



Native Title (Notices) Determination 2024

I, Mark Dreyfus KC, Attorney-General, make the following determination.

Dated 28 August 2024

Mark Dreyfus KC
Attorney-General

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Part 1—Preliminary

1 Name

This instrument is the *Native Title (Notices) Determination 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 October 2024.	1 October 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following provisions of the *Native Title Act 1993*:

- (a) paragraphs 22H(1)(e), 23HA(a), 24CH(1)(b), 24DI(1)(b), 24GB(9)(c) and 24GD(6)(a);
- (b) subparagraph 24GE(1)(f)(i);
- (c) paragraphs 24HA(7)(a), 24ID(3)(a), 24JAA(10)(a) and 24JB(6)(a) and (7)(a);
- (d) subsections 24KA(8), 24MD(7) and 24NA(9);
- (e) paragraphs 26A(5)(a) and 26B(6)(a);
- (f) subsection 29(3);
- (g) paragraph 66(3)(d);
- (h) subparagraphs 66A(1)(e)(ii), (1A)(d)(ii) and (2)(b)(ii);
- (i) section 138.

Note: See also section 252 of the *Native Title Act 1993*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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5 Definitions

In this instrument:

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.

Note: See also section 10.

coverage requirement, for a notice: see section 9.

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) is published at least once a month.

Part 2—Notices

6 Notification by States and Territories of the validation of intermediate period acts in relation to mining rights

- (1) This section provides for the way in which the public is to be notified of the details mentioned in subsection 22H(2) of the Act about intermediate period acts that are attributable to a State or Territory.
- (2) The State or Territory must publish a notice that includes those details:
 - (a) in the Gazette of the State or Territory in which the area affected by the act is located; and
 - (b) on the internet.
- (3) The notice must also be published:
 - (a) by advertisement in:
 - (i) a newspaper that is published at least 5 times a week and that satisfies the coverage requirement for the notice; and
 - (ii) if the notice is to be published in accordance with the coverage requirement in paragraph 9(2)(c)—a newspaper circulating generally in the relevant State or Territory; and
 - (b) by advertisement in a relevant special-interest publication that satisfies the coverage requirement for the notice.
- (4) A notice published in a newspaper or relevant special-interest publication in accordance with subsection (3) must include the following:
 - (a) a statement that information about the act is available in an identified edition of the Gazette and on the internet at an identified website;
 - (b) a statement that the State or Territory is obliged to notify the public about the act;
 - (c) a reference to any law of the State or Territory that contains provisions to the same effect as sections 22B and 22C of the Act.

7 Requirements for notifying public

Scope

- (1) This section applies in relation to the following notices:
 - (a) a notice under paragraph 24CH(1)(b) of the Act of an indigenous land use agreement (area agreements);
 - (b) a notice under paragraph 24DI(1)(b) of the Act of an alternative procedure agreement;
 - (c) a notice under paragraph 26A(5)(a) of the Act of a proposed determination of an approved exploration etc. act;
 - (d) a notice under paragraph 26B(6)(a) of the Act of a proposed determination of an approved gold or tin mining act;
 - (e) a notice under subsection 29(3) of the Act of a future act;
 - (f) a notice under paragraph 66(3)(d) of the Act of an application;

Section 7

- (g) a notice under subparagraph 66A(1)(e)(ii), (1A)(d)(ii) or (2)(b)(ii) of the Act of an amended application;
- (h) a notice under section 138 of the Act of a special inquiry.

Notification by advertising

- (2) The notice, and any details required by the Act or this section to be included in the notice, must be published:
 - (a) by advertisement in:
 - (i) one or more newspapers that satisfy the coverage requirement for the notice; and
 - (ii) if the notice is to be published in accordance with the coverage requirement in paragraph 9(2)(c)—a newspaper circulating generally in the relevant State or Territory; and
 - (b) by advertisement in a relevant special-interest publication that satisfies the coverage requirement for the notice; and
 - (c) on the website of the entity who is required to give the notice.

Notification by broadcasting

- (3) The notice may also be given by broadcasting information about the notice, and any details required by the Act or this section to be included in the notice, by radio broadcasts, television transmissions or online communications that satisfy the coverage requirement for the notice.

Details to be included in certain notices

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

(c) a statement of how further information about the application can be obtained, including by electronic means.

(7) A notice under section 138 of the Act of a special inquiry must include the following:

- (a) information about the nature of the inquiry;
- (b) the name and postal address of the person holding the inquiry;
- (c) a general description of how the inquiry is to be conducted;
- (d) a statement of how further information about the inquiry can be obtained, including by electronic means.

Note: The Act may require details to be included in a particular notice. For the details (if any) to be included in a notice, see the provision of the Act that requires the notice to be given.

8 Requirements for notifying representative Aboriginal/Torres Strait Islander bodies, registered native title bodies corporate and registered native title claimants

Scope

(1) This section applies in relation to the following notices:

- (a) a notice under paragraph 23HA(a) of the Act of a previous non-exclusive possession act or class of acts;
- (b) a notice under paragraph 24GB(9)(c) of the Act of an act or class of acts permitting primary production on non-exclusive agricultural and pastoral leases;
- (c) a notice under paragraph 24GD(6)(a) of the Act of an act or class of acts permitting off-farm activities that are directly connected to primary production activities;
- (d) a notice under subparagraph 24GE(1)(f)(i) of the Act of an act or class of acts granting rights to third parties etc. on non-exclusive agricultural or pastoral leases;
- (e) a notice under paragraph 24HA(7)(a) of the Act of an act or class of acts managing or regulating water or airspace;
- (f) a notice under paragraph 24ID(3)(a) of the Act of the effect of Subdivision I of Division 3 of Part 2 of the Act applying to an act;
- (g) a notice under paragraph 24JAA(10)(a) of the Act of an act in relation to public housing etc.;
- (h) a notice under paragraph 24JB(6)(a) of the Act of an act consisting of the construction or establishment of a public work;
- (i) a notice under paragraph 24JB(7)(a) of the Act of the creation of a plan for the management of a national, State or Territory park;
- (j) a notice under subsection 24KA(8) of the Act of facilities for services to the public;
- (k) a notice under subsection 24MD(7) of the Act of the treatment of acts that pass the freehold test;
- (l) a notice under subsection 24NA(9) of the Act of acts affecting offshore places.

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Notification by post or other means

- (2) The notice must be given by post to the person to be notified.
- (3) However, a notice may be given by a different means if the person to be notified agrees.

Example: If the person agrees, a notice may be given to the person by email.

Details to be included in certain notices

- (4) A notice mentioned in paragraph (1)(a), (b), (c), (d), (e), (f), (h) or (i) must include the following:
 - (a) a clear description of the area to which the act or class of acts mentioned in the notice relates;
 - (b) a description of the general nature of the act or class of acts;
 - (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;
 - (d) the name, postal address and email address of the person to whom comment must be given.

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

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

Note: For additional requirements for the content of a notice mentioned in paragraph (1)(g), see subsection 24JAA(11) of the Act.

9 Coverage requirements for notices

- (1) This section specifies the requirements (the **coverage requirements**) a newspaper, relevant special-interest publication, radio broadcast, television transmission or online communication must meet in relation to a notice.
- (2) A newspaper meets the coverage requirement for a notice if:
 - (a) the newspaper (in hard copy form) generally circulates in the area (the **affected area**) that may be affected by the act to which the notice relates; or
 - (b) the affected area is an offshore place and the newspaper (in hard copy form) generally circulates in the area closest to the affected area that is an onshore place; or
 - (c) if neither paragraph (a) nor (b) applies, and no other newspaper (in hard copy form) generally circulates in the affected area or in the onshore place mentioned in paragraph (b)—both:
 - (i) the newspaper (in hard copy form) generally circulates in the area closest to the affected area or the onshore place; and

- (ii) the newspaper is available online in the affected area or the onshore place.
- (3) A relevant special-interest publication meets the coverage requirement for a notice if:
 - (a) the publication (in hard copy form) generally circulates in the area (the ***affected area***) that may be affected by the act to which the notice relates; or
 - (b) the affected area is an offshore place and the publication (in hard copy form) generally circulates in the area closest to the affected area that is an onshore place; or
 - (c) if neither paragraph (a) nor (b) applies, and no other relevant special-interest publication (in hard copy form) generally circulates in the affected area, or in an onshore place mentioned in paragraph (b)—both:
 - (i) the publication (in hard copy form) generally circulates in the area closest to the affected area or the onshore place; and
 - (ii) the publication is available online in the affected area or the onshore place.
- (4) A radio broadcast, television transmission or online communication meets the coverage requirements for a notice if it is broadcast, transmitted, published, or available for streaming, on a website that is accessible in:
 - (a) the geographical area (the ***affected area***) that may be affected by the act to which the notice relates; or
 - (b) if the affected area is an offshore place—the geographical area closest to the affected area that is an onshore place.

10 Requirements for describing areas

If this instrument requires a notice to include a clear description for an area, the notice must also include information about how a person can obtain further information about the description for the area.

Examples: Information about how a person can access further maps or descriptions of the area, or can obtain further information about the description from a contact person.

11 Requirements for size of type in notices

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

Schedule 1—Repeals

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

1 The whole of the instrument

Repeal the instrument.