



Native Title (Notices) Determination 2011 (No. 1)¹

Native Title Act 1993

I, ROBERT McCLELLAND, Attorney-General, make this Determination under section 23HA and subsections 24GB (9), 24GD (6), 24GE (1), 24HA (7), 24ID (3), 24JAA (10), 24JB (6) and (7), 24KA (8), 24MD (7), 24NA (9) and 252 (1) of the *Native Title Act 1993*.

Dated 23 February 2011

ROBERT McCLELLAND
Attorney-General

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1 Name of Determination

This Determination is the *Native Title (Notices) Determination 2011 (No. 1)*.

2 Commencement

This Determination commences on 11 April 2011.

3 Revocation

The *Native Title (Notices) Determination 1998* is revoked.

4 Definitions

In this Determination:

Act means the *Native Title Act 1993*.

clear description, for an area, means a description of the area that contains enough information, whether by map drawn to scale or description by other means, to work out:

- (a) the general location of the area; and
- (b) the approximate boundaries of the area.

relevant special-interest publication means a newspaper or magazine that:

- (a) caters mainly or exclusively for the interests of Aboriginal peoples or Torres Strait Islanders; and
- (b) circulates in the geographical area that may be affected by the act or, if the area is an offshore place, the geographical area closest to it that is an onshore place; and
- (c) is published at least once a month.

5 Mining rights — State or Territory (Act s 22H)

- (1) For paragraph 22H (1) (e) of the Act, notice must be published:
- (a) in the *Gazette* of the State or Territory in which the area affected by the act is located; and
 - (b) on the Internet.

Note For details of what must be notified, see subsection 22H (2) of the Act.

- (2) The State or Territory must also place a notice that complies with subsection (3):
- (a) in a newspaper that is published at least 5 times a week and circulates generally throughout the area affected by the act; and
 - (b) in a relevant special-interest publication.
- (3) Notice under subsection (2) must:
- (a) state that information about the act is available in an identified edition of the *Gazette* and on the Internet at an identified site; and
 - (b) state that the State or Territory is obliged to notify the public about the act; and
 - (c) refer to any law of the State or Territory that contains provisions to the same effect as sections 22B and 22C of the Act.

6 Advertisement

- (1) Notice under a provision of the Act mentioned in subsection (2) must be published:
- (a) by advertisement in 1 or more newspapers that circulate generally throughout the area to which the notice relates or, if the area is an offshore place, the geographical area closest to it that is an onshore place; and
 - (b) in a relevant special-interest publication.
- (2) For subsection (1), the provisions of the Act are the following:
- (a) paragraph 24CH (1) (b) (notice of area agreements etc);
Note For content of the notice, see subsection 24CH (2) of the Act.
 - (b) paragraph 24DI (1) (b) (notice of alternative procedure agreements);
Note For content of the notice, see subsection 24DI (2) of the Act.
 - (c) paragraph 26A (5) (a) (approved exploration etc acts);
 - (d) paragraph 26B (6) (a) (approved gold or tin mining acts);
 - (e) subsection 29 (3) (notification of parties affected);
Note For content of the notice, see subsection 29 (4) of the Act.
 - (f) paragraph 66 (3) (d) (notice of application);
Note For content of the notice, see subsections 66 (8) and (10) of the Act.
 - (g) subparagraph 66A (1) (e) (ii) (notice of amended application);
 - (h) subparagraph 66A (1A) (d) (ii) (notice of amended application);

- (i) subparagraph 66A (2) (b) (ii) (notice of amended application);
 - (j) section 138 (notice).
- (3) Notice under paragraph 26A (5) (a) or 26B (6) (a) of the Act must include:
- (a) details of the proposed determination; and
 - (b) a clear description of the area to which the act or class of acts mentioned in the proposed determination relates; and
 - (c) the name and postal address of the person proposing to make the determination; and
 - (d) an invitation to the public to make submissions within a period mentioned in the notice.
- (4) Notice under subsection 29 (3) of the Act must include:
- (a) a clear description of the area to which the act mentioned in the notice relates; and
 - (b) a description of the nature of the act; and
 - (c) the name and postal address of the person by whom the act would be done; and
 - (d) a statement of how further information about the act can be obtained.
- (5) Notice under paragraph 66 (3) (d), subparagraph 66A (1) (e) (ii), (1A) (d) (ii) or (2) (b) (ii) of the Act must include:
- (a) details of the application; and
 - (b) a clear description of the area to which the application relates; and
 - (c) a statement of how further information about the application can be obtained.
- (6) Notice under section 138 of the Act must include:
- (a) information about the nature of the inquiry; and
 - (b) a general description of how the inquiry is to be conducted; and
 - (c) a statement of how further information about the inquiry can be obtained.

7 Broadcasting

- (1) In addition to notice being given in accordance with section 6, notice under a provision of the Act mentioned in subsection 6 (2) may also be given by broadcasting information about the content of the notice by means of a radio broadcasting service or a television transmission service that serves the geographical area within which the land or waters that may be affected by the act or class of acts is located.
- (2) Notice under subsection (1) must include the following information:
- (a) for notice under paragraph 24CH (1) (b) or 24DI (1) (b) of the Act:
 - (i) identification of the area covered by the agreement; and
 - (ii) reference to the fact that an application for registration of the agreement has been received; and

- (iii) how further information about the application can be obtained;
- (b) for notice under paragraph 26A (5) (a) or 26B (6) (a) of the Act:
 - (i) identification of the area to which the act or class of acts mentioned in the proposed determination relates; and
 - (ii) the general nature of the proposed determination; and
 - (iii) the name and postal address of the person proposing to make the determination; and
 - (iv) that the public is invited to make submissions within a period mentioned in the notice;
- (c) for notice under subsection 29 (3) of the Act:
 - (i) identification of the area to which the act mentioned in the notice relates; and
 - (ii) the general nature of the act; and
 - (iii) the name and postal address of the person by whom the act would be done; and
 - (iv) how further information about the act can be obtained;
- (d) for notice under paragraph 66 (3) (d), subparagraph 66A (1) (e) (ii), (1A) (d) (ii) or (2) (b) (ii) of the Act:
 - (i) identification of the area to which the application relates; and
 - (ii) the general nature of the application; and
 - (iii) how further information about the application can be obtained;
- (e) for notice under section 138 of the Act:
 - (i) a general description of the inquiry; and
 - (ii) the name and postal address of the person holding the inquiry; and
 - (iii) how further information about the inquiry can be obtained.

8 Notice of acts

- (1) Notice under each of the following provisions of the Act must be given by post:
 - (a) paragraph 23HA (a) (notification);
 - (b) paragraph 24GB (9) (c) (acts permitting primary production on non-exclusive agricultural and pastoral leases);
 - (c) paragraph 24GD (6) (a) (acts permitting off-farm activities that are directly connected to primary production activities);
 - (d) subparagraph 24GE (1) (f) (i) (granting rights to third parties etc on non-exclusive agricultural or pastoral leases);
 - (e) paragraph 24HA (7) (a) (management or regulation of water and airspace);
 - (f) paragraph 24ID (3) (a) (effect of Subdivision applying to an act);
 - (fa) paragraph 24JAA (10) (a) (public housing etc);
 - (g) paragraph 24JB (6) (a) (treatment of acts covered by section 24JA);

- (h) paragraph 24JB (7) (a) (treatment of acts covered by section 24JA);
 - (i) subsection 24KA (8) (facilities for service to the public);
 - (j) subsection 24MD (7) (treatment of acts that pass the freehold test);
 - (k) subsection 24NA (9) (acts affecting offshore places).
- (2) However, notice may be given by a different means if the person to be notified agrees.
- (3) Notice under a provision mentioned in paragraph (1) (a), (b), (c), (d), (e), (f), (g) or (h) must include:
- (a) a clear description of the area to which the act or class of acts mentioned in the notice relates; and
 - (b) a description of the general nature of the act or class of acts; and
 - (c) a statement that the person to be notified must be given an opportunity to comment on the act or class of acts within a period mentioned in the notice; and
 - (d) the name and postal address of the person to whom comment must be given.

Note Requirements for the content of a notice given in accordance with paragraph (1) (i), (j) or (k) may be set out in other legislation — see paragraphs 24KA (8) (a), 24MD (7) (a) and 24NA (9) (a) of the Act.

- (4) Notice under a provision mentioned in paragraph (1) (fa) must include:
- (a) a clear description of the area to which the act or acts mentioned in the notice relates; and
 - (b) a description of the general nature of the act or acts; and
 - (c) the name and postal address of the person to whom comment, or requests to be consulted, must be given.

Note For additional requirements for the content of the notice, see subsection 24JAA (11) of the Act.

9 Size of type in notices

A notice placed in a publication must be published in a print size at least as large as that used for most of the editorial content of the publication.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.