

Queensland Government Native Title Work Procedures

Module AA: Identification of your proposed dealing and the proposed dealing area

Commonwealth Native Title Act 1993

August 2017

Version history

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Introduction

This Module will help you fully identify the proposed dealing and the parcels of land and any waters ('proposed dealing area') that will be required for the proposed dealing.

Part 1: Identification of the proposed dealing

The first question you need to ask is -

What is my proposed dealing?

In order to answer this question, consider whether the proposed dealing involves, for example -

- the grant of a tenure, eg. a lease
- the construction of public works
- the compulsory acquisition of native title rights and interests
- the dedication of an area as road
- the dedication of an area as a reserve for a public purpose
- the renewal of an existing permit, lease, licence or authority
- the grant of a permit, licence or authority
- the grant of a right to mine
- the grant of a tenure which will permit the construction of works
- the making, amendment or repeal of legislation
- the preparation of a management plan
- undertaking management activities on a protected area, etc.

Examples

- The grant of a lease to allow the construction of a telecommunications facility.
- The dedication of an area as road to allow the construction of a road.
- The grant of an approval to permit the construction of a jetty.
- The renewal of a lease which was originally granted on or before 23 December 1996.
- The grant of a sales permit to allow the removal of gravel from a pastoral lease.
- The grant of a mining lease.
- The construction of firebreaks.
- The construction of roads, walking tracks, buildings and other facilities.

Part 2: Identification of the land or waters affected by the proposed dealing

Now that you have identified the proposed dealing, it is important to identify accurately the parcels of land and any waters required for the proposed dealing ('proposed dealing area').

In the majority of cases, the current tenure of the proposed dealing area and whether it is land or waters determines how native title is addressed.

Considering the following types of questions will assist you in identifying the proposed dealing area -

- What is the Lot on Plan description?
- Is the dealing over or in a river/creek/lake/ocean/sea? What is its name, eg. the Pioneer River?
- Is the dealing within a reserve? What is the purpose of the reserve, eg. reserve for recreational purposes?
- Is the dealing within an area dedicated as road?
- What is the current tenure of the land, eg. freehold, leasehold, etc?
- Is the dealing over unallocated State land?
- Are GPS coordinates required, eg. for buoy moorings?

Part 3: Example of how to complete the Native Title Assessment Form

The following is an example of how to complete those sections of the Native Title Assessment Form dealing with the **Proposed Dealing** and **Location**. The Native Title Assessment Form is found at **Annexure 7.1**.

Native Title Assessment Form

Information about this Form -

1. This form is mainly based upon the 'Path through Native Title Assessment'.
2. To correctly complete this form, you will need to have read the relevant Modules and Annexures of the Native Title Work Procedures.
3. You must complete each part of the **Assessment Section** of this Form until you reach a **Go to Reason for Decision**.

4. Where there is a tick box, please make your selection either manually or by clicking on the box with your mouse. Where there is a blank section, please type or write in the relevant details.
5. All the relevant parts of the **Decision Section** of this Form must be completed.
6. Where a Module only applies to part of your proposed dealing area, tick the 'Part of the proposed dealing area' box. Then proceed through the form for the balance/remaining area of your proposed dealing area. In these instances, a diagram should be attached to this Form to distinguish between the different areas.

Assessment Section

Module AA. Proposed Dealing

The grant of a permit to construct and operate a structure in a Marine Park under section 16 of the *Marine Park Regulation 2006* and *Marine Parks Act 2004*.

Location - Proposed Dealing Area

Lot(s)/Plan(s) _____

Parish: Mangrove County: Ocean

Current Status: Marine Park

Locality Description:

The intertidal area of west shore of Lagoon Island in the Whitsunday Marine Park approximately 50 metres south of the rock wall. Lagoon Island is described as Lot 1 on NPW 157 and lies due east of the town of Seaforth.

Plan/Map:

Maps are attached of Lagoon Island showing the location of the proposed new jetty (hatched). Also attached is a map of the Whitsunday Marine Park showing the location of Lagoon Island.

NB. Extract of Native Title Assessment Form