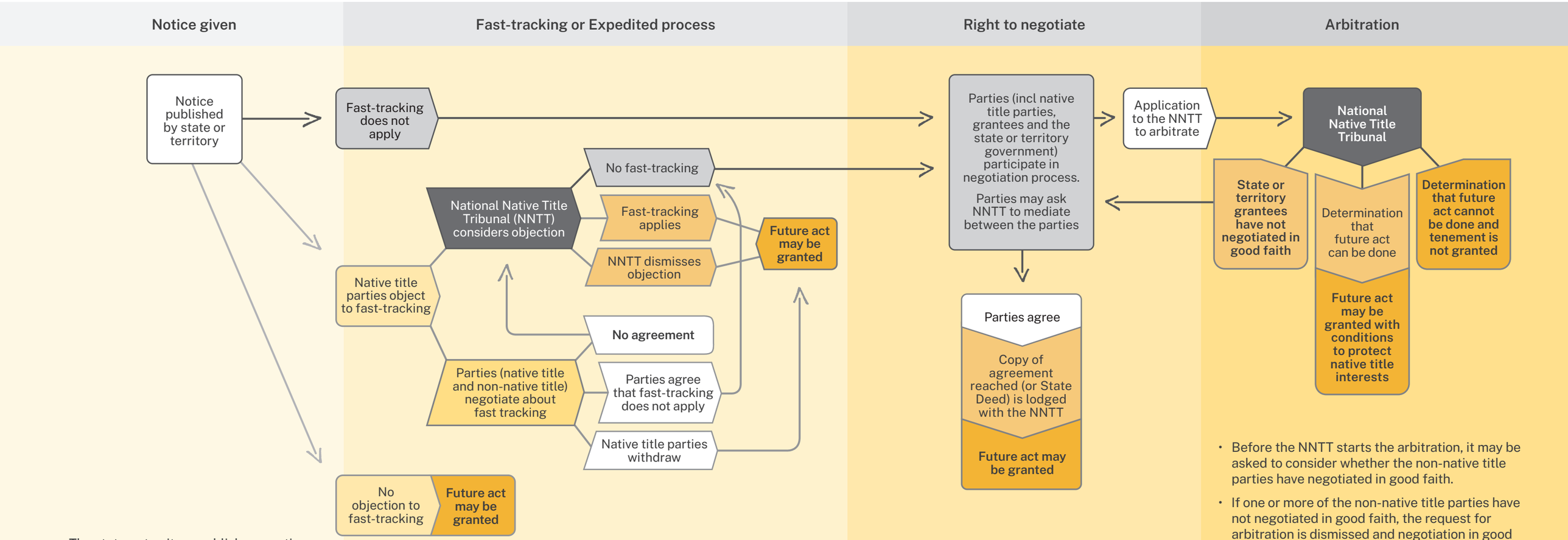
Overview of Future Act Process



- The state or territory publishes a notice that it wants to go ahead with a proposed development (future act) such as mining, exploration or compulsory acquisition.
- The notice says whether the state or territory considers that fast-tracking (expedited procedure) should apply. Usually this is the case for exploration only.
- If there isn't a native title claim over the area, claimants have three months to file a claim with the Federal Court.
- A native title claim must pass the registration test for the claim group to have a say. Registered claimants involved in negotiation are often referred to as a 'native title party'.

- Native title parties have four months from the date of the notice to object to the fast-tracking process.
- If a native title party objects to the fast-tracking process, all parties are encouraged to come to an agreement about fast-tracking.
- If no agreement about fast-tracking is reached, the NNTT holds an inquiry into the objection.
- If the objection is upheld, all parties must negotiate in good faith about the granting of the future act.

- All parties must negotiate in good faith.
- Parties may ask the NNTT to assist in reaching an agreement (mediate).
- If negotiations are unsuccessful, parties may ask the NNTT to act as umpire (arbitrate), provided they have tried to reach an agreement for a minimum period of six months from the date of the notice.

- Before the NNTT starts the arbitration, it may be asked to consider whether the non-native title parties have negotiated in good faith.
- If one or more of the non-native title parties have not negotiated in good faith, the request for arbitration is dismissed and negotiation in good faith must take place.
- Where the arbitration proceeds, the NNTT decides (makes a determination) whether or not the future act may be granted or may be granted subject to conditions.
- The NNTT must take all reasonable steps to make a determination as soon as practicable after the request for arbitration.
- If the NNTT has not made a determination within six months of the request being made, it needs to explain to the Commonwealth Attorney-General why the time frame was not met.
- The Commonwealth Attorney-General may overrule the Tribunal's decision within two months after the decision is made.

LEGEND: Right to negotiate process for proposed developments such as mining, compulsory acquisition and for exploration where fast-tracking does not apply — Fast-tracking process (expedited procedure) for exploration and other low impact activities

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NNTT National Native Title Tribunal

A Reconciled Future

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