



Caveat Removal Guidelines

Eligibility

An Indigenous organisation can apply for the removal of caveats¹ if it currently owns (as an initial purchaser, transferee or recipient):

- grant-funded property purchased using grants provided by the Aboriginal and Torres Strait Islander Commission (ATSIC) or its predecessor, or
- subsequent property purchased with the proceeds from the sale of the original grant-funded property.

“Property” in these guidelines includes buildings and fixtures on the property.

Assets of significance to the Indigenous Estate

Properties defined as assets of significant cultural and/or heritage value and assets of significant environmental value are not eligible for consideration for caveat removal. (see definition in pages 3 - 4 of this document).

Properties defined as Assets of significant social and/or economic value are eligible for assessment and will be considered on an individual basis. This includes farms and pastoral properties.

How will my application be assessed?

Requests for the removal of caveats on grant-funded property will be assessed on a case-by-case basis. We will consider each case on its merits.

The following criteria must be satisfied before caveats are removed:

- Signed Board resolution to request caveat removal in line with the organisation’s Constitution;
- support from the relevant consenting authority². The factors considered by a consenting authority may include;
 - the need for service continuity
 - potential impacts on the local community

¹ References to removing a ‘caveat’ captures both the removal of the registered caveat on title as well as the discharge of the Commonwealth’s interest in the property recorded on the caveat.

² From 2005, management of ATSIC’s rights and interests in grant-funded Indigenous land devolved to the Commonwealth, Indigenous Business Australia (IBA) and the Indigenous Land and Sea Corporation (ILSC) as the relevant Consenting Authorities see Further Information for a breakdown of Commonwealth Consenting Authorities.

- evidence that the terms of the original grant and other funding agreements have been fulfilled.
- the organisation is assessed as low risk.

Risk is determined through an assessment of financial, business and governance risk. Organisations that are in one or more of the following categories are automatically assessed as low risk:

- a State or Territory statutory body;
- under additional legislative protection (e.g. a Land Council); or
- registered under a National or State Government housing accreditation scheme (e.g. National Regulatory System for Community Housing (NRSCH) or state equivalent)

Organisations which do not fall into this low-risk category **are still eligible** to apply for assessment. The assessment process is more detailed with the National Indigenous Australians Agency (the Agency) undertaking a full financial, business and governance assessment of the organisation. Factors considered are:

Financial: current and previous solvency, financial compliance including maintenance of registration with appropriate authority.

Business: current and previous business performance, as outlined in the organisation's strategic plan or similar document outlining operations.

Governance: leadership and governance structure, as outlined in the organisation's rulebook or Constitution, an internet presence describing governance arrangements; the availability of a current conflicts of interest register; and evidence of independent board members for decision making purposes, and other documents outlining organisational procedures and practices.

Important Notes: All organisations must provide a copy of their Board resolution, in line with their Constitution, to apply for caveat removal for all properties listed in the application.

Ready to apply?

Fill in the Application form available online. Send the completed form and a signed copy of the Board decision resolving to request caveat removal for the properties listed on the form to the Commonwealth Rights and Interests mailbox: CthRightsandInterests@niaa.gov.au. If your Board has not yet decided you can still apply, but we will not be able to complete the assessment of your application until we receive it.

If you do not want to use the electronic form, applications can be made using a hard copy form found online. Send the completed form with your signed Board Agreement and any other information to:

CRIIP Project – Housing and Infrastructure Branch

Social Policy Group
GPO Box 2191
CANBERRA ACT 2601

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We will contact your organisation with advice on your application's progress within 14 days of receipt of your completed application form.

Basis of Decision Making

The purpose of the ATSIC grants was to further the social, economic and cultural development of Aboriginal and Torres Strait Islander people. This remains a key principle that will govern decision making.

In making a decision we must determine if it would be an "effective, efficient, economical and ethical" use of Commonwealth resources to relinquish its interests in the property. This is a requirement under the *Public Governance, Performance and Accountability Act 2013 (Cth) Act 2013*.

Decisions are discretionary and made in accordance with administrative decision-making principles. This could mean that we agree to remove caveats subject to conditions, or we do not agree to remove some or all of the caveats. If we do not agree to remove a caveat, we will provide you with feedback on your application and advice on accessing appropriate assistance for any future request.

Financial implications

The cost of removal of caveats from property titles will be borne by the Commonwealth.

Privacy

The Department is bound by the standards, rights and obligations for handling personal information in the *Privacy Act 1988*. The information you provide will be used for the purpose of the caveat removal process only. The [NIAA Privacy Policy](#) contains information about how you can access your personal information, seek correction or make a complaint about a breach of the Australian Privacy Principles. If you have questions about the Privacy Policy you can contact the Department's Privacy Officer at privacy@niaa.gov.au.

Glossary and Terms

The Indigenous Estate

The Indigenous Estate comprises the assets held, or reasonably likely to be held, by or for the benefit of Aboriginal and/or Torres Strait Islander people, whether by:

- Traditional Owner, Native Title and state/territory land rights-based organisations;
- federal, state and territory organisations, statutory bodies and funds established to act in the interests of Aboriginal and Torres Strait Islander peoples, including (without limitation) the assets



within IBA, ILSC, the Indigenous Land Account, Aboriginals Benefit Account and analogous structures under state/territory regimes; or

- commercial or not-for-profit organisations established by or for the benefit of Aboriginal and Torres Strait Islander people.

Definition of assets of significance to the Indigenous Estate

Assets of significant cultural and/or heritage value are those which contain or comprise one or more of the following:

- registered sites of cultural significance;
- sites of significance to the Stolen Generation;
- sites of heritage value such as former Missions; or
- other sites of heritage value which are gazetted under state, territory or Commonwealth legislation.

Assets of significant environmental value are those which contain or comprise sites or tracts of land which are the subject of environmental covenants under state, territory, Commonwealth law, or international treaties, such as:

- RAMSAR sites. These sites are wetlands designated by the Ramsar Convention to be sites of international importance;
- Indigenous held properties that form part of a declared Indigenous Protected Area (IPA); and
- habitat for threatened or endangered species as gazetted under state, territory or Commonwealth legislation.
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Assets of significant social and/or economic value are eligible for assessment. This includes farms and pastoral properties.

Further information

Other questions? Email CthRightsandInterests@niaa.gov.au.