



**Australian Government**

**Department of Education, Employment and Workplace Relations**

# **LGALAND406A Respond to native title determination applications**

**Release 2**

## LGALAND406A Respond to native title determination applications

### Modification History

LGALAND406A Release 2: Layout adjusted.  
LGAGLAND406A Release 1: Primary release.

### Unit Descriptor

This unit covers assisting in council responding to native title determination applications.

### Application of the Unit

This unit supports the attainment of skills and knowledge required for competent workplace performance in councils of all sizes. Knowledge of the legislation and regulations within which councils must operate is essential. The unique nature of councils, as a tier of government directed by elected members and reflecting the needs of local communities, must be appropriately reflected.

### Licensing/Regulatory Information

Not applicable.

### Pre-Requisites

Not applicable.

### Employability Skills Information

This unit contains employability skills.

### Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a Unit of Competency

Performance criteria describe the required performance needed to demonstrate achievement of the element. Where ***bold italicised*** text is used, further information is detailed in the Range Statement. Assessment of performance is to be consistent with the Evidence Guide.

## Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
<p>1 <b>Conduct background research on the native title system</b></p>	<p>1.1 The native title system established under commonwealth legislation is <i>researched</i>.</p> <p>1.2 The role and function of relevant agencies are identified.</p> <p>1.3 The system for considering native title determination applications is identified.</p> <p>1.4 The steps involved in responding to a native title determination application are identified.</p>
<p>2 <b>Develop a strategy for integrating native title considerations into council decision making</b></p>	<p>2.1 The areas where native title is likely to continue to exist are identified.</p> <p>2.2 Expert advice is sought as required.</p> <p>2.3 <i>Relevant agencies</i> and native title holders/registered claimants are consulted.</p> <p>2.4 The <i>range of options for council to adopt a precautionary approach</i> to native title matters is assessed.</p> <p>2.5 <i>Appropriate strategies and actions</i> are developed.</p> <p>2.6 Meetings with relevant council officers are held to discuss implications of adopting a precautionary approach.</p> <p>2.7 <i>Council procedures, practices and documentation</i> reflect a precautionary approach.</p> <p>2.8 Relevant stakeholders are informed.</p>
<p>3 <b>Respond to a native title application</b></p>	<p>3.1 Options for responding to an application of a determination of native title are identified.</p> <p>3.2 Expert advice is sought as required.</p> <p>3.3 Relevant agencies are consulted.</p> <p>3.4 Discussions are held with native title applicants to clarify issues of concern to local government.</p> <p>3.5 Advice is prepared for council with recommendations for an appropriate course of action.</p>

## **Required Skills and Knowledge**

This describes the essential skills and knowledge and their level, required for this unit

### **Required Skills**

- oral and written communication
- research
- evaluation
- decision making
- consultation
- mediation
- negotiation

### **Required Knowledge**

- origins and concepts of native title
- Australian land tenure system
- relevant commonwealth and state or territory legislation
- primary cases on native title
- Aboriginal and Torres Strait Islander laws and customs
- system for considering native title applications
- processes for mediation and litigation in native title matters
- advice of local government peak bodies on native title
- relevant agencies
- cultural context
- location and resources
- legal requirements
- organisational policies, procedures and processes

## Evidence Guide

<b>Overview of assessment requirements</b>	A person who demonstrates competency in this unit will be able to perform the outcomes described in the Elements to the required performance level detailed in the Performance Criteria. The knowledge and skill requirements described in the Range Statement must also be demonstrated. For example, knowledge of the legislative framework and safe work practices that underpin the performance of the unit are also required to be demonstrated.
<b>Critical aspects of evidence to be considered</b>	The demonstrated ability to: <ul style="list-style-type: none"><li>• conduct research into the native title system to identify the concepts of native title and the relationship between the Australian land tenure system and native title</li><li>• develop a strategy for integrating native title considerations into council decision making</li><li>• respond to a native title application and prepare advice for council</li></ul>
<b>Context of assessment</b>	Competency is demonstrated by the performance of all stated criteria, with particular attention to the critical aspects of evidence and the knowledge and skills elaborated in the Evidence Guide, and within the scope of the Range Statement. Assessment must take account of the endorsed Assessment Guidelines in the Local Government Training Package. Assessment of the performance requirements in this unit should be undertaken in an actual workplace or simulated environment. Assessment should reinforce the integration of the key competencies for the particular AQF level. Refer to the key competency levels at the end of this unit.
<b>Relationship to other units(prerequisite or co-requisite units)</b>	To enable holistic assessment this unit may be assessed with other units that form the job role.
<b>Method of assessment</b>	The following assessment methods are suggested: <ul style="list-style-type: none"><li>• observation of the learner performing a range of workplace tasks over sufficient time to demonstrate handling of a range of contingencies</li><li>• written and/or oral questioning to assess knowledge and understanding</li><li>• completion of workplace documentation</li><li>• third-party reports from experienced practitioners</li><li>• completion of self-paced learning materials including personal reflection and feedback from trainer, coach or</li></ul>

supervisor

**Evidence required for demonstration of consistent performance**

Evidence should be collected over a set period of time that is sufficient to include dealings with an appropriate range and variety of situations.

**Resource implications**

The learner and trainer should have access to appropriate documentation and resources normally used in the workplace.

## Range Statement

The Range Statement relates to the Unit of Competency as a whole. It allows for different work environments and situations that may affect performance. ***Bold italicised*** wording in the Performance Criteria is detailed below.

- Research*** may include:
- Australian land tenure system
  - commonwealth and state legislation
  - primary legal cases on native title
  - Aboriginal and Torres Strait Islander law and custom
  - advice and information prepared by local government peak bodies
  - case studies from other council experiences
- Relevant agencies*** may include:
- the federal court of Australia
  - the National Native Title Tribunal
  - the relevant native title representative body
  - the claimant community and/or its legal representative
  - the state government
- The range of options for council to adopt*** may include:
- mediation
  - agreements
  - litigation
- A precautionary approach*** may include:
- investigating the extent of council's liability
  - minimising the risks associated with native title matters
  - acting in accordance with the principles of good governance as contained in state legislation
  - seeking mediated outcomes in order to avoid costly litigation
- Appropriate strategies and actions*** may include:
- developing agreements with the native title holders/applicants
- Council procedures, practices and documentation*** may include:
- a registered agreement with native title holders/applicants
  - a policy document setting out council's approach to native title matters

## Unit Sector(s)

Land Management