# FEDERAL COURT OF AUSTRALIA

## DISTRICT REGISTRY

## GENERAL DIVISION

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| *Native Title (Federal Court) Regulations 2024*, Paragraph 7(1)(d) Form 4Native Title Act 1993 **Native Title Determination Application** Compensation Application |

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| Filed By |  | Address: |  |
| Name: |  | Email: |  |
| Law Firm (if any): |  | Telephone: |  |

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| **Form 4 - Native Title Determination Application**  **Compensation Application**  **The application of [*name of applicant*]**  Note 1: This form must be used for a compensation application, whether or not an approved determination of native title has previously been made in relation to the whole or part of the area concerned. If an approved determination has not previously been made, the Federal Court must also make a current determination of native title in relation to that area, as at the time at which the determination of compensation is made: see subsection 13(2) of the Act.  Note 2: The Native Title Registrar is only required to consider a claimant application (made with Form 1) for the purposes of accepting a claim for registration on the Register of Native Title Claims under section 190A of the Act.  Note 3: Paragraphs 62(3)(a) and (5)(a) (as applicable) of the Act requires an application to be accompanied by an affidavit sworn by the applicant stating the following matters:  (a) that the applicant believes that native title rights and interests exist or have existed in relation to the area covered by the application;  (b) that the applicant believes that all of the statements made in the application are true;  (c) if the application is authorised by a compensation claim group—that the applicant is authorised by all the persons in the compensation claim group to make the application and to deal with matters arising in relation to it;  (d) if the application is authorised by a compensation claim group—the details of the process of decision‑making complied with in authorising the applicant to make the application and to deal with matters arising in relation to it;  (e) if the application is authorised by a compensation claim group and there are no conditions under section 251BA of the Act on the authority that relate to the making of the application—that there are no such conditions;  (f) if the application is authorised by a compensation claim group and there are any conditions under section 251BA of the Act on the authority that relate to the making of the application—that the conditions have been satisfied and how the conditions have been satisfied;  (g) if the application is made by a registered native title body corporate—either that the applicant holds (or is an agent prescribed body corporate in relation to) the native title rights and interests, or that the area is within the external boundary of the area of land or waters covered by an approved determination of native title under which the applicant holds (or is an agent prescribed body corporate in relation to) native title rights and interests.  *If there is insufficient space, more information can be provided and labelled with the corresponding schedule number.* | | |
| **A.** | **Details of the claim** |  |
| 1. | The applicant applies for a determination of compensation under subsection 61(1) of the *Native Title Act* *1993*. |  |
| 2. | The applicant is entitled to make this application as [*capacity in which the applicant claims to be entitled to make the application, e.g. a person authorised by the compensation claim group to make the native title determination application.*] |  |
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| 3. | The schedules to this application contain the following information or documents: |  |
|  | *Schedule A**[see Act, s 61]* |  |
|  | Either:   1. the names (including Aboriginal names) of the persons (the ***compensation claim group***) on whose behalf the application is made or a sufficiently clear description of the persons so that it can be ascertained whether any particular person is one of those persons; or 2. the name of the registered native title body corporate. |  |
|  | *Schedule B* *[see Act, s 62(2)(a)]* |  |
|  | A written description that enables the boundaries of the following to be identified:   1. the area covered by the application; 2. any areas within those boundaries that are not covered by the application.   *Note: This information must be included, as well as the map mentioned in Schedule C* |  |
|  | *Schedule C**[see Act, s 62(2)(b)]* |  |
|  | A map showing the boundaries of the area covered by the application. |  |
|  | *Schedule D* *[see Act, s 62(2)(c)]* |  |
|  | Details and results of all searches carried out by or on behalf of the native title claim group to determine the existence of any non-native title rights and interests in relation to the land or waters in the area covered by the application. |  |
|  | *Schedule E* *[see Act, s 62(2)(d) and (f)]* |  |
|  | A description of the native title rights and interests in relation to particular land or waters (including any activities in exercise of those rights and interests) for which compensation is claimed. The description must not merely consist of a statement to the effect that the native title rights and interests are all native title rights and interests that existed, or have not been extinguished, at law.  *Note: This information may be provided in a copy of an approved determination of native title made in relation to the whole or part of the area concerned (if any).*    Details of any activities in relation to land or waters currently carried on by the compensation claim group. |  |
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|  | *Schedule F* |  |
|  | The name of:  (a) each representative Aboriginal/Torres Strait Islander body for the area covered by the application; or  (b) each person or body provided funding under subsection 203FE(1) of the Act to perform all or specified functions of a representative body mentioned in paragraph (a) in respect of the area covered by the application. |  |
|  | *Schedule G* *[see Act, s 62(2)(e)]* |  |
|  | A general description of the native title rights and interests for which compensation is claimed and, in particular, the factual basis on which it is asserted that:   1. the compensation claim group, and the predecessors of those persons, had an association with the area; and 2. there existed traditional laws and customs that give rise to the claimed native title; and 3. the compensation claim group had continued to hold the native title in accordance with those traditional laws and customs. |  |
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|  | *Schedule H* |  |
|  | Details of the act which it is claimed extinguished or affected native title rights and interests for which compensation is claimed, including:  (a) the government or other person that did the act and whether the act has been validated; and  (b) if the act has been validated, how this was done; and  (c) copies of:  (i) all searches of official title registers (such as the title register of crown lands and the land title register of the relevant State or Territory); and  (ii) all searches conducted with public bodies and authorities;  that identify existing or expired non‑native title rights and interests in relation to the land or waters covered by the compensation application |  |
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|  | *Schedule I* |  |
|  | Details of the basis for the compensation application, such as the provision of the Act that deals with the compensation entitlement. |  |
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|  | *Schedule J* *[see Act, s 62(2)(g)]* |  |
|  | Details of any other applications to the High Court, Federal Court or a recognised State/Territory body, of which the applicant is aware, that have been made in relation to the whole or a part of the area covered by the application and that seek a determination of native title or a determination of compensation in relation to native title. |  |
|  | *Schedule JA**[see Act, s 62(2)(ga)]* |  |
|  | Details of any notifications under paragraph 24MD(6B)(c) of the Act, of which the applicant is aware, that have been given and that relate to the whole or part of the area. |  |
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|  | *Schedule K [see Act, s 62(2)(h)]* |  |
|  | Details of any notices under section 29 of the Act (or under a corresponding provision of a law of a State or Territory), of which the applicant is aware, that have been given and that relate to the whole or a part of the area. |  |
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|  | *Schedule KA* *[see Act, s 62(2)(i)]* | | |
|  | Details of any conditions under section 251BA of the Act on the authority of the applicant to make the application and to deal with matters arising in relation to it. |  | |
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|  | *Schedule L* | |  |
|  | Details of any compensation received by the applicant or to which the applicant may be entitled under any agreement or award because of the act or a related act. | |  |
|  | *Schedule M* *[see Act, s 79]* | |  |
|  | Whether the applicant is claiming non‑monetary compensation and, if so, the nature of the non‑monetary compensation claimed. | |  |
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| [*The following items are not required, but may be included:*] | | | | | | | | | |  | | | |
|  | *Schedule N**[see Act, s 62]* | | | | | | | | |  | | | |
|  | Details of any traditional physical connection with any of the land or waters covered by the application by any member of the compensation claim group. | | | | | | | | |  | | | |
|  | *Schedule O**[see Act, s 62]* | | | | | | | | |  | | | |
|  | Details of the circumstances in which any member of the compensation claim group has been prevented from gaining access to any of the land or waters covered by the application. | | | | | | | | |  | | | |
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|  | *Schedule P* | | | | | | | | | |  | | | |
|  | Any other relevant information that the applicant wants to provide. | | | | | | | | | |  | | | |
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|  | Date:  [*Signed by the applicant or applicant’s solicitor]* | | | | |  | |  | |  | | | |
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| **B.** | **Filing and service** | |  |  | | | | |  |  | | |
| This application is filed by: | | | | | | | | | | | | |
| Name: | | |  | | | | | | | | | |
| Address for service: | | |  | | | | | | | | | |
| Email: | | |  | | | | | | | | | |
| Telephone: | | |  | | | | | | | | | |
| This application is filed for: *[Delete if applicant is unrepresented]* | | | | | | | | | | | | |
| Name: | | |  | | | | | | | | | |
| Postal Address: | | |  | | | | | | | | | |
| Email: | | |  | | | | | | | | | |
| Telephone: | | |  | | | | | | | | | |
| **C.** | **Email address for notices other than in relation to this application** | | | | | | | | |  | | | | |
|  | The applicant consents to all notices under the Act (including future act notices) being given to the applicant by email to the email address specified in Part B.  [*Delete Part C if the applicant does not consent or does not provide an email address for service.*] | | | | | | | | |  | | | | |
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