

# Procedural Rights

Category of Future Act	NTA section	Example(s) of this category of Future Act	Procedural rights which apply				
			Right to Comment	Rights of ordinary title holder	Right to be consulted	Right to have objection heard	Right to negotiate
Primary production on non-exclusive agriculture and pastoral leases	s 24GB	cattle farming, agriculture, aquaculture	✓				
Off-farm activities directly connected to primary production activities	s 24GD	grazing and taking water on areas adjacent to pastoral leases	✓				
Third party rights on non-exclusive agricultural or pastoral leases	s 24GE	taking timber or sand, gravel, rocks etc	✓				
Management or regulation of water and airspace	s 24HA	licences to take water or fish	✓				
Renewals and extensions (granting exclusive rights)	s 24ID	exercising rights that existed before 23/12/1996 to grant freehold or other exclusive rights	✓				
Renewals and extensions of some non-exclusive agricultural and pastoral leases	s 24ID	where the term of the renewed lease is longer than that of the original lease			✓	✓	
Public housing etc	s 24JAA	construction of public housing on Aboriginal or Torres Strait Islander land	✓		✓		
Some Acts under reservations and lease	s 24JA	creation of national park management plans	✓				
Facilities for services to the public	s 24KA	building roads, power lines, water and gas pipelines etc		✓			
Acts that pass the freehold test	s 24MD	acts that could be done on land held under freehold		✓	✓	✓	
Acts subject to RTN (includes some acts that pass the freehold test)	s 24MD & Subdiv P	compulsory acquisition (not for infrastructure facility) and Rights to mine					✓
Offshore acts	s 24NA	oil rigs, fishing rights		✓			

*The above table is intended to provide general information only and should not be relied on as legal advice. QSNTS does not accept liability for any action taken based on this Fact Sheet or for any loss suffered because someone relied on it. We urge native title holders to get legal advice on any matter which may impact on their native title rights and interests.*



# Procedural Rights

## 1. Right to Comment

Registered Native Title Holders or PBCs usually have a right to comment for future acts that involve:

- Primary production on non-exclusive agriculture and pastoral leases [s 24GB] – includes cattle farming, agriculture, aquaculture
- Off-farm activities directly connected to primary production activities [s 24GD] – includes grazing and taking water on areas adjacent to pastoral leases
- Management or regulation of water and airspace [s 24HA] – includes licences to take water or fish
- Some acts under reservations and leases [s 24JA] – includes the creation of national park management plans.

## 2. Right to be consulted

Native title holders have a right to be consulted for certain types of future acts that involve:

- some renewals of non-exclusive agricultural and pastoral leases [s 24ID], where the term of the renewed lease is longer than that of the original lease
- public housing etc. [s 24JAA] – includes the construction of public housing on Aboriginal or Torres Strait Islander land
- acts that pass the freehold test [s 24MD] – includes acts that could be done on land held under freehold (e.g. compulsory acquisition)

These future acts are valid (they can be done), even if the State doesn't give native title holders the chance to make comments about them.

Native title holders always have a right to comment for future acts that involve:

- Public housing etc [s 24JAA] – includes the construction of public housing on Aboriginal or Torres Strait Islander land.
- Third party rights on non-exclusive agricultural or pastoral leases [s 24GE] – includes taking timber or sand, gravel, rocks etc.

This is a right to be consulted about ways of minimising the future act's impact on native title, access to the land, and the way in which the future act might be done. It is not a right to say 'no' to a future act.

***Refer to Factsheet – “s 24JAA Rights” for further information.***



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## 3. Rights of ordinary title holder

Native title holders have the same procedural rights as any other title holder for future acts that involve:

- facilities for services to the public [s 24KA] – includes building roads, power lines, water and gas pipelines etc

- some Acts that pass the freehold test [s 24MD] – includes acts that could be done on land held under freehold (including acts subject to the right to negotiate)
- offshore acts [s 24NA] – includes oil rigs, fishing rights.

## 4. Right to have an objection heard

Native title holders have a right to object to the future act, and to have that objection heard by an independent body, for future acts that involve:

- some renewals of non-exclusive agricultural and pastoral leases [s 24ID], where the term of the renewed lease is longer than that of the original lease
- some Acts that pass the freehold test [s 24MD] – includes acts that could be done on land held under freehold (including acts subject to the right to negotiate)

*Refer to Factsheet – “s 24MDRights” for further information.*

## 5. Right to Negotiate

Native title holders have a right to negotiate for future acts that involve the creation of a right to mine.

*Refer to Factsheet – “RTN Process” for further information.*

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