

Right to Negotiate (RTN)

The right to negotiate is a procedural right under the NTA which ensures that future acts are carried out validly. It gives the native title claim group the right to have their say about the future act. It does not give the native title claim group the power to stop the future act being done.

Registered native title claim groups have the right to negotiate about the following types of future acts:

- The granting of exploration licences;
- The granting of mining leases; and
- Some compulsory acquisitions.

The RTN Process

the RTN Process means that the native title holders have:

1. a Future Act Notice sent by the government to the registered native title claimant or PBC (s 29 NTA)
2. four months from the date of the notice to object to an expedited procedure notice
3. six months (or longer if agreed) from the date of the notice to negotiate in good faith.

Future Act Determination: the NNTT can decide that the future act must not be done, or that it can be done with or without conditions.

The NNTT can take into account any agreement between the parties, and make a determination by consent.

During these six months (or longer if agreed) the parties must negotiate in good faith with the aim of reaching an agreement about whether the future act should be done or not.

After the six months from the date of the notice, an application can be made to the NNTT for a determination that the future act can be done.



Expedited Procedure

If the State considers that the future act will have minimal impact on native title (eg. some exploration and prospecting licences), the Section 29 notice will include a statement to the effect that the act attracts the 'expedited procedure'. This means that the State considers that the act should be 'fast-tracked'. If the expedited procedure is used, the future act can be done without negotiating with the Native Title Parties.

Native Title Parties can object to an application being fast-tracked. Lodging an objection means that the Native Title Party is objecting to the grant being made without reference to the RTN procedures. Native Title Parties have four months from the date given in the Section 29 notice to lodge an objection.

Registered Native Title Claimant or PBC

Objection (within 4 months from s29 notification date):

If Objection lodged, the NNTT makes a decision about whether the expedited procedure doesn't apply, the NNTT will need to be convinced that the act will be likely to:

- a) Interfere directly with the carrying on of the community or social activities of the native title holders; OR
- b) Interfere with areas or sites of particular significance to the native title holders; OR
- c) Involve major disturbance or create a right to do something which is likely to involve major disturbance to an land or waters concerned.

The parties may choose to resolve the Expedited Procedure Objection by way of entering into a section 31 deed (State of Queensland agreement for grant of exploration permit).

The use of the section 31 deed is subject to the parties entering into an agreement ("Ancillary Agreement") setting out land access arrangements and protecting Native Title Rights and Aboriginal Cultural Heritage with respect to the Future Act.

