What is the Registration Test?

The registration test is a set of conditions applied to the claims made in native title determination applications. The Native Title Registrar, or the Registrar’s delegate, (the Registrar) applies the test. If a claim satisfies the conditions of the registration test, details of the application are entered on to the Register of Native Title Claims. This means that the application becomes a registered claim.

What does registration mean?

Registration means that the claimants gain the right to negotiation, the right to oppose non-claimant applications, and certain other procedural rights while their claim is pending. The right to negotiate process enables developers and Indigenous people to negotiate about certain developments (such as mining) that might impact on native title while applications are on foot. In this way business can continue and the rights of Indigenous people can be protected. Registration does not give applicants the right to stop projects going ahead - it means that they may have a say about some proposed developments.

What is tested?

The Registrar tests native title claims against merit and procedural conditions in the Native Title Act 1993. In order to satisfy the merit conditions of the registration test, applications must meet certain standards which include, among other things:

- reasonable identification of the area subject to the native title claim
- sufficient description of the persons in the native title group so they can be identified
- a description of the native title rights and interests claimed so that they can be readily identified by the Registrar
- provide a sufficient factual basis for the rights and interests claimed, including that the:
  - group has a continued association with the area claimed
  - traditional laws and customs give rise to the rights and interests that exist
  - native title claim group have continued to hold the native title in accordance with those traditional laws and customs.

The Registrar must also be satisfied that at least one member of the native title claim group currently has or previously had traditional physical connection with any part of the land or waters claimed, or had (and would continue to have) that connection but for things done by the Crown or one of its statutory authorities, or a leaseholder (or any person acting on their behalf).

There are other, mostly procedural, conditions that are also applied in the registration test.
**Factsheet about the Registration Test**

**What happens if a claim does not satisfy the registration test conditions?**

If a claim does not satisfy the registration test conditions, the Registrar will not accept it for registration. The Registrar is required to give notice of this decision together with the reasons for not accepting it to the applicant and the Federal Court.

Under the *Native Title Act* 1993, if a claim does not satisfy the merit conditions of the registration test, any party to the application may apply to the Federal Court for dismissal of the application, or a judge of the Federal Court may decide to dismiss the application anyway. For this reason, claimants may seek to amend their application in the Federal Court and the test will be applied again.

Alternatively, claimants may request a reconsideration of the claim in their application by a member of the National Native Title Tribunal (NNTT), or a review of the decision by the Federal Court.

If all avenues of review have been exhausted and the application is still not registered, a judge may decide to dismiss the application if he or she is:

- satisfied that the claim has not been further amended since being tested, and is not likely to be amended in a way that would lead it to be accepted for registration
- is of the opinion there is no other reason why the application should not be dismissed.

If for any reason the Federal Court decides not to dismiss the claimant application, the claimants can still pursue a determination of native title with their unregistered application.

Note: Applicants needing to amend their applications can ask the NNTT for information and assistance about native title processes. The NNTT cannot amend applications for claimants nor fill in the application form – this is a Federal Court form. Applicants who wish to amend their application must file a motion to amend it in the Federal Court and seek legal advice to do this. NNTT members and employees cannot give legal advice to applicants wishing to amend their application.

For further information on the registration test:

**National Native Title Tribunal**, GPO Box 9973 in your capital city or [Freecall 1800 640 501](tel:+611800640501).


The NNTT has offices in Brisbane, Cairns, Melbourne, Perth and Sydney.

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