

National Case Flow Management Scheme

List allocation criteria

As part of its response to the Claims Resolution Review in 2006, the Tribunal introduced the National Case Flow Management Scheme (the NCFMS) in April 2007. The scheme has a strong regional focus and introduces some new components to the administration of our mediation practice, namely:

- the creation of three separate lists of native title applications (the Registrar's list, Regional list and Substantive list)
- a process which operates from a regional basis for a nationally consistent approach to the allocation (and reallocation) of each application to one (or sometimes two) of the lists
- a process which ensures our resources are allocated to projects and people on a nationally consistent basis
- a process which will improve and progress application management efficiently, and
- a process which will achieve consistency in mediation practice.

Allocation List definitions are:

- Substantive List
 - Applications that are close to reaching the closure stage and where negotiations will lead to an outcome within the next two years.
 - Applications that are likely to be withdrawn, dismissed, struck-out or otherwise resolved within the next two years.
- Regional List – (advanced development)
 - Applications that do not meet the criteria for allocation to the Substantive List.
 - Applications that are being actively mediated.
 - Applications that are likely to progress to the Substantive List within the next 12 months.
- Regional List – (less advanced development)
 - Applications that do not meet the criteria for allocation to the Regional (Advanced development) or Substantive Lists, but have been referred for mediation.
 - Applications referred for mediation that have little prospect of an agreed outcome.
- Regional List – (mediation in abeyance)
 - Applications where the Tribunal Member has deferred mediation.
 - Applications where mediation has stalled due to external factors (e.g. Federal Court decision which impacts on unrelated applications).

- Registrar's List – (various subsets, e.g. registration test, notification etc)
 - Applications waiting to undergo the registration test or existing applications requiring application of the registration test as a result of amendments to the Native Title Act.
 - Applications that have failed to meet a merit condition of the registration test (s. 190B) or it is not possible to ascertain whether they meet merit conditions (ss 190C, 190D(1A)).
 - Applications waiting to undergo notification or in the process of undergoing notification.
 - Applications that have been notified and are pending referral by the Federal Court for Tribunal mediation.
 - Applications that are subject to Federal Court orders that the Tribunal not mediate.
 - Applications made in response to a future act notice until such time as the future act requirements are satisfied in relation to each future act identified in the notice and the Registrar has either advised the Registrar of the Federal Court or decided not to do so.
 - Applications that are the subject of a determination that native title exists and are awaiting the registration of a prescribed body corporate.

The periodic allocation (or reallocation) of each application to a list (or lists) will be the responsibility of the President, assisted by advice and recommendations from the Registrar and Deputy President Sosso (who is the nominated Deputy President for this purpose). They will draw on recommendations and information provided by Members and State Managers for each state and territory.