In what situations may native title no longer exist?

Aboriginal and Torres Strait Islander peoples’ rights and interests in relation to land and waters may have been lost, as far as Australian law is concerned, in several ways.

The Federal Court may decide for a variety of reasons that native title no longer continues to exist for an area. Factors that may influence such a determination include:

- the native title holders ceasing to exist;
- the Aboriginal people or Torres Strait Islanders ceasing to observe their customary laws and traditions on which their title is based;
- loss of continuing connection with an area;
- the Aboriginal people or Torres Strait Islanders surrendering their native title to the Crown, possibly in exchange for other benefits.

These are matters that claimant communities need to discuss amongst themselves. Some native title holders may currently not be living in the local community. It is very important, therefore, for claimant communities to identify who ‘speaks for country’ in particular areas and that they are involved in preparing the application for a determination.