

## **Native Title Guide Native Title Protection Conditions**

**July 2024**

This publication has been compiled by Regulatory Support and Performance of Georesources Division, Department of Resources.

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# 1 About this guideline

This guideline provides clarification about the application of the native title protection conditions (NTPCs) for an exploration resource authority that has undergone the expedited procedure. The guideline provides guidance and clarity to resource authority applicants and holders, native title parties and departmental officers for some situations that are not expressly addressed.

This document should be read in conjunction with the Native Title Protection Conditions.

## 2 Background

Exploration authorities and mineral development licences undertake the expedited procedure where the State asserts the activities will have minimal impact on native title rights and interests pursuant to sections 32 and 237 of the *Native Title Act 1993* (Cth) (the NTA).

The State asserts this as the native title protection conditions (NTPCs) will be attached to the resource authority upon grant. It is considered the NTPCs are adequate to protect native title rights and interests for the resource authority area.

The State makes the assertion that the expedited procedure applies on the section 29 NTA Notice and proposes to grant the resource authority with the NTPCs attached as conditions. The NTPCs outline what is required by the explorer to engage the native title party and undertake exploration activities.

The native title party may lodge an objection to the expedited procedure. If no objections are lodged with the National Native Title Tribunal during the notification period of the expedited procedure, the resource authority can be granted with the NTPCs being applied to the resource authority at grant.

## 3 Associated costs

There are costs associated with the expedited procedure process, which include the annual administrative payment which is, adjusted on 1 July each year according to the CPI indexation.

### 3.1 GST

Clauses 5.6 and 8.1 of the NTPCs include specific provisions for administrative payments and fees for inspections and monitoring.

For the explorer, if GST is payable, the explorer is only required to pay the fee and does not need to pay an additional amount with respect to GST. That is the fee is GST inclusive.

For the Nominated body, if GST is not payable, the Nominated Body retains the whole amount. If GST is payable, the Nominated Body must remit 1/11th of the amount paid to the Australian Taxation Office (ATO) as GST.

It is advised that each relevant party subject to the NTPCs should obtain their own legal and taxation advice.

### 3.2 Administrative payments

An annual administrative payment is payable for an invoice issued in the year that it was invoiced. Where an invoice has not been issued, a native title party cannot later issue an invoice for past years.

## **4 Native Title Party changes**

A native title claim application may progress after the grant of a resource authority which changes the status of the native title party. This section explains how each status impacts the application of the NTPCs.

### **4.1 Native title determination**

When a native title party is determined after the grant of the resource authority, a Change of Nominated Body Notice is to be sent to the explorer by the native title party, where the nominated body details are changed.

For a native title determination after the grant of the resource authority, the registered native title claimant will be succeeded as a native title party by the registered native title body corporate.

### **4.2 Native title claim is deregistered**

When a registered native title claim is deregistered and they were the only overlapping native title party, the NTPCs can no longer be applied to the native title party. The area within the resource authority is now considered unclaimed.

The explorer is still required to comply with the requirements of the *Aboriginal Cultural Heritage Act 2003* (Qld) or the *Torres Strait Islander Cultural Heritage Act 2003* (as applicable).

Where the resource authority has two overlapping native title parties and one becomes deregistered, the other registered native title party will assume the full entitlements of the NTPCs.

### **4.3 Native title claim determined – native title does not exist**

Where a registered native title claim is determined that native title does not exist and they were the only overlapping native title party, the NTPCs can no longer be applied to the native title party. The area within the resource authority is considered unclaimed.

The explorer is still required to comply with the requirements of the *Aboriginal Cultural Heritage Act 2003* (Qld) or the *Torres Strait Islander Cultural Heritage Act 2003* (as applicable).

Where the resource authority has two overlapping native title parties and one is determined native title does not exist, the other registered native title party will assume the full entitlements of the NTPCs.

### **4.4 Unclaimed – nil register or determined native title party**

Where there is no registered or determined native title claim over the resource authority, at the end of the four-month notification period, the resource authority will be granted with the NTPC's as a condition. However, the NTPC's cannot be applied to a native title party.

The explorer is still required to comply with the requirements of the *Aboriginal Cultural Heritage Act 2003* (Qld) or the *Torres Strait Islander Cultural Heritage Act 2003* (as applicable).

## 5 Native Title Services contact details

Native Title Services

Land & Surveying Services

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## 6 Version Control

v1.0	First version	July 2024

## 7 Document information

**Availability:** External

**Location:** Business Industry Portal

**Owner and approver:** Director, Georesources Policy

**Review date:** July 2027

**Related documents:**

**Contacts:** For help and information about this guide, please contact

Native Title Services on (07) 4936 0140 or email [nativetitleservices@resources.qld.gov.au](mailto:nativetitleservices@resources.qld.gov.au).

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