

**From:** Davidson, Stephen [Stephen.Davidson@nntt.gov.au]  
**Sent:** Friday, 9 July 2010 12:27 PM  
**To:** Native Title  
**Subject:** Re: DISCUSSION PAPER - Leading practice agreements: maximising outcomes from native title benefits

**Categories:** Red Category

Reductions in outstanding administrative items and processing issues could be accomplished in a number of ways, many of them compatible with speeding up native title resolutions in general.

- 1) Many native title determinations are near-permanently on hold awaiting native title parties' registration of a suitable representative body. There is often no perceived advantage for a NT party to register the required body after a determination has been made, and so it never gets done. I would suggest either making the registration of such bodies non-mandatory in Federal Court decisions on native title, possibly after a certain number of years since the date of effect of decision, or making the decision nullifiable after a certain time if a representative body has not been set up. Either process would remove a notable number of native title decisions from their current limbo of eternally waiting for the creation of a body, moving them either onto the Native Title Register or closing the file on them.
- 2) Some native title processes have been in mediation for excessive timeframes – ten years or more, in some cases. Perhaps there might be an advantage in asking the parties in such processes what would encourage them to move the process out of mediation and onto some form of closure. Alternatively, there could be a policy along the lines of any (nonvexatious claim) mediation not resolved within five years – or three, or one – gets resolved in favour of the less financially well-placed party, thus encouraging the party with the higher resource level to take a more active part in the proceedings.