# **FEDERAL COURT OF AUSTRALIA**

## DISTRICT REGISTRY

## GENERAL DIVISION

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| *Native Title (Federal Court) Regulations 1998,* Paragraph 5(1)(a) Form 1Native Title Act 1993 **Native Title Determination Application** Claimant Application |

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| **Form 1**  Paragraph 5(1)(a)  ***Native Title Act 1993***  **Native Title Determination Application**  **Claimant Application**  The application of name of applicant(s)  Note 1: This form is to be used for an application mentioned in subsection 61(1) of the Act for a determination of native title in relation to an area for which there is no approved determination of native title.  Note 2: Section 62 of the Act requires this application to be accompanied by an affidavit sworn by the applicant stating the following matters:  (a) that the applicant believes that the native title rights and interests claimed by the native title group have not been extinguished in relation to any part of the area covered by the application;  (b) that the applicant believes that none of the area covered by the application is also covered by an approved determination of native title;  (c) that the applicant believes that all of the statements made in the application are true;  (d) that the applicant is authorised by all the persons in the native title claim group to make the application and to deal with matters arising in relation to it;  (e) 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;  (f) if 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;  (g) if 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. | | | | |
|  | **NAME OF APPLICANT(S)** | |  | |
|  | Mr/Mrs/Ms: |  |  | |
| Given Name: |  |
| Surname: |  |
| Aboriginal name (if any): |  |
| **PART A** | **DETAILS OF THE CLAIM** | | |  |
| **1** | The applicant applies for a determination of native title under subsection 61(1) of the *Native Title Act 1993*. | | |  |
| **2** | **AUTHORISATION** *[see Act, s 61 (1)]* | | |  |
| *Capacity in which the applicant claims to be entitled to make the application*, e.g.: a person authorised by the native title claim group to make the native title determination application: see Act, s61(1) | The applicant is authorised to make this application as ……. | | |  |
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| **3** | **The schedules to this application contain the following information:** |  |
| **SCHEDULE A** | **NATIVE TITLE CLAIM GROUP** *[see Act, s 61]* |  |
|  | The names (including Aboriginal names) of the persons (the ***native title 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 1 of those persons.    ***More information can be provided and labelled as “Attachment A”*** |  |
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| **SCHEDULE B** | **IDENTIFICATION IDENTIFYING THE BOUNDARIES OF:** *[see Act, s 62]* |  |
| *Note: This information must be included, as well as the map mentioned in SCHEDULE C* | Information identifying the boundaries of:   1. The area covered by the application; and 2. Any areas within those boundaries that are not covered by the application.     ***More information can be provided and labelled as “Attachment B”*** |  |
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| **SCHEDULE C** | **MAPS** *[see Act, s 62]* |  |
|  | A map showing the boundaries of the area covered by the application.    ***More information can be provided and labelled as “Attachment C”*** |  |
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| **SCHEDULE D** | **SEARCHES** *[see Act, s 62]* |  |
|  | 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.    ***More information can be provided and labelled as “Attachment D”*** |  |
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| **SCHEDULE E** | **DESCRIPTION OF NATIVE TITLE RIGHTS AND INTERESTS** *[see Act, s 62]* |  |
| *The description must not consist only of a statement to the effect that the native title rights and interests are all native title rights and interests that may exist, or that have not been extinguished, at law.* | A description of the native title rights and interests claimed in relation to particular land or waters (including any activities in exercise of those rights and interests).    ***More information can be provided and labelled as “Attachment E”*** |  |
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| **SCHEDULE F** | **GENERAL DESCRIPTION OF NATIVE TITLE RIGHTS AND INTERESTS CLAIMED** *[see Act, s 62]* |  |
|  | A general description of the factual basis on which it is asserted that the native title rights and interests claimed exist and in particular that:   1. the native title claim group has, and the predecessors of those persons had, an association with the area; and 2. there exist traditional laws and customs that give rise to the claimed native title; and 3. the native title claim group has continued to hold the native title in accordance with those traditional laws and customs.     ***More information can be provided and labelled as “Attachment F”*** |  |
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| **SCHEDULE G** | **ACTIVITIES** *[see Act, s 62]* |  |
|  | Details of any activities in relation to the land or waters currently carried on by the native title claim group.    ***More information can be provided and labelled as “Attachment G”*** |  |
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| **SCHEDULE H** | **DETAILS OF ANY OTHER APPLICATIONS** *[see Act, s 62]* |  |
|  | 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.    ***More information can be provided and labelled as “Attachment H”*** |  |
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| **SCHEDULE HA** | **DETAILS OF ANY NOTIFICATIONS** *[see Act, s 62]* |  |
|  | 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.    ***More information can be provided and labelled as “Attachment HA”*** |  |
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| **SCHEDULE I** | **DETAILS OF ANY SECTION 29 NOTICES** *[see Act, s 62]* |  |
|  | 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.    ***More information can be provided and labelled as “Attachment I”*** |  |
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| **SCHEDULE IA** | **DETAILS OF ANY 251BA CONDITIONS** *[see Act, s 62]* |  |
|  | 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.    ***More information can be provided and labelled as “Attachment IA”*** |  |
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| **SCHEDULE J** | **DRAFT ORDER** *[see Act, s 62]* |  |
|  | A draft of the order to be sought if the application is unopposed.    ***More information can be provided and labelled as “Attachment J”*** |  |
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| **SCHEDULE K** | **NATIVE TITLE REPRESENTATIVE BODIES** *[see Act, s 62]* |  |
|  | The name of each representative Aboriginal/Torres Strait Islander body for the area covered by the application.    ***More information can be provided and labelled as “Attachment K”*** |  |
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| **SCHEDULE L** | **TENURE AND LAND USE ISSUES** *[see Act, ss 47, 47A, 47B, 47C, 61A and 62]* |  |
| **(1)** | For the area covered by the application, details of:  (a) any area for which a pastoral lease is held by or on behalf of the members of the native title claim group; and  (b) any area leased, held or reserved for the benefit of Aboriginal peoples or Torres Strait Islanders that is occupied by or on behalf of the members of the native title claim group; and  (c) any vacant crown land occupied by the members of the native title claim group; and  (d) any area in relation to which the operation of section 47C of the Act (national parks etc.) has been agreed to in writing in accordance with paragraph 47C(1)(b) of the Act; and  (e) any area mentioned in paragraph (a), (b), (c) or (d) over which the extinguishment of native title is required by section 47, 47A, 47B or 47C of the Act to be disregarded. |  |
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| **(2)** | If the operation of section 47C of the Act (national parks etc.) has been agreed to in writing in accordance with paragraph 47C(1)(b) of the Act in relation to the whole or any part of the area covered by the application, a copy of the agreement and, if there is an agreement under subsection 47C(5) of the Act, that agreement.    ***More information can be provided and labelled as “Attachment L”*** |  |
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| **The following items are not required, but will be relevant when the Native Title Registrar considers the claim for registration under section 190A of the Act.** | | |
| **SCHEDULE M** | **TRADITIONAL PHYSICAL CONNECTION** *[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 native title claim group.    ***More information can be provided and labelled as “Attachment M”*** |  |
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| **SCHEDULE N** | **PREVENTION OF ACCESS** *[see Act, s 62]* |  |
|  | Details of the circumstances in which any member of the native title claim group has been prevented from gaining access to any of the land or waters covered by the application.    ***More information can be provided and labelled as “Attachment N”*** |  |
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| **SCHEDULE O** | **MEMBERSHIP OF ANY OTHER NATIVE TITLE GROUPS** *[see Act, s 190C]* |  |
|  | Details of the membership of the applicant or any member of the native title claim group in a native title claim group for any other application that has been made in relation to the whole or part of the area covered by this application.    ***More information can be provided and labelled as “Attachment O”*** |  |
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| **SCHEDULE P** | **CLAIMS FOR EXCLUSIVE POSSESSION OF OFFSHORE PLACES** *[see Act, s 190B]* |  |
|  | Details of any claim by the native title claim group of exclusive possession of all or part of an offshore place.    ***More information can be provided and labelled as “Attachment P”*** |  |
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| **SCHEDULE Q** | **CLAIMS TO ANY RESOURCES OWNED BY THE CROWN** *[see Act, s 190B]* |  |
|  | Details of any claim by the native title claim group of ownership of minerals, petroleum or gas wholly owned by the Crown.    ***More information can be provided and labelled as “Attachment Q”*** |  |
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| **SCHEDULE R** | **CERTIFICATION OR AUTHORISATION** *[see Act, s 190C]* |  |
| **(1)** | If the application has been certified by each representative Aboriginal/Torres Strait Islander body, a copy of the certificate**.** |  |
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| **(2)**  *Note* For the meaning of **authorize**, see the Act, s 251B | If the application has not been certified by each representative Aboriginal/Torres Strait Islander body:  (a) a statement that the applicant is a member of the native title claim group and is authorised to make the application, and deal with matters arising in relation to it, by all the other persons in the native title claim group; and  (b) a statement that either:  (i) there are no conditions under section 251BA of the Act on the authority that relate to the making of the application; or  (ii) any conditions under section 251BA of the Act on the authority that relate to the making of the application have been satisfied; and  (c) the grounds on which the Registrar should consider that the statements mentioned in paragraph (a) and, if applicable, subparagraph (b)(ii) are correct.    ***More information can be provided and labelled as “Attachment R”*** |  |
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| **SCHEDULE S** | **AMENDED APPLICATIONS** *[see Act, s 64]* |  |
|  | If the application is an amended application, details of the difference between this application and the original application.    ***More information can be provided and labelled as “Attachment S”*** |  |
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| **SCHEDULE T** | **ANY OTHER RELEVANT INFORMATION** *[see Act, s 62]* | | |  |
|  | Any other relevant information that the applicant wants to provide.    ***More information can be provided and labelled as “Attachment S”*** | | |  |
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|  | Signed by applicant / applicant’s solicitor\* |  | Date |  |
| \* delete whichever is inapplicable | | | | |

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| **PART B** | **Filing and Service** | | | | | | |  |
|  | **IF THE APPLICANT IS REPRESENTED:** | | | | | | |  |
| APPLICANT'S REPRESENTATIVE | Name of representative (and organisation if applicable) | | | | | | |  |
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| ADDRESS FOR SERVICE | Insert address | | | | | | |  |
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| Suburb |  | State/Territory |  | | Postcode | |  |  |
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| Email |  | | | | |  | |  |
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| Telephone  (during the day) |  | Facsimile | |  | | | |  |
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| This application is filed for  [*Delete if applicant is unrepresented*.] |  | | | | | | |  |
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| Applicant’s address |  | | | | | | |  |
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| Suburb |  | State/Territory |  | | Postcode | |  |  |
|  | **IF APPLICANT IS UNREPRESENTED:** | | | | | | |  |
| APPLICANT'S NAME  *Note: This should include first name, surname & Aboriginal name (if any)* | This application is filed by:  Mr/Mrs/Ms:  Given Name:  Surname:  Aboriginal name (if any): | | | | | | |  |
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| ADDRESS FOR SERVICE |  | | | | | | |  |
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| **PART C** | **email address for notices other than in relation to this application** | |  |
| *Delete Part C if the applicant does not consent, or does not provide an email address for service.* | 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. | |  |
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| SIGNATURE |  |  |  |
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