# Native Title Guide
# Native Title Protection Conditions

**December 2025**

This publication has been compiled by Georesources Policy of Georesources Division, Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development.



**Interpreter statement**:

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# 1 About this guideline

This guideline provides clarification about the application of the native title protection conditions (NTPCs) which may be imposed on exploration permits and mineral development licences granted under the *Mineral Resources Act 1989* to complement the expedited procedure process. The guideline provides 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 NTPCs.

# 2 Background

Exploration permits and mineral development licences proceed under 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 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 asserts that the expedited procedure applies on the section 29 NTA Notice and proposes to grant the resource authority subject to the NTPCs. The NTPCs outline what is required by the Explorer to engage the relevant 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

Administrative payments are paid to cover administration costs of the native title party as compensation to the Nominated Body for being ready to perform its obligations under the NTPCs. There is no obligation on the Nominated Body to demonstrate that administrative costs have been incurred.

### 3.2.1 Payments become due upon issue of an invoice

The liability of the Explorer to pay the Administrative Payment will accrue cumulatively at the commencement of each Exploration Tenement Year until such a time as an invoice is issued, at which time the accumulated sum will be due in accordance with clauses 8.3 and 8.4 of the NTPCs.

Before an invoice can be issued the native title party must issue a Nominated Body Response Notice.

The native title party can issue an invoice annually.

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 where there was no Nominated Body. This is because an entity that is not a Nominated Body (regardless of whether it later becomes one) has no functions to perform under the NTPCs, and is therefore not entitled to compensation for performing those functions.

### 3.2.2 Exploration permits with multiple native title parties

Where there are multiple native title parties overlapping with an exploration permit. A native title party is only entitled to a proportion of the Administrative Payment. For example, if there are two native title parties, then an Explorer must pay 50% of the Administrative Payment to each Nominated Body.

Exploration permits are required to relinquish 50% of the area after 5 years. If the area of the exploration permit no longer overlaps with the native title party's claim or determination, then the native title party is no longer entitled to issue an invoice for the Administrative Payment to the Explorer, as their native title is no longer affected by the exploration permit.

### 3.2.3 Consequences for non-payment of administrative payments

Failure to pay an Administrative Payment required under the NTPCs constitutes non-compliance with a condition of the resource authority.

Under sections 160(1) and 209(1) of the *Mineral Resources Act 1989*, the Minister may cancel the resource authority or impose a penalty of up to 500 penalty units for an exploration permit, or up to 1000 penalty units for a mineral development licence.

# 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 determination is made after the grant of the resource authority, the relevant native title party is required to send a Change of Nominated Body Notice to the Explorer, where there is a change in Nominated Body.

Following a native title determination a Registered Native Title Body Corporate usually becomes the Nominated Body.

The new Nominated Body may only issue invoices under the NTPCs from the date of determination.

## 4.2 Native title claim is deregistered

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

The Explorer is still required to comply with the requirements of the *Aboriginal Cultural Heritage Act 2003* 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 native title is determined not to existed in a registered native title claim area, and it was the only overlapping native title party, the NTPCs can no longer apply.

The Native Title Representative Bodies for that region should also be notified.

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

Where the resource authority has two overlapping native title parties and one area 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 NTPCs. However, the NTPCs cannot be applied to a native title party.

The Native Title Representative Bodies for that region should also be notified.

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

# 5 Human Rights

The department is committed to respecting, protecting and promoting human rights.

Under the *Human Rights Act 2019*, the Minister and the department have an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

To the extent an act or decision under this guideline may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

# 6 Native Title Services contact details

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# 7 Document information

**Availability:** External
**Location:** Business Industry Portal
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**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.

For help with MyMinesOnline please contact the MyMinesOnline Helpdesk on (07) 3199 8133 or email minesonline@resources.qld.gov.au.

## 7.1 Version Control

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|---|---|---|
| v1.0 | First version | July 2024 |
| v1.1 | Additional detail added clarifying administrative payments | December 2025 |