



**Australian Government**

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

# **LGALAND502A Identify native title issues relevant to local government context and functions**

Release: 2

## LGALAND502A Identify native title issues relevant to local government context and functions

### Modification History

LGALAND502A Release 2: Layout adjusted.  
LGAGLAND502A Release 1: Primary release.

### Unit Descriptor

This unit covers assessing the implications for local government of native title rights and interests and the issues that require resolution.

### 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                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 <b>Determine the scope of native title applications</b>  | <ul style="list-style-type: none"><li>1.1 Council database of land and water holdings is checked against the formal and informal registers of native title determinations, applications and agreements held by the National Native Title Tribunal (NNTT).</li><li>1.2 Details of any applications and determinations are obtained and mapped.</li><li>1.3 Discussions are held with native title holders/claimants and the relevant native title representative body about areas of land or waters included or excluded from any native title determination applications.</li><li>1.4 Mapping of applications and determinations is checked with claimants and NNTT.</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2 <b>Identify native title issues for local government</b> | <ul style="list-style-type: none"><li>2.1 Legal requirements to notify and consult or negotiate with applicants and/or native title holders are researched.</li><li>2.2 Native title holders/applicants are consulted on their rights and interests and how they expect to exercise those rights and interests.</li><li>2.3 Native title holders/applicants are consulted about council plans or other land use and development intentions in areas subject to a native title determination or are included in an application for a native title determination.</li><li>2.4 <b>Relevant stakeholders and government agencies</b> are consulted on likely impact of native title on existing and future land uses.</li><li>2.5 The impact on existing and future land uses and activities is assessed and issues for discussion with native title holders/applicants are identified.</li><li>2.6 <b>The processes for obtaining validity for activities</b> that will affect native title rights and interests are investigated.</li><li>2.7 Discussions are held with native title holders/applicants and the relevant native title representative body and outcomes are documented.</li><li>2.8 Requirements to notify and consult or negotiate with native title holders/applicants are integrated into council strategic, corporate and operational decision-making processes.</li></ul> |

## **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 determination applications
- processes for mediation and litigation in native title matters
- advice of local government peak bodies on native title
- relevant agencies
- cultural context
- community control
- location and resources
- legal requirements
- organisational policies, procedures and processes

## Evidence Guide

### Overview of assessment requirements

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.

### Critical aspects of evidence to be considered

The demonstrated ability to:

- determine the scope and effect of native title determination applications on council's area and responsibilities
- identify issues that arise from native title determination applications and negotiate outcomes with native title holders/applicants and incorporate them into council's strategic, corporate and operational plans.

### Context of assessment

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.

### Relationship to other units(prerequisite or co-requisite units)

To enable holistic assessment this unit may be assessed with other units that form the job role.

### Method of assessment

The following assessment methods are suggested:

- observation of the learner performing a range of workplace tasks over sufficient time to demonstrate handling of a range of contingencies
- written and/or oral questioning to assess knowledge and understanding
- completion of workplace documentation
- third-party reports from experienced practitioners
- completion of self-paced learning materials including personal reflection and feedback from trainer, coach or 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.

***Relevant stakeholders and government agencies*** may include:

- Australian Local Government Association
- relevant state and territory local government associations
- state or territory government agencies
- the relevant native title representative body
- NNTT
- the applicant's legal representative

***The processes for obtaining validity for activities*** may include:

- a registered Indigenous land use agreement under the Native Title Act 1993 (Cth)
- following the correct processes under the Native Title Act 1993 (Cth) or a state or territory regime, if existing

## Unit Sector(s)

Land Management