

National report: native title



This is the third in a series of status reports published every six months by the National Native Title Tribunal. The reports canvass a range of matters relating to the operation of 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 historical data since 1 January 1994.

The 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 2009 there were 491 applications comprising:

- 459 native title claimant applications
- 25 native title non-claimant applications
- seven native title compensation applications.

During the period 1 January – 30 June 2009 fewer new applications were filed, and the rate of disposition of applications was slower, than had been the case in the previous six months.

Seven new claimant applications were filed between 1 January and 30 June 2009. This compares with 16 claimant applications filed during the period 1 July – 31 December 2008.

During the period 1 January – 30 June 2009, 25 claimant applications were resolved or otherwise removed from the native title system as follows:

- three applications resolved following determinations of native title
- 11 applications were discontinued
- 10 applications were dismissed by the Federal Court (three were dismissed under s.190F(6) NTA)
- one application was struck out.

This compares with the period 1 July – 31 December 2008 when 42 applications were resolved or otherwise removed from the system.

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 2009, 122 determinations of native title were registered under the NTA, including the determination in the Mabo case. Those determinations affected 150 applications (121 claimant applications, 28 non-claimant applications and one compensation application).

Of the 122 determinations:

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

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During the 15½ years that the NTA has been in operation, determinations that native title exists have been made in New South Wales, Queensland, South Australia, Victoria, Northern Territory and Western Australia. Seventy (or 81 per cent) of those determinations were made with the 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.

Registered determinations of native title cover some 913,680 sq km or 11.9 per cent of the land mass of Australia. Two conditional determinations that native title exists have been made. Once the relevant conditions have been met these determinations will increase the area of land mass covered by native title determinations to about 991,720 sq km or 12.9 per cent.

At 30 June 2009 there were 389 registered indigenous land use agreements (ILUAs). Registered ILUAs cover some 1,108,510 sq km, consisting of 1,105,955 sq km over land (or 14.4 per cent) of the land mass of Australia and 2,555 sq 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.nmtt.gov.au.

2.2. Current rate of disposition

During the 15½ years from 1 January 1994 to 30 June 2009:

- 1,809 native title applications were filed (1,490 claimant applications, 285 non-claimant applications, 33 compensation applications, and one revised native title determination application)
- 1,318 (73 per cent) of the applications were determined or otherwise dealt with so that they are no longer in the system (1,031 claimant applications, 260 non-claimant applications, 26 compensation applications, and one revised native title determination application).

An analysis of the 150 applications the subject of registered determinations between 1 January 1994 and 30 June 2009 shows that:

- the average time span for determining an application by consent was five years and nine months (69 months)
- the average time span for obtaining a litigated outcome was six years and eleven months (83 months)
- the average time span for obtaining an unopposed determination was 12 months.

The average timeframe within which matters are being finalised by consent is reducing slightly. The timeframes for litigated outcomes and unopposed determinations remain static. As at 31 December 2008 the average time taken to determine an application by consent was 71 months; for a litigated determination, 83 months; and for an unopposed determination, 12 months.

Of the 459 claimant applications which were current at 30 June 2009:

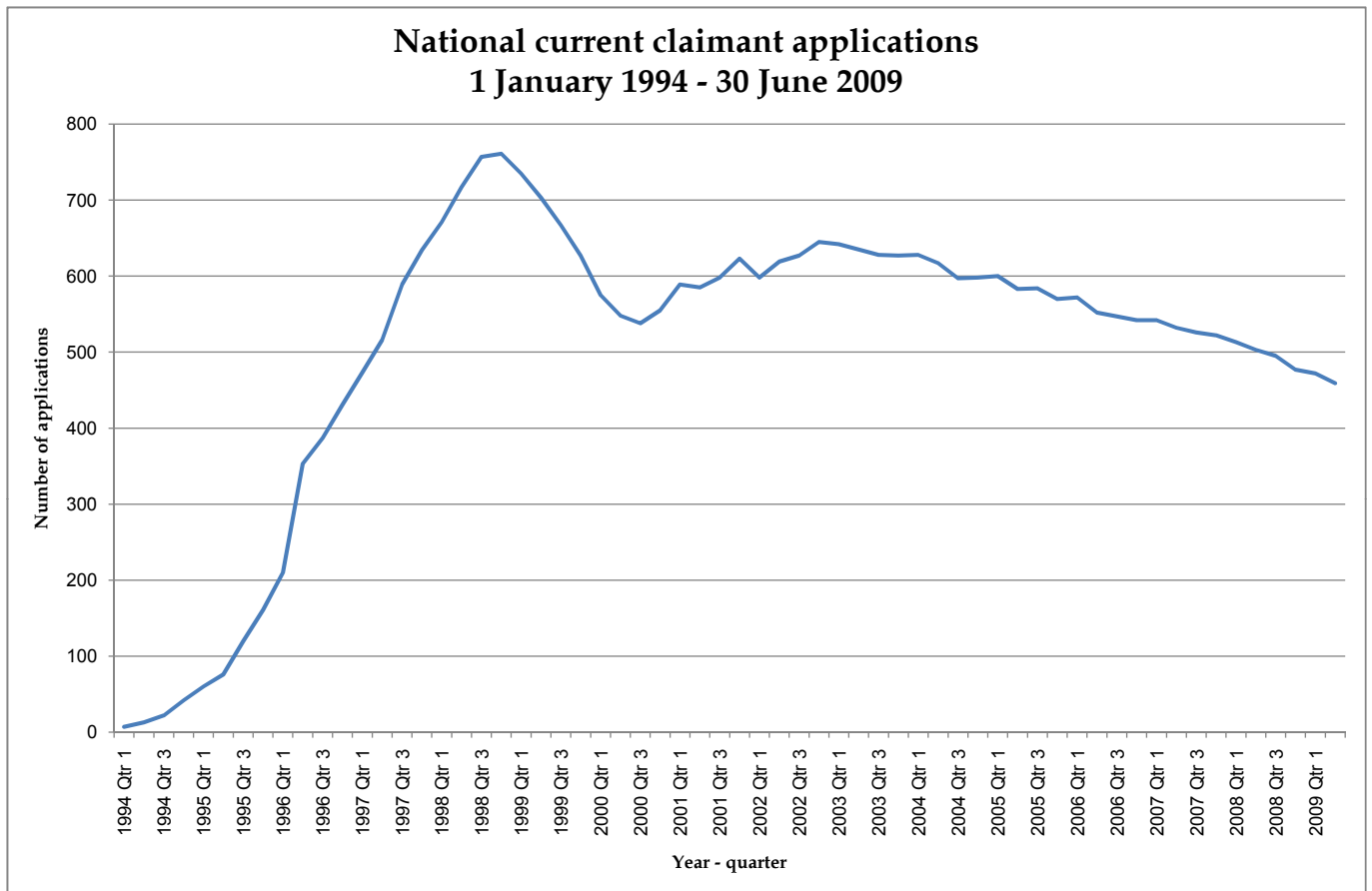
- 93 (or 20 per cent) had been filed in the five-year period 1 July 2004 – 30 June 2009
- 223 (or 49 per cent) had been filed in the five-year period 1 July 1999 – 30 June 2004
- 143 (or 31 per cent) had been filed before 1 July 1999.

As at 31 December 2008 a total of 99 claimant applications had been filed in the previous five years, 247 had been filed in the 5 year period 1 January 1999 – 31 December 2003, and 131 had been filed prior to 1 January 1999.

It appears that, at national rates (averaged between 2000 and 2008), and if nothing were to change, all claimant applications might not be determined or otherwise dealt with (for example, by discontinuance or dismissal) until approximately 2035.

The following graph shows that the national total claimant applications has gradually decreased since peaking in 1998, even though more applications have been filed each year.

Individual jurisdictions within Australia have differing rates of disposition. These rates are identified in section 4 of this report.



3. Challenges to resolving claimant application: the Tribunal’s perspective

A key challenge for native title parties remains the rate of disposition of claims which, as the statistics above show, remains steady.

When trying to meet that challenge it should be acknowledged that a ‘bare’ determination of native title will not deliver a full range of native title outcomes and meet the Australian Government’s objective of resolving related land use and ownership issues.

This deeper challenge can be met in what are termed ‘broader agreements’ involving determinations of native title together with associated agreements (such as ILUAs) that deliver the operation of the determinations on the ground, including land use and access arrangements. Broader settlements can provide grants of title to land, involvement in the management of land, and a range of ways that recognise the local Indigenous community’s traditional links to the land.

Because broader agreements contain things other than a determination of native title, the negotiations can take longer than for a bare determination. It is a quandary that parties (and the native title system) struggle with when shorter time frames are considered to be the main measure of success.

While all jurisdictions and individual claims are different, recent experiences in South Australia and Queensland illustrate the trade off between a bare determination (that might deliver a quicker outcome) and a comprehensive land settlement which might be much more satisfactory for all the parties.

South Australia has in the past worked within a policy of broader agreements (through state-wide or regional ILUAs) rather than bare determinations.

As it happens, the average time from filing of current claimant applications in South Australia is 117 months, longer than in any other Australian jurisdiction. But it is expected that many of the current claims will be resolved within the next five years.

Six of the eight native title determinations made to date in South Australia have been made in the past 12 months.

Many of those determinations are linked to ILUAs and other agreements. In South Australia, 21 per cent of the land area is subject to ILUAs.

Determinations such as one for the Adnyamathanha People to 41,085 sq km of land in and around the Flinders Ranges, on March 30 this year, and the concurrent ILUAs, illustrate the potential for broader land settlements in South Australia and other jurisdictions.

The Adnyamathanha People's application was the first lodged on 6 January 1994. A second claim was lodged on 9 January 1995. Other claims were lodged subsequently and eventually combined, and overlaps with other claims were settled.

It took approximately 14 years and six months from the filing of the first application to the determination being made. Comprehensive mediation by the Tribunal started in 2000. The length of time taken to reach agreement demonstrates the complexity of native title proceedings.

Central to the determination being made was an ILUA between the State of South Australia and the Adnyamathanha People for the co-management of the Flinders Ranges National Park and a previous agreement (registered in 2006) over the Vulkathunha-Gammon Ranges National Park.

Queensland has a history of ILUAs, with 204 registered at 30 June, covering 20 per cent of its land area. It also has the shortest average time since current claimant applications were lodged - 90 months.

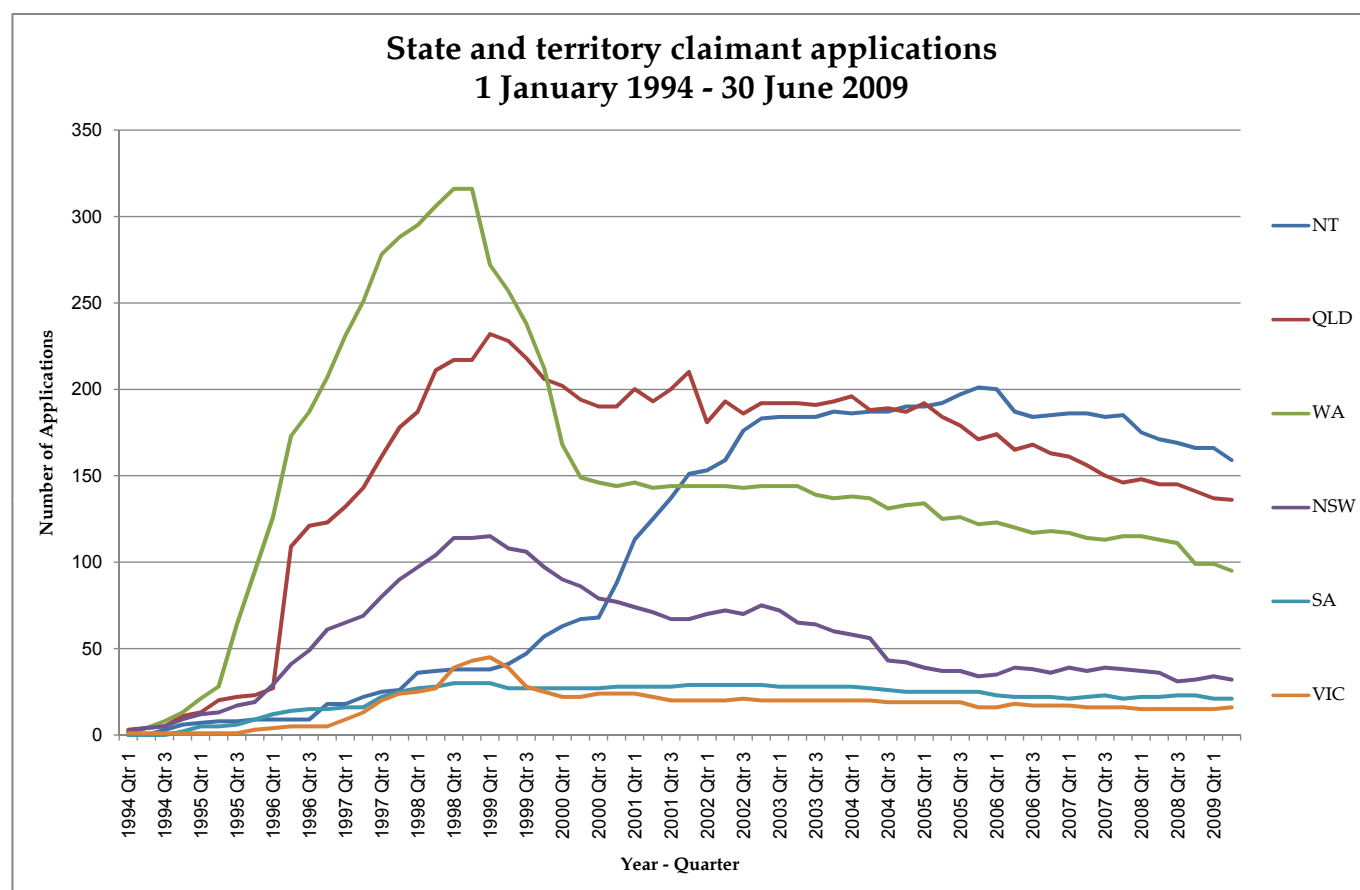
The use of ILUAs in comprehensive land settlements is widely recognised and was highlighted by a recent Memorandum of Understanding (MoU) between the Kalkadoon people and the Boulia, Burke, Cloncurry, McKinlay and Mt Isa councils in Queensland.

The MoU commits the parties to an agreement-making process, aimed at negotiating an ILUA and linked to the Kalkadoon People's claim over about 39,090 sq km of pastoral and other leases, reserves and unallocated state land within each of the shires.

The MoU provides the parties with a framework for discussions about their respective rights and interests and how their aspirations and future requirements for the area can co-exist. A similar MoU was agreed between the neighbouring Pitta Pitta People and the councils whose areas are covered by parts of the Pitta Pitta People's native title claim.

The Adnyamathanha claim and Queensland Local Government MoUs illustrate the increasingly common trend for ILUAs or other agreements to be part of a package which delivers the settlement of a native application.

4. Snapshots: state and territory current claimant applications



A brief outline of native title-related activity in each state and territory as at 30 June 2009 is set out below.

4.1 Western Australia

1. Determinations of native title:

Total registered since 1 January 1994	24
Native title exists	23
Native title does not exist	1
Total registered from 1 July 2008 – 30 June 2009	3
Native title exists	3
Native title does not exist	0

Note: there is an additional unregistered determination that native title exists (Ngurrara, 2007), which 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	29
Native title applications determined (in full or in part) 1 July 2008 – 30 June 2009	3

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

Applications filed since 1 January 1994	496
Dispositions since 1 January 1994	401
Dispositions 1 July 2008 – 30 June 2009	22

4. Current claimant applications:	
Current number of applications	95
Average time since filing	107 months
Number currently referred for Tribunal mediation	87
5. Non-claimant applications:	
Current number of applications	0
Dispositions since 1 January 1994	6
Dispositions 1 July 2008 – 30 June 2009	1
6. ILUAs:	
Number of currently registered ILUAs	12
Number of ILUAs registered 1 July 2008 – 30 June 2009	2

Claimant applications resolved or removed: four in January-June 2009 (compared with 18 in July-December 2008) comprising one determination and three dismissals (two under s. 190F(6)).

Mediation

Mediation scoping conferences have been held in several regions to help reduce delays in the native title process. Pastoralists have shown an increased interest in using ILUAs for access and other issues associated with consent determination negotiations.

Future Act

Greater numbers of objections to the expedited procedure are progressing to the inquiry stage, and in shorter timeframes, as the State adopts a more robust approach to such objections. The Tribunal has made its first determination under s 38 of the NTA that the proposed act (the grant of a mining lease) must not be done, on the basis of comprehensive evidence about a site of particular cultural significance to the Martu People.

State Policy

The state government is yet to settle any claim in WA through alternative settlements.

4.2 Queensland

1. Determinations of native title:	
Total registered since 1 January 1994	43
Native title exists	41
Native title does not exist	2
Total registered from 1 July 2008 – 30 June 2009	1
Native title exists	1
Native title does not exist	0

Note: there is an additional unregistered determination that native title exists (Kuuku Ya'u, 2009), which is awaiting the registration of ILUAs.

2. Native title claimant applications determined:	
Native title applications determined (in full or part) since 1 January 1994	39
Native title applications determined (in full or in part) 1 July 2008 – 30 June 2009	1
3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	452
Dispositions since 1 January 1994	316
Dispositions 1 July 2008 – 30 June 2009	19

4. Current claimant applications:	
Current number of applications	136
Average time since filing	90 months
Number currently referred for Tribunal mediation	109

5. Non-claimant applications:	
Current number of applications	1
Dispositions since 1 January 1994	20
Dispositions 1 July 2008 – 30 June 2009	1

6. ILUAs:	
Number of currently registered ILUAs	204
Number of ILUAs registered 1 July 2008 – 30 June 2009	26

Claimant applications resolved or removed: seven in January-June 2009 (compared with 12 in July-December 2008), comprising one by determination, four by dismissal (one under s. 190F(6)) and two discontinued.

Mediation

Connection issues continue to be a major factor impeding the rate of resolution of claimant applications. The ability of applicants and the State to complete research and related work is also affected by capacity and resource issues. It appears that applicants prefer to engage experienced anthropologists and the limited pool of available experts may lead to some delays in resolving connection. There are also limits to the State's capacity to progress connection matters quickly.

ILUAs

The amount of ILUA negotiation activity continues to be high throughout Queensland, and many of the ILUAs are associated with claims resolution. The Tribunal is providing assistance in the negotiation of three "stand alone" proposed ILUAs. Some compliance issues relating to the finalisation and registration of ILUAs could be overcome with improved awareness of the availability of ILUA assistance by the Tribunal.

Native Title Representative Bodies

It appears that the strategic approaches adopted by each NTRB relates directly to the general status of connection research in the relevant region. Baseline research for the North Queensland Land Council is largely complete. However, additional requests by the State mean that most research is now of a supplementary nature. In the Central Queensland sub-region and in Queensland South, historical factors had much more of an impact on Aboriginal communities, and research is being conducted at a baseline level. In some cases, the research will not be completed until there has been some rationalisation of the claimant applications already filed.

4.3 Northern Territory

1. Determinations of native title:	
Total registered since 1 January 1994	11
Native title exists	10
Native title does not exist	1
Total registered from 1 July 2008 – 30 June 2009	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	34
Native title applications determined (in full or in part) 1 July 2008 – 30 June 2009	0

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	229
Dispositions since 1 January 1994	70
Dispositions 1 July 2008 – 30 June 2009	14
4. Current claimant applications:	
Current number of applications	159
Average time since filing	92 months
Number currently referred for Tribunal mediation	5
5. Non-claimant applications:	
Current number of applications	0
Dispositions since 1 January 1994	4
Dispositions 1 July 2008 – 30 June 2009	0
6. ILUAs:	
Number of currently registered ILUAs	95
Number of ILUAs registered 1 July 2008 – 30 June 2009	10

Claimant applications resolved or removed: Eight in January-June 2009 (compared with six in July-December 2008), comprising one by dismissal and seven discontinued.

Mediation

Mediation continues to be largely managed by the Federal Court with regular direction hearings being convened. Consent determinations over the Town of Elliot and Pine Hill Stations occurred in July (after the period covered by this report). They were the first consent determination over a town in the Northern Land Council (NLC) area, and the first consent determination over a pastoral lease in the Central Land Council area, respectively. The Court's timeline for pastoral and town claim resolution has been reset to allow some extensions to timeframes for preparation of connection materials and preparatory anthropological work.

It is expected that Central Land Council national parks related claims will be withdrawn following the parks handovers completed by Indigenous Affairs Minister Jenny Macklin in June. In late September the Court is convening a Native Title Forum for all stakeholders to examine the best methods for a timely resolution of the rest of the Court list. The Tribunal has continued to assist parties by providing detailed geospatial analysis, mapping and tenure information.

ILUAs

ILUA activity has been strong in the past six months and similar levels of ILUA activity are expected over the next 12 months.

Future Act

There has been significant progress in the discussions between the NLC and the Northern Territory Government relating to a small miner's template agreement. Further consultation with stakeholders is still to occur.

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 2008 – 30 June 2009	6
Native title exists	6
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 2008 – 30 June 2009	6
3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	46
Dispositions since 1 January 1994	25
Dispositions 1 July 2008 – 30 June 2009	3
4. Current claimant applications:	
Current number of applications	21
Average time since filing	117 months
Number currently referred for Tribunal mediation	16
5. Non-claimant applications:	
Current number of applications	0
Dispositions since 1 January 1994	3
Dispositions 1 July 2008 – 30 June 2009	0
6. ILUAs:	
Number of currently registered ILUAs	37
Number of ILUAs registered 1 July 2008 – 30 June 2009	14

Claimant applications resolved or removed: Three in January-June 2009 (compared with none in July-December 2008), comprising one determination, one discontinued and one struck out.

Mediation

All but five South Australian claims were in mediation at 30 June. Of those which were not in mediation, two involve overlap issues that have not been resolved by mediation, a third has ILUA negotiations being finalised and two were expected to be resolved in July or August.

ILUAs

The ILUA activity is strong, with 13 ILUAs being registered in the past six months and 14 proposed agreements being facilitated by the Tribunal. These are wide ranging in content: they include prospective pastoral, local government, mining and parks agreements.

4.5 New South Wales

1. Determinations of native title:	
Total registered since 1 January 1994	31
Native title exists	2
Native title does not exist	29
Total registered from 1 July 2008 – 30 June 2009	3
Native title exists	0
Native title does not exist	3

Note: of the 29 determinations that native title does not exist, 26 were made in response to non-claimant applications, and 24 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 2008 – 30 June 2009	0
3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	186
Dispositions since 1 January 1994	154
Dispositions 1 July 2008 – 30 June 2009	8
4. Current claimant applications:	
Current number of applications	32
Average time since filing	109 months
Number currently referred for Tribunal mediation	20
5. Non-claimant applications:	
Current number of applications	24
Dispositions since 1994	227
Dispositions 1 July 2008 – 30 June 2009	13
6. ILUAs:	
Number of currently registered ILUAs	8
Number of ILUAs registered 1 July 2008 – 30 June 2009	0

Claimant applications resolved or removed: Two in January-June 2009 (compared with six in July-December 2008): one was dismissed and the second was discontinued.

Mediation

Connection material relating to a number of priority applications has been submitted to the NSW Government for assessment. The State Government's assessment will determine the options for resolution and the required level of further negotiation. In several applications with large numbers of respondent parties the Tribunal is continuing party reduction strategies. Tribunal mediation of several other priority applications is focused on the process and content of proposed ILUAs.

NTRBs

The recognised body for NSW (NTSCORP) is undertaking research projects in relation to two regions which, once concluded, are expected to result in new native title determination applications being filed. NTSCORP is achieving steady progress on a number of priority applications.

State Policy

Timeframes for resolution have been extended in relation to two ILUA negotiations as a result of a recent State Government decision to involve a range of government departments in negotiations and to require Local Aboriginal Land Councils for the regions to be consulted about settlement proposals.

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 2008 – 30 June 2009	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 2008 – 30 June 2009	0
3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	71
Dispositions since 1 January 1994	55
Dispositions 1 July 2008 – 30 June 2009	0
4. Current claimant applications:	
Current number of applications	16
Average time since filing	100 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 2008 – 30 June 2009	0
6. ILUAs	
Number of currently registered ILUAs	33
Number of ILUAs registered 1 July 2008 – 30 June 2009	0

Mediation

The development of new State Government policy relating to broader land settlements, the Victorian Native Title Settlement Framework, continued to impact on the progress of claimant application mediation timetables during January-June 2009.

State Policy

By mid-2010, the State government aims to have six matters largely resolved under the Victorian Native Title Settlement Framework which was announced in June 2009. The Framework outlines the State's preferred method for settling native title matters, sets out core principles and provides a framework for how agreements will be negotiated. It appears that the implementation of the Framework might be subject to Commonwealth funding. The State aims to have native title matters resolved over 90 per cent of Crown land within Victoria within 10 years.

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 2008 – 30 June 2009	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 2008 – 30 June 2009	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 2008 – 30 June 2009	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 2008 – 30 June 2009	0

6. ILUAs:	
Number of currently registered ILUAs	0
Number of ILUAs registered 1 July 2008 – 30 June 2009	0

There is no current activity in Tasmania.

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 2008 – 30 June 2009	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 2008 – 30 June 2009	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 2008 – 30 June 2009	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 2008 – 30 June 2009	0

6. ILUAs:	
Number of currently registered ILUAs	0
Number of ILUAs registered 1 July 2008 – 30 June 2009	0

There is no current activity in the Australian Capital Territory.

4.9 National

1. Determinations of native title:	
Total registered since 1 January 1994	122
Native title exists	86
Native title does not exist	36
Total registered from 1 July 2008 – 30 June 2009	12
Native title exists	9
Native title does not exist	3

Note: of the 36 determinations that native title does not exist, 28 were made in response 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	120
Native title applications determined (in full or in part) 1 July 2008 – 30 June 2009	10

3. Total disposition of claimant applications (determination/dismissal/strike-out/discontinuance):	
Applications filed since 1 January 1994	1,490
Dispositions since 1 January 1994	1,031
Dispositions 1 July 2008 – 30 June 2009	67

4. Current claimant applications:	
Current number of applications	459
Average time since filing	97 months
Number currently referred for Tribunal mediation	246

5. Non-claimant applications:	
Current number of applications	25
Dispositions since 1 January 1994	260
Dispositions in the last 12 months	15

6. ILUAs:	
Number of currently registered ILUAs	389
Number of ILUAs registered 1 July 2008 – 30 June 2009	52

5. Future act activities

Before some types of proposed activities that may affect native title (known as 'future acts') can go ahead, notices have to be published and negotiations have to take place under the NTA.

Future act activity remains greatest in the resource-rich states of Western Australia and Queensland. The following figures for the two years from 1 July 2007 to 30 June 2009 show a reduction in relation to each item (other than the number of objections finalised) by comparison with figures in the previous report, perhaps indicating the impact of global economic conditions on resources industries.

Between 1 July 2007 and 30 June 2009:

- 10,845 future act notices which asserted the expedited procedure under the NTA were advertised
- 1,929 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 3,116 objections to future acts were lodged in the period between 1 July 2007 and 30 June 2009, and 2,993 objections were finalised. Most objections were made in Western Australia.

5.2 Future act determination applications

Between 1 July 2007 and 30 June 2009, some 108 tenements were cleared for grant following Tribunal arbitral decisions that the future act could go ahead. Overall, applications covering 138 tenements were finalised within the period.

Tribunal's substantive list

As part of its National Case Flow Management Scheme, the Tribunal periodically reviews all claimant applications and, by applying various criteria (available on the Tribunal's website under the heading Applications and determinations/Procedures and guidelines at www.nntt.gov.au), allocates each claim to one or more of three priority lists:

- Substantive list (applications that are likely to be resolved or otherwise finalised within the next two years)
- Regional list (applications that require considerable preparation with regard to key features such as connection, tenure and resolution of overlaps before they can move to the substantive list)
- Registrar's list (applications that require registration testing or notification or have not been referred to the Tribunal for mediation).

In the six months to 30 June 2009, six applications were removed from the substantive list (three were determined, two had mediation cease by order of the Federal Court and one was discontinued).

The substantive list as at 30 June 2009 includes:

NNTT Number	NNTT Name	Date lodged	NCFMS region
Northern Territory			
DC99/4	Pine Hill Station	06/07/99	NT
New South Wales and Australian Capital Territory			
NC01/8	Byron Bay Bundjalung People #3	05/12/01	NSW/ACT
NC95/1	Byron Bay Bundjalung People #1	22/12/94	NSW/ACT
NC95/4	Kattang People - Traditional Owners of Saltwater #1	1/02/1995	NSW/ACT
NC95/5	Kattang People - Traditional Owners of Saltwater #2	6/02/1995	NSW/ACT
NC97/7	Gundungurra Tribal Council Aboriginal Corporation #6	29/04/97	NSW/ACT
NC97/8	Darug Tribal Aboriginal Corporation	12/05/97	NSW/ACT
Queensland			
QC01/14	Combined Dulabed and Malanbarra Yidinji Claim	22/03/01	North QLD
QC01/31	Wik and Wik Way People	14/09/01	Torres Strait/Cape York
QC01/42	Torres Strait Regional Sea Claim	23/11/01	Torres Strait/Cape York
QC02/11	Thanakwithi People #2	15/03/02	Torres Strait/Cape York
QC02/25	Wuthathi People #2	23/05/02	Torres Strait/Cape York
QC02/8	Angkamuthi People	14/03/02	Torres Strait/Cape York
QC03/1	Jirrbal People #1	16/01/03	North QLD
QC04/3	Jirrbal People #2	18/02/04	North QLD
QC04/4	Jirrbal People #3 - National Parks, State Forests, Forest Reserves	18/02/04	North QLD
QC04/5	Gangalidda and Garawa Peoples	25/05/04	Carpentaria

QC05/3	Gangalidda & Garawa People #2	08/03/05	Carpentaria
QC07/4	Western Yalanji Combined #5 and #7	23/04/07	North QLD
QC96/1	Gunggari people	08/03/96	South QLD
QC96/100	Indjilandji	04/09/96	South QLD
QC96/77	People of Naghir #1	27/06/96	Torres Strait/Cape York
QC97/32	Girramay People	03/09/97	North QLD
QC97/7	Kaanju, Umpila, Lamalama, Ayaputhu peoples #2	12/03/97	Torres Strait/Cape York
QC98/30	Wulgurukaba People #1	12/06/98	North QLD
QC98/31	Wulgurukaba People #2	12/06/98	North QLD
QC98/43	Tagalaka People	29/09/98	North QLD
QC99/23	Waanyi Peoples	30/08/99	Carpentaria
South Australia			
SC06/1	Far West Coast	04/01/06	South Australia
SC99/1	Adnyamathanha No.1	15/01/99	South Australia
Victoria and Tasmania			
VC00/1	Dja Dja Wurrung Peoples	19/07/00	VIC/TAS
VC00/4	Yupagalk People	19/07/00	VIC/TAS
VC00/5	Wamba Wamba, Barapa Barapa and Wadi Wadi Peoples.	19/07/00	VIC/TAS
VC96/1	Robinvale Aboriginal Community	27/03/96	VIC/TAS
VC99/2	Dja Dja Wurrung People	27/04/99	VIC/TAS
VC99/6	Dja Dja Wurrung	21/07/99	VIC/TAS
VC99/9	Dja Dja Wrung/ Whurung People	02/08/99	VIC/TAS
Western Australia			
WC00/6	Balanggarra #3	03/07/00	Kimberley
WC05/2	Ngarla #2	07/04/05	Pilbara
WC96/64	The Esperance Nyungars	06/06/96	Goldfields
WC97/95	Thudgari People	18/11/97	Geraldton
WC98/65	Nyangumarta People	29/09/98	Pilbara
WC98/68	Birriliburu People	29/09/98	Central Desert
WC99/35	Uunguu	21/10/99	Kimberley
WC99/47	Balanggarra (Combination)	30/04/99	Kimberley
WC99/7	Dambimangari	09/04/99	Kimberley