation to the scheduling of consent determinations remains a key issue. ILUA activity is still strong, with five ILUAs lodged in the past six months, and 11 proposed agreements being facilitated by the Tribunal. These are wide-ranging in content, including prospective pastoral, local government, outback areas, fishing, defence facilities and parks agreements.

4.5 New South Wales

1. Determinations of native title:	
Total registered since 1 January 1994	32
Native title exists	2
Native title does not exist	30
Total registered from 1 July 2009 – 30 June 2010	1
Native title exists	0
Native title does not exist	1

Note: of the 30 determinations that native title does not exist, 27 were made pursuant to non-claimant applications, and 25 of the determinations were unopposed.

2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	4
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	0

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	189
Dispositions since 1 January 1994	161
Dispositions 1 July 2009 – 30 June 2010	7

4. Current claimant applications:	
Current number of applications	28
Average time since filing	121 months
Number currently referred for Tribunal mediation	17

5. Non-claimant applications:	
Current number of applications	18
Dispositions since 1994	240
Dispositions 1 July 2009 – 30 June 2010	13

6. ILUAs:	
Number of currently registered ILUAs	8
Number of ILUAs registered 1 July 2009 – 30 June 2010	0

Disposition of claimant applications:

One application was finalised in January-June 2010 (compared with six during July-December 2009). This comprised one discontinuance.

Mediation:

During the reporting period Tribunal mediation focused on 10 agreed priority claims. In respect of five of those claims, mediation activity has centred on aspects of the assessment of connection evidence by the NSW Government. In March, the NSW Government advised of its in-principle agreement to negotiate a consent determination in two northern NSW applications. In one application, the NSW Government is still considering the

evidence submitted as a result of a Tribunal convened mediation conference for the purpose of taking evidence that occurred in October 2009. In another application, the NSW Government has advised that the evidence submitted is sufficient to support a consent determination over a wider area, and the applicants were preparing a wider land claim for lodgement by the end of July 2010.

In February 2010, the Court ordered that Tribunal mediation cease in one application in which the Tribunal Member had recommended that further mediation was not likely to be successful.

In April 2010, the Court convened a fourth NSW native title forum to review the progress and case management of native title applications in that State.

NTSPs:

The native title service provider for NSW (NTSCORP) represents nine of the 10 priority applications in Tribunal mediation. It has continued to devote its resources to the resolution of those matters. In addition, NTSCORP has been completing research projects in relation to several areas of NSW in which new claimant applications are proposed to be lodged over the remainder of 2010. The State and NTSCORP have also put significant resources into the negotiation and settlement of a substantial future act agreement.

ILUAs:

Three ILUAs are being drafted and negotiated in relation to applications within Tribunal mediation, and another ILUA has been executed. Those ILUAs are expected to lead to the discontinuance of the relevant claimant application. Other ILUAs are expected to be developed over the next 6-12 months.

State policy:

The NSW Government has advised of a new policy in which all consent determination and ILUA negotiations must involve consultation with relevant NSW Local Aboriginal Land Councils. It is too early to assess the effect of this policy, but it is possible that this policy might delay the disposition of applications.

4.6 Victoria

1. Determinations of native title:	
Total registered since 1 January 1994	5
Native title exists	2
Native title does not exist	3
Total registered from 1 July 2009 – 30 June 2010	0
Native title exists	0
Native title does not exist	0
2. Native title claimant applications determined	
Native title applications determined (in full or part) since 1 January 1994	6
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	0
3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	71
Dispositions since 1 January 1994	57
Dispositions 1 July 2009 – 30 June 2010	2
4. Current claimant applications:	
Current number of applications	14
Average time since filing	115 months
Number currently referred for Tribunal mediation	9

5. Non-claimant applications:	
Current number of applications	0
Dispositions since 1 January 1994	0
Dispositions 1 July 2009 – 30 June 2010	0

6. ILUAs	
Number of currently registered ILUAs	36
Number of ILUAs registered 1 July 2009 – 30 June 2010	4

Disposition of claimant applications:

One application was dismissed in the period January-June 2010. One application was finalised during the period July-December 2009.

Mediation:

Steps to implement the Victorian Native Title Settlement Framework (the State Government's policy relating to broader land settlements) continued during the first half of 2010. This work impacted on the timeframes for the mediation of claimant applications, since certain aspects of the negotiations were dependent on the implementation of the Framework.

State policy:

The Victorian Government's previously stated aims to have six matters largely resolved under the Victorian Native Title Settlement Framework by mid-2010 had to be revised. This was a result of the timeframes for the implementation work referred to above, in particular the negotiations that occurred between the State and the Commonwealth in relation to funding for settlements under the Framework.

4.7 Tasmania

1. Determinations of native title:	
Total registered since 1 January 1994	0
Native title exists	0
Native title does not exist	0
Total registered from 1 July 2009 – 30 June 2010	0
Native title exists	0
Native title does not exist	0

2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	0
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	0

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	4
Dispositions since 1 January 1994	4
Dispositions 1 July 2009 – 30 June 2010	0

4. Current claimant applications:	
Current number of applications	0
Average time since filing	n/a
Number currently referred for Tribunal mediation	0

5. Non-claimant applications:	
Current number of applications	0
Dispositions since 1 January 1994	0
Dispositions 1 July 2009 – 30 June 2010	0

6. ILUAs:	
Number of currently registered ILUAs	0
Number of ILUAs registered 1 July 2009 – 30 June 2010	0

4.8 Australian Capital Territory

1. Determinations of native title:	
Total registered since 1 January 1994	0
Native title exists	0
Native title does not exist	0
Total registered from 1 July 2009 – 30 June 2010	0
Native title exists	0
Native title does not exist	0

2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	0
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	0

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	6
Dispositions since 1 January 1994	6
Dispositions 1 July 2009 – 30 June 2010	0

4. Current claimant applications:	
Current number of applications	0
Average time since filing	n/a
Number currently referred for Tribunal mediation	0

5. Non-claimant applications:	
Current number of applications	0
Dispositions since 1 January 1994	0
Dispositions 1 July 2009 – 30 June 2010	0

6. ILUAs:	
Number of currently registered ILUAs	0
Number of ILUAs registered 1 July 2009 – 30 June 2010	0

4.9 National

1. Determinations of native title:	
Total registered since 1 January 1994	132
Native title exists	95
Native title does not exist	37
Total registered from 1 July 2009 – 30 June 2010	10
Native title exists	9
Native title does not exist	1

Note: of the 37 determinations that native title does not exist, 29 were made in response to non-claimant applications, and 26 of the determinations were unopposed.

2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	129
Native title applications determined (in full or in part) 1 July 2009 – 30 June 2010	9
3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	1,511
Dispositions since 1 January 1994	1,081
Dispositions 1 July 2009 – 30 June 2010	49
4. Current claimant applications:	
Current number of applications	430
Average time since filing	104 months
Number currently referred for Tribunal mediation	202
5. Non-claimant applications:	
Current number of applications	20
Dispositions since 1 January 1994	273
Dispositions in the last 12 months	13
6. ILUAs:	
Number of currently registered ILUAs	434
Number of ILUAs registered 1 July 2009 – 30 June 2010	47

5. Future act activities

Future act activity remains greatest in the resource-rich states of Western Australia and Queensland. For the two years between 1 July 2008 and 30 June 2010:

- 8,753 future act notices which asserted the expedited procedure under the NTA were advertised
- 1,195 future act notices that did not assert the expedited procedure were advertised.

5.1 Objections to the expedited procedure

Where a tenement is advertised, and the notice states that the expedited procedure applies, notice is given to any native title parties and the relevant NTRB in relation to the land and waters that will be affected by the future act. Where relevant, native title parties may lodge an objection to the expedited procedure applying to the tenement.

A total of 3,127 objections to future acts were lodged in the period between 1 July 2008 and 30 June 2010, and 3,098 objections were finalised. Most objections were made in Western Australia.

5.2 Future act determination applications

Between 1 July 2008 and 30 June 2010, 83 tenements were cleared for grant following Tribunal arbitral decisions that the future act could go ahead. Overall, applications covering 131 tenements were finalised within the period.

6. Glossary

Claimant applications – applications made by groups claiming native title

ILUA – indigenous land use agreement

Non-claimant applications – applications made by groups not claiming native title, but a determination that native title does not exist over an area of land and/or waters

NTA – *Native Title Act, 1993* (Cwlth)

NTRB – native title representative body

NTSP – native title service provider