



## **NATIONAL ARCHIVES OF AUSTRALIA - SUBMISSION ALRC Discussion Paper - Review of the Native Title Act 1993 (DP 82)**

### **Context**

The National Archives of Australia (the Archives) is pleased to provide the following submission to the Australian Law Reform Commission's (ALRC) Discussion Paper on *Review of the Native Title Act 1993 (DP 82)*.

The Archives makes this submission to ensure that its important, independent role in regard to overseeing Commonwealth recordkeeping, identifying the Commonwealth's archival resources and preserving and making those archival resources publicly available is:

- taken into account by the ALRC; and
- not affected inadvertently by the ALRC's recommendations.

### **Archiving evidence**

**Question 9–2** What procedures, if any, are required to deal appropriately with the archival material being generated through the native title connection process?

As you may be aware, records created by Commonwealth government agencies are Commonwealth records under the *Archives Act 1983* (Commonwealth). This includes records created by the Federal Court, the National Native Title Tribunal, the Northern Land Council, the Central Land Council, the Tiwi Land Council, the Anindilyakwa Land Council and the Torres Strait Regional Authority. The Act provides for the management of these records by the National Archives of Australia. This includes:

- the identification of permanent value records by the agency in consultation with the Archives
- the transfer, storage and ongoing preservation and care of these records
- the description of the records at item level (e.g. file, photo) in the Archives' catalogue, RecordSearch, which is available for searching on the Archives' website, taking into account continuing sensitivities, such as secret/sacred material
- making the records available for access by the public once they reach the open access period, taking into account continuing sensitivities that need to be withheld. By 2020, the open access period will have been progressively reduced from 30 years old to 20 years old as a result of changes to the Archives Act in 2010. This access can include making the records available in an Archives' reading room on request, or providing online access via the Archives' collection catalogue, *RecordSearch*. The Archives also provides advice and training about the standards for agencies to follow who wish to undertake digitisation projects.

The archival records created by these Commonwealth agencies in relation to native title are seen as valuable material documenting the activities of government and of important historical value for Indigenous people and for the wider Australian community.

The Archives Act does not prevent the agency that controls the records from making them available to the public or to particular groups of people before they reach the open access period. For example, the tribunal or a land council might want to grant access to a submission presented during a native title claim to the people who prepared the submission or to their nominees. The *Principles on open public sector information* issued in May 2011 by the Office of the Australian Information Commissioner also dictate that where there is no legal need to protect government information it should be open to public access by default.

Further detail is available at [www.naa.gov.au](http://www.naa.gov.au) or directly from the National Archives of Australia.