# FEDERAL COURT OF AUSTRALIA

## DISTRICT REGISTRY

## GENERAL DIVISION

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| *Native Title (Federal Court) Regulations 1998*, Paragraph 5(1)(d) Form 4Native Title Act 1993 **Native Title Determination Application** Compensation Application |

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| Name: |  | Fax: |  |
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| **Form 4**  Paragraph 5(1)(d)  ***Native Title Act 1993***  **Native Title Determination Application**  **Compensation Application**  Note 1: This form is to be used for an application, as mentioned in subsection 61(1) of the Act, for a determination of compensation.  Note 2: Section 62 of the Act requires an application to be accompanied by an affidavit sworn by the applicant stating the following matters:   1. that the applicant believes that native title rights and interests exist or have existed in relation to the area covered by the application; 2. that the applicant believes that all of the statements made in the application are true; 3. if the application is authorised by a compensation claim group—that the applicant is authorised by all the persons in the compensation claim group to make the application and to deal with matters arising in relation to it; 4. if the application is authorised by a compensation claim group—the details of the process of decision-making complied with in authorising the applicant to make the application and to deal with matters arising in relation to it; 5. if the application is authorised by a compensation claim group and there are no conditions under section 251BA of the Act on the authority that relate to the making of the application—that there are no such conditions; 6. if the application is authorised by a compensation claim group and there are any conditions under section 251BA of the Act on the authority that relate to the making of the application—that the conditions have been satisfied and how the conditions have been satisfied; 7. if the application is made by a registered native title body corporate—either that the applicant holds (or is an agent prescribed body corporate in relation to) the native title rights and interests, or that the area is within the external boundary of the area of land or waters covered by an approved determination of native title under which the applicant holds (or is an agent prescribed body corporate in relation to) native title rights and interests. | | | |
|  | **NAME OF APPLICANT(S)** | | |
|  | Mr/Mrs/Ms: |  |  |
| Given Name: |  |
| Surname: |  |
| Aboriginal name (if any): |  |
| **PART A** | **DETAILS OF THE CLAIM** | |  |
| **1** | The applicant applies for a determination of compensation under subsection 61(1) of the *Native Title Act* *1993*. | |  |
| **2** | **AUTHORISATION** *[see Act, s 61(1)]* | |  |
| *Capacity in which the applicant claims to be entitled to make the application, e.g.* a person authorised by the compensation claim group to make the native title determination application. | The applicant is entitled to make this application as | |  |
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| **3** | **The schedules to this application contain the following information:** |  |
| **SCHEDULE A** | **COMPENSATION CLAIM GROUP** *[see Act, s 61]* |  |
|  | Either:  (a) the names (including Aboriginal names) of the persons (the ***compensation claim group***) on whose behalf the application is made or a sufficiently clear description of the persons so that it can be ascertained whether any particular person is one of those persons; or  (b) the name of the registered native title body corporate.    ***More information can be provided and labelled as “Attachment A”*** |  |
| **SCHEDULE B** | **IDENTIFICATION OF BOUNDARIES** *[see Act, s 62]* |  |
| *Note: This information must be included, as well as the map mentioned in SCHEDULE C* | Information identifying the boundaries of:  (a) the area covered by the application; and  (b) any areas within those boundaries that are not covered by the application.    ***More information can be provided and labelled as “Attachment B”*** |  |
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| **SCHEDULE C** | **MAPS** *[see Act, s 62]* |  |
|  | A map showing the boundaries of the area covered by the application. |  |
| **SCHEDULE D** | **SEARCHES FOR NON-NATIVE TITLE INTERESTS** *[see Act, s 62]* |  |
|  | Details and results of all searches carried out by or on behalf of the native title claim group to determine the existence of any non-native title rights and interests in relation to the land or waters in the area covered by the application.    ***More information can be provided and labelled as “Attachment D”*** |  |
| **SCHEDULE E** | **APPLICANT’S INTERESTS IN AREA** *[see Act, s 62]* |  |
| The description must not merely consist of a statement to the effect that the native title rights and interests are all native title rights and interests that existed, or have not been extinguished, at law. | A description of the native title rights and interests in relation to particular land or waters (including any activities in exercise of those rights and interests) for which compensation is claimed.    ***More information can be provided and labelled as “Attachment E”*** |  |
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| **SCHEDULE F** | **REPRESENTATIVE BODY(S)** |  |
|  | The name of each representative Aboriginal/Torres Strait Islander body for the area covered by the application. |  |
| **SCHEDULE G** | **GENERAL DESCRIPTION OF NATIVE TITLE RIGHTS AND INTERESTS CLAIMED** *[see Act, s 62]* |  |
|  | A general description of the native title rights and interests for which compensation is claimed and, in particular, the factual basis on which it is asserted that:  (a) the compensation claim group, and the predecessors of those persons, had an association with the area; and  (b) there existed traditional laws and customs that give rise to the claimed native title; and  (c) the compensation claim group had continued to hold the native title in accordance with those traditional laws and customs.    ***More information can be provided and labelled as “Attachment G”*** |  |
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| **SCHEDULE H** | **ACTIVITIES** *[see Act, s 62]* |  |
|  | Details of activities in relation to the land or waters that are or were carried on by the compensation claim group.    ***More information can be provided and labelled as “Attachment H”*** |  |
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| **SCHEDULE I** | **DETAILS OF THE EXTINGUISHING ACT(S)** |  |
|  | Details of the act which it is claimed extinguished or affected native title rights and interests for which compensation is claimed, including:  (a) the government or other person that did the act and whether the act has been validated; and  (b) if the act has been validated, how this was done; and  (c) copies of:  (i) all searches of official title registers (such as the title register of crown lands and the land title register of the relevant State or Territory); and  (ii) all searches conducted with public bodies and authorities;  that identify existing or expired non-native title rights and interests in relation to the land or waters covered by the compensation application.    ***More information can be provided and labelled as “Attachment I”*** |  |
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| **SCHEDULE J** | **BASIS FOR APPLICATION** |  |
|  | Details of the basis for the compensation application, such as the provision of the Act that deals with the compensation entitlement.    ***More information can be provided and labelled as “Attachment J”*** |  |
| **SCHEDULE K** | **DETAILS OF ANY OTHER APPLICATIONS**  *[see Act, s 62]* |  |
|  | Details of any other applications to the High Court, Federal Court or a recognised State/Territory body, of which the applicant is aware, that have been made in relation to the whole or a part of the area covered by the application and that seek a determination of native title or a determination of compensation in relation to native title.    ***More information can be provided and labelled as “Attachment K”*** |  |
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| **SCHEDULE KA** | **DETAILS OF NOTIFICATIONS** *[see Act, s 62]* |  |
|  | Details of any notifications under paragraph 24MD(6B)(c) of the Act, of which the applicant is aware, that have been given and that relate to the whole or part of the area.    ***More information can be provided and labelled as “Attachment K”*** |  |
| **SCHEDULE L** | **DETAILS OF ANY SECTION 29 NOTICES** *[see Act, s 62]* | |
|  | Details of any notices under section 29 of the Act (or under a corresponding provision of a law of a State or Territory), of which the applicant is aware, that have been given and that relate to the whole or a part of the area.    ***More information can be provided and labelled as “Attachment L”*** |  |
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| **SCHEDULE LA** | **DETAILS OF ANY SECTION 251BA CONDITIONS** *[see Act, s 62]* |  |
|  | Details of any conditions under section 251BA of the Act on the authority of the applicant to make the application and to deal with matters arising in relation to it.    ***More information can be provided and labelled as “Attachment LA”*** |  |
| **SCHEDULE M** | **COMPENSATION RECEIVED** |  |
|  | Details of any compensation received by the applicant or to which the applicant may be entitled under any agreement or award because of the act or a related act.    ***More information can be provided and labelled as “Attachment M”*** |  |
| **SCHEDULE N** | **NON-MONETARY COMPENSATION** *[see Act, s 79]* |  |
|  | Whether the applicant is claiming non-monetary compensation, and if so, the nature of the non-monetary compensation claimed.    ***More information can be provided and labelled as “Attachment N”*** |  |
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| *The following items are not required, but may be included:* | |  |
| **SCHEDULE O** | **TRADITIONAL PHYSICAL CONNECTION** *[see Act, s 62]* |  |
|  | Details of any traditional physical connection with any of the land or waters covered by the application by any member of the compensation claim group.    ***More information can be provided and labelled as “Attachment O”*** |  |
| **SCHEDULE P** | **PREVENTION FROM GAINING ACCESS** *[see Act, s 62]* |  |
|  | Details of the circumstances in which any member of the compensation claim group has been prevented from gaining access to any of the land or waters covered by the application.    ***More information can be provided and labelled as “Attachment P”*** |  |
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| **SCHEDULE Q** | **ANY OTHER RELEVANT INFORMATION** | | |  |
|  | Any other relevant information that the applicant wants to provide.    ***More information can be provided and labelled as “Attachment Q”*** | | |  |
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|  | Signed by applicant / applicant’s solicitor\* |  | Date |  |
| \* delete whichever is inapplicable | | | | |

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| **PART B** | **Filing and Service** | | | | | | | | |  | |
|  | **IF THE APPLICANT IS REPRESENTED** | | | | | | | | |  | |
| APPLICANT'S REPRESENTATIVE | Name of representative (and organisation if applicable) | | | | | | | | | |  |
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| ADDRESS FOR SERVICE | insert address | | | | | | | | | |  |
|  | | | | | | | | | | | |
| Suburb |  | | State/Territory | |  | | Postcode | |  |  | |
|  | | | | | | | | | | | |
| E-mail |  | | | | | | |  | | |  |
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| Telephone  (during the day) |  | | | Facsimile | |  | | | | |  |
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| This application is filed on behalf of |  | | | | | | | | | |  |
|  | | | | | | | | | | | |
| Applicant’s address |  | | | | | | | | | |  |
|  | | | | | | | | | | | |
| Suburb |  | | State/Territory | |  | | Postcode | |  |  | |
|  | **IF THE APPLICANT IS UNREPRESENTED** | | | | | | | | |  | |
| APPLICANT'S NAME  *Note: This should include first name, surname & Aboriginal name (if any)* | This application is filed by: |  | | | | | | | | |  |
| Mr/Mrs/Ms: |  | | | | | | | | |
| Given Name: |  | | | | | | | | |
| Surname: |  | | | | | | | | |
| Aboriginal name (if any): |  | | | | | | | | |
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| ADDRESS FOR SERVICE |  | | | | | | | | | |  |
|  | | | | | | | | | | | |
| Suburb |  | | State/Territory | |  | | Postcode | |  |  | |
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| Email |  | | | | | |  | | |  | |
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| Telephone  (during the day) |  | | | Facsimile | |  | | | | |  |
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| Applicant’s address |  | | | | | | | | | |  |
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| Suburb |  | | State/Territory | |  | | Postcode | |  |  | |
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| Telephone  (during the day) |  | | | Facsimile  (if any) | |  | | | | |  |
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| **PART C** | **email address for notices other than in relation to this application** |  |
| *Delete Part C if the applicant is a registered native title body corporate, or does not consent, or does not provide an email address for service.* | The applicant consents to all notices under the Act (including future act notices) being given to the applicant by email to the email address specified in Part B. |  |
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| SIGNATURE |  |  |
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| **AFFIDAVIT** | | | | |
| Full name(s) of Applicant(s) | I/We\* | | |  |
|  | | | | |
| Usual address(es) of Applicant(s) |  | | |  |
|  | | | | |
| Usual occupation(s) |  | | |  |
| Section 62 of the Act requires this application to be accompanied by an affidavit sworn by the applicant:  (a) that the applicant believes that native title rights and interests exist or have existed in relation to the area covered by the application; and  (b) that the applicant believes that all of the statements made in the application are true; and  (c) that the applicant is authorised by all the persons in the compensation claim group to make the application and to deal with matters arising in relation to it; and  (d) setting out details of the process of decision-making complied with in authorising the applicant to make the application and to deal with matters arising in relation to it. | | | | |
| Place and State of Swearing/Affirming | Sworn / Affirmed\* at: | Date |  |  |
|  |  |  |  |  |
| Signature(s) of Applicant(s)  *(other signatures may be written below)* |  | |  |  |
| **BEFORE ME:** | | | | |
| Signature of witness |  | |  |  |
|  | | | | |
| Qualification of witness |  | |  |  |
| **Note:** Each person who is an applicant must swear or affirm the affidavit in the presence of a qualified witness. A qualified witness includes a court officer, solicitor, Justice of the Peace, or a Commissioner for Affidavits.  \* delete whichever is inapplicable | | | | |