

Native Title guideline – Data acquisition authorities

A guide about the native title process for data acquisition authority applications under the *Petroleum and Gas (Production and Safety) Act 2004*

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Contents

About this guideline..... 4

1. Data acquisition authorities 4

2. What are the native title requirements for a data acquisition authority? 4

About this guideline

The purpose of this guideline is to provide guidance in relation to the native title process for the grant of a data acquisition authority. This guideline is written to:

- provide guidance and clarity to applicants, native title parties and departmental officers.
- promote consistency of permit administration and regulation
- promote the purpose and objectives of the resource legislation
- reduce red tape with respect to pipeline licences
- balance the department's objective for the grant of pipeline licences with the requirements under the *Native Title Act 1993 (Cth)* (NTA)

The information provided in this guideline **does not limit the exercising of discretion** nor does it override legislative requirements however it reflects current practices within the department which may change from time to time. All changes will be published through a revised version of this guideline.

This document should be read in conjunction with the Native Title Process Guide.

1. Data acquisition authorities

- 1.1 An application for a DAA under the *Petroleum and Gas (Production and Safety) Act 2004* (P&G Act) may be made by the holder of authority to prospect or greenhouse gas storage exploration permit or lease for the purpose of carrying out geophysical surveys on land (the data acquisition land) that is adjacent to land in their permit area.
- 1.2 The DAA is a low impact permit as it only allows the permit holder, over a 12 month period, to enter the data acquisition land to carry out surveys which provide data relevant to their permit activities.

2. What are the native title requirements for a data acquisition authority?

- 2.1 The granting of an exploration or production permit i.e. a right to mine, which may affect native title, is generally defined as a future act under s.233 of the NTA, however the grant of a DAA is not considered a future act under s.233 of the NTA, as the holder does not have a right to explore or produce resources within the area of the DAA.
- 2.2 The sole purpose of a DAA is to collect data used to support and confirm information obtained on an adjoining permit. In addition, a DAA cannot be used as a pre-requisite permit for applying for a higher form of exploration or production permit. Because a DAA is not considered a right to mine, the notification and right to negotiate process under the NTA does not apply and the DAA applicant does not need to complete these requirements prior to grant.
- 2.3 Instead, in accordance with s.24MD(6A) of the NTA, native title holders and claimants must be given the same procedural rights as the holder of an ordinary title to the land. Currently there are no procedural rights afforded to any landholders for the grant of a DAA under the P&G Act of the *Greenhouse Gas Storage Act 2009*.

Therefore native title parties will not need to be notified or consulted of the application for the grant of a DAA.

- 2.4 The permit holder will be required to meet any notice or compensation obligations that may apply under the legislation to an owner of the land in the area of DAA, for example Access notice and compensation provisions.

Important Note:

The holder of the DAA is also subject to the 'duty of care' provisions within the Aboriginal Cultural Heritage Act 2003 (ACHA). S.23 of the ACHA states "A person who carries out an activity must take all reasonable care and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the cultural heritage duty of care)". Holders should refer to the ACHA to ensure they are abiding by their duty of care.

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Related documents	
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