



Commonwealth Fact Sheet



NATIVE TITLE ACT 1993

If you are undertaking a project, you must consider the rights and interests held by Indigenous people over their traditional land and waters.

1. What is protected?

Native title is the recognition in Australian law that some Indigenous people continue to hold rights to their land and waters, which come from their traditional laws and customs. Native title may include the right to:

- live and access the area for traditional purposes
- hunt, fish and gather food or traditional resources.

Native title may also include the right to possess and occupy an area to the exclusion of all others (often called a right of “exclusive possession”).

2. How is native title protected?

The Native Title Act 1993 provides for the recognition and protection of native title.

3. How does it affect my project?

Native title holders and registered native title claimants (native title parties) have procedural rights over project proposals which may affect their native title (future acts). Procedural rights include the:

- right to be notified and consulted
- rights of an ordinary title holder
- right to have an objection heard
- right to negotiate.

If the right to negotiate applies, the government, the proponent and the native title parties must negotiate ‘in good faith’ with a *view to obtaining an agreement* about the proposed future act. If an agreement cannot

be reached and six months have passed since the notification date, any party can ask the National Native Title Tribunal (NNTT) to arbitrate and determine whether the future act can be done and, if so, on what conditions. Voluntary Indigenous Land Use Agreements (ILUA) between native title holders and proponents can also be registered with the NNTT. There are three types of ILUAs:

- [Body corporate](#)
- [Area](#)
- [Alternative Procedure](#)

4. More information

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For more information, visit the National Native Title Tribunal [website](#).

To determine whether your proposed land is affected by native titles and ILUAs search the [online database](#).

Major Projects Facilitation Agency

If you would like assistance to identify the regulatory obligations for your project, please visit our [Online Tool](#) or contact us:

Phone: 02 6243 7121

Email: contact@mpfa.gov.au