



Information sheet for applicants

**How to complete an Objection to Inclusion in an Expedited Procedure Application
(Form 4)**

When to use the Form 4

A Form 4 is used when a native title party wishes to object to the inclusion of a future act in the expedited procedure, where the Government party has given notice that it considers the act will have limited impact on native title and therefore attracts the expedited procedure.

When the expedited procedure applies, there is no requirement for negotiation between the proponent and the native title party in relation to the act.

If a native title party believes the expedited procedure should not apply, as the future act is likely to interfere with community or social activities, areas or sites of particular significance, or involve major disturbance to land or waters, an objection (Form 4) can be lodged with the Tribunal.

A Form 4 can be lodged by either a registered native title body corporate or a registered native title claimant whose claim or determination area is affected by the future act.

Completing the Form 4

An objection to inclusion in an expedited procedure application must be made in the prescribed form set out in the *Native Title (Tribunal) Regulations 1993* (referred to as the Form 4).

Generally, completing a Form 4 application is self-explanatory. This information sheet provides some guidance on completing particular parts of the form which may require further explanation. Please contact the Tribunal should you need any further assistance. Contact details are listed below under the heading 'More Information'.

Part 6 - Whether the objector is the registered native title body corporate or registered native title claimant

When the Federal Court makes a determination recognising native title, the Native Title Act 1993 requires the native title holders to establish a corporation to represent them and hold the rights and interests recognised in the determination. This corporation is known as a prescribed body corporate, and becomes the 'registered native title body corporate' once the name and address of the corporation is registered on the National Native Title Register.

A native title claimant application is made by a person or persons known as the applicant, who are authorised by the native title claim group to make the claim on their behalf. Once registered on the Register of Native Title Claims, the person or persons whose names appear on the Register as the applicant for the claim are referred to as the 'registered native title claimant'.

A Form 4 can only be lodged by a registered native title body corporate or a registered native title claimant if the future act is in an area covered, either wholly or in part, by the claim or determination.

If you are not a registered native title claimant or a registered native title body corporate, you do not have standing to lodge an objection.

If you believe you may hold native title rights and interests in the area and wish to object to the application of the expedited procedure, you must file a native title claimant application (Form 1) with the Federal Court within 3 months after the notification day and the claim must be registered within 4 months after the notification day.

Part 9 - Statement that the act is not an act attracting the expedited procedure

Please provide as much detail as possible in relation to why you believe the proposed act is not an act attracting the expedited procedure. Your statement must include details of the likely impact of the act on community or social activities of the native title holders, areas or sites of particular significance, and any land or waters concerned.

You will have the opportunity to provide further information to the Tribunal at a later stage.

Part 10 - Outline of evidence

A brief summary should be provided as to the evidence you will produce to the Tribunal.

Some of the evidence you may want to outline to the Tribunal in considering your objection application includes:

- historical, anthropological, genealogical and archaeological reports and other expert evidence or reports;
- details of any Aboriginal heritage sites in the area;
- an overview of any witness statements or affidavits to be filed; and
- details of current land tenure and mining, petroleum and geothermal tenure (if known).

New requirements - Part 4, Part 7 and Part 8

New requirements were added to the Form 4 by the *Native Title Legislation Amendment (2021 Measures No. 1) Regulations 2021*.

Part 4 asks you to state your preferred method of service (that is, the email or postal address to which the Tribunal and other parties can send you documents and correspondence). Part 3 requires you to include a physical address, but you may also add an email address and fax number. Most communication with the Tribunal is by email.

Part 7 asks you to identify the government that issued the future act notice and the 'notification day' specified in the notice. The notification day will be recorded on the future act notice and including it on the Form 4 will assist the Tribunal to identify the act to which the objection relates.

Part 8 asks you to describe the future act. The description should briefly set out the nature of the future act (for example, the proposed grant of an exploration licence) and include a reference number and grantee party, if applicable. Lodging your form

You may lodge your application by post or email, or you may submit it over the counter at any office of the Tribunal.

By post to:

Native Title Registrar
National Native Title Tribunal
GPO Box 9973
City State Postcode

By email to:

For Western Australian applications: objectionswa@nntt.gov.au
For applications in all other states and territories: objectionsqld@nntt.gov.au

An auto-generated receipt will be issued upon lodgment of an objection by email. The objector or objector's representative must ensure a confirmation notice is received. If no confirmation is received, please contact the Tribunal.

The Tribunal recommends each objection application lodged electronically be submitted individually so that each has its own record.

Filing fees

The application fee for lodgment of a Form 4 is \$891, as at 1 July 2021. This figure is revised every year. The fee is payable per future act (for example, for an application relating to five exploration licences, you must pay five application fees). The fee can be paid by cheque made out to the

'Federal Court of Australia', or by electronic funds transfer. If you are paying by cheque, please send this by post with your completed application form or submit it in person with the form.

If you are paying by electronic funds transfer, please tell us that you wish to pay this way when you lodge your Form 4. We will then provide you with a file number within 24 hours. You will need to make your payment within 24 hours of receiving the file number. You will also need to complete a 'Request Form – to pay the fee using EFT' which is available on our website. Once you have made the transfer, please return the completed request form and proof of transfer to the Tribunal.

A receipt of payment will be provided.

No fee payable

If one or more of the following circumstances applies, a filing fee will not need to be paid:

1. You have been granted legal aid;
2. You are assisted by a representative Aboriginal/Torres Strait Islander body; or
3. One or more of the people making the application:
 - a) holds a health care card or pensioner concession card;
 - b) is in prison;
 - c) is under 18 years of age; or
 - d) receives ABSTUDY.

If you are not required to pay a fee because one of these circumstances applies, you must provide proof when you lodge the Form 4 (for example, a photocopy of your health care card).

You may also request a fee waiver if you believe the fee would impose financial hardship. A fee waiver request should be accompanied by supporting evidence, including information in relation to your income, expenses, liabilities and assets.

Refund of fee

If the objection application is not accepted, or the Tribunal makes a determination in your favour, you are entitled to a fee refund. To request a fee refund, you will need to fill in the 'Request Form – for fee refund' available on the Tribunal's website and return it to the Tribunal.

What happens next?

As soon as possible after your application is received by the Tribunal, an acknowledgement will be sent. The Tribunal will then examine the application and decide whether it can be accepted under the Native Title Act 1993. Should the application not be accepted, you will be provided with reasons as to why. If the application is accepted you will then receive further information about the process.

More information

Please contact the Tribunal via email at

For Western Australian applications: objectionswa@nntt.gov.au

For applications in all other states and territories: objectionsqld@nntt.gov.au

or by ringing your local Tribunal office.