

Queensland



**NATIVE TITLE
(QUEENSLAND) STATE
PROVISIONS AMENDMENT
BILL 1999**

Queensland



NATIVE TITLE (QUEENSLAND) STATE PROVISIONS AMENDMENT BILL 1999

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1999

A BILL

FOR

An Act to amend the *Fossicking Act 1994*, the *Land and Resources Tribunal Act 1999*, the *Mineral Resources Act 1989*, and the *Native Title (Queensland) State Provisions Amendment Act (No. 2) 1998*

*Native Title (Queensland) State Provisions
Amendment*

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Native Title (Queensland) State Provisions Amendment Act 1999*.

4

5

Commencement

6

Clause **2.** Parts 3 to 6 commence on a day to fixed by proclamation.

7

PART 2—AMENDMENT OF FOSSICKING ACT 1994

8

Act amended in pt 2

9

Clause **3.** This part amends the *Fossicking Act 1994*.

10

Amendment of s 11 (Act's application if approved determination of native title)

11

12

Clause **4.** Section 11(2)(b)—

13

omit, insert—

14

‘(b) the agreement includes statements to the effect that—

15

(i) the parties to the agreement consent, with or without stated conditions, to fossicking over the land or waters; and

16

17

(ii) the *Native Title Act 1993* (Cwlth), part 2, division 3, subdivision P, is not intended to apply to fossicking over the land or waters.’

18

19

20

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**PART 3—AMENDMENT OF LAND AND RESOURCES
TRIBUNAL ACT 1999**

	Act amended in pt 3	3
Clause	5. This part amends the <i>Land and Resources Tribunal Act 1999</i> .	4
	Amendment of s 26 (Limitation on ownership of mining tenures)	5
Clause	6.(1) Section 26, heading, ‘tenures’—	6
	<i>omit, insert—</i>	7
	‘tenements’.	8
	(2) Section 26(1) and (2), ‘tenure’	9
	<i>omit, insert—</i>	10
	‘tenement’.	11
	Amendment of s 41 (Way in which questions are to be decided)	12
Clause	7. Section 41—	13
	<i>insert—</i>	14
	‘ (5) Subsections (2) to (4) have effect subject to any requirement in section 42 for the presiding member or presiding members included in an NNTT panel to allow the NNTT member to participate in the making of a decision.’.	15 16 17 18
	Insertion of new s 51A	19
Clause	8. After section 51—	20
	<i>insert—</i>	21
	‘Jurisdiction under Commonwealth Native Title Act	22
	‘51A.(1) This section applies if, under the Commonwealth Native Title Act—	23 24

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- (a) a claimant or body corporate objects to the doing of an act; and 1
- (b) the State is required to ensure that the objection to the doing of the 2
act is heard by an independent person or body. 3
- ‘(2) The tribunal has jurisdiction to hear the objection.’. 4

Amendment of sch 1 (Requirements for constituting tribunal) 5

Clause	9.(1) Schedule 1, ‘452’—	6
	<i>omit, insert—</i>	7
	‘454’.	8
	(2) Schedule 1, ‘497’—	9
	<i>omit, insert—</i>	10
	‘512’.	11
	(3) Schedule 1, ‘544’—	12
	<i>omit, insert—</i>	13
	‘568’.	14
	(4) Schedule 1, ‘578’—	15
	<i>omit, insert—</i>	16
	‘609’.	17
	(5) Schedule 1, table appearing under the heading ‘ MINERAL	18
	RESOURCES ACT 1989 ’, section of table headed ‘ Compensation ’—	19
	<i>omit, insert—</i>	20
	‘Mining leases under part 17, division 3 or 4 and other mining	21
	tenements to which part 17, division 3 or 4 is applied	22
634	native title issues panel decision	
669	native title issues panel decision	

*Native Title (Queensland) State Provisions
Amendment*

	Compensation	1
	part 18 decision about panel’.	
	compensation	
	(6) Schedule 1, section of schedule headed ‘ General ’, section 1(1),	2
	‘tenure’—	3
	<i>omit, insert</i> —	4
	‘tenement’.	5
	 Amendment of sch 2 (Negotiated agreements)	 6
Clause	10.(1) Schedule 2, ‘The following agreements’—	7
	<i>omit, insert</i> —	8
	‘1. The following agreements’.	9
	(2) Schedule 2, second dot point, ‘495’—	10
	<i>omit, insert</i> —	11
	‘510’.	12
	(3) Schedule 2, second dot point, ‘496’—	13
	<i>omit, insert</i> —	14
	‘511’.	15
	(4) Schedule 2, third dot point, ‘542’—	16
	<i>omit, insert</i> —	17
	‘566’.	18
	(5) Schedule 2, third dot point, ‘543’—	19
	<i>omit, insert</i> —	20
	‘567’.	21
	(6) Schedule 2, last dot point—	22
	<i>omit, insert</i> —	23
	• an agreement about payment of compensation mentioned in	24
	part 18 (Compensation provisions).	25

*Native Title (Queensland) State Provisions
Amendment*

2. A reference in item 1 to a provision of the *Mineral Resources Act 1989* includes a reference to the provision as applied by another provision, or other provisions, of the native title (mining) provisions.’ 1
2
3

Amendment of sch 4 (Dictionary) 4

Clause 11.(1) Schedule 4, definition “**mining tenure**”, ‘tenure’— 5
omit, insert— 6

‘tenement’. 7

(2) Schedule 4, definition “**native title (mining) provisions**”, 8
after ‘18’— 9

omit, insert— 10

‘and part 19, division 2’. 11

(3) Schedule 4, definition “**non-native title (mining) provisions**”, 12
after ‘18’— 13

omit, insert— 14

‘and part 19, division 2’. 15

PART 4—AMENDMENT OF MINERAL RESOURCES 16

ACT 1989 17

Act amended in pt 4 18

Clause 12. This part amends the *Mineral Resources Act 1989*. 19

Amendment of s 5 (Definitions) 20

Clause 13.(1) Section 5, definition “**prospect**”— 21

omit. 22

*Native Title (Queensland) State Provisions
Amendment*

	(2) Section 5—	1
	<i>insert—</i>	2
	‘ “approved form” see section 416A.	3
	“prospect” see section 6B.’.	4
	Insertion of new s 6B	5
Clause	14. After section 6A—	6
	<i>insert—</i>	7
	‘Meaning of “prospect”	8
	‘6B.(1) “Prospect” means take action to find out about the existence, quality or quantity of minerals on, in or under land by—	9
	(a) using a metal detector or a similar hand held instrument; or	11
	(b) sampling using only hand held implements, including, for example, hammers, hand augers, panning dishes, picks, shakers shovels, sieves.	12 13 14
	‘(2) However, “prospect” does not include taking action that is—	15
	(a) hand mining; or	16
	(b) the removal of minerals for their sale.’.	17
	Insertion of new s 10A	18
Clause	15. Part 1—	19
	<i>insert—</i>	20
	‘Extension of certain entitlements to registered native title bodies corporate and registered native title claimants	21 22
	‘10A.(1) To the extent that a provision of part 3, other than section 19(1) or 34, applies to a prospecting permit granted only for pegging purposes, a reference in the provision to the owner of land is taken to include a reference to any registered native title body corporate under the Commonwealth Native Title Act in relation to any of the land.	23 24 25 26 27

*Native Title (Queensland) State Provisions
Amendment*

‘(2) To the extent that section 31 applies to a prospecting permit granted other than only for pegging purposes, a reference in the section to the owner of land is taken to include a reference to any registered native title body corporate or registered native title claimant under the Commonwealth Native Title Act in relation to any of the land.’

‘(3) In sections 34, 96(10), 125, 169, 198(9), 217, 231(6), 300(11) and 317, a reference to the owner of land is taken to include a reference to any registered native title body corporate or registered native title claimant under the Commonwealth Native Title Act in relation to any of the land.’

‘(4) In this section—
“**pegging purposes**”, in relation to a prospecting permit, means purposes necessary to enable the holder of the permit to apply for a mining claim or mining lease over the land for which the permit is granted.’.

Amendment of s 24 (Grant of prospecting permit)

Clause **16.** Section 24(1)(a), after ‘part’—
insert—
‘, and otherwise complied with the requirements of this Act’.

Amendment of s 25 (Conditions of prospecting permit)

Clause **17.** Section 25—
insert—
‘(6) If a prospecting permit is subject to a condition imposed under section 433,¹ the condition is taken to be a condition of the permit of which notice has been served on the holder.’.

Insertion of new s 25A

Clause **18.** After section 25—
insert—

¹ Section 433 (Requirement to consult)

*Native Title (Queensland) State Provisions
Amendment*

	‘Indigenous land use agreement conditions	1
	‘25A.(1) This section applies if—	2
	(a) an indigenous land use agreement under the Commonwealth Native Title Act provides for the granting of a prospecting permit; and	3 4 5
	(b) the State is a party to the agreement; and	6
	(c) the agreement includes a requirement that, if the prospecting permit is granted, it must be granted subject to conditions stated in the agreement (the “stated conditions”); and	7 8 9
	(d) the prospecting permit is granted.	10
	‘(2) The prospecting permit is subject to the stated conditions.	11
	‘(3) The stated conditions are taken to be conditions of the permit of which notice has been served on the holder of the prospecting permit.’.	12 13
	Amendment of s 74 (Grant of mining claim to which no objection is lodged)	14 15
Clause	19. Section 74(2)(a), after ‘part’—	16
	<i>insert—</i>	17
	‘and the requirements of this Act have otherwise been complied with’.	18
	Insertion of new ss 81A and 81B	19
Clause	20. After section 81—	20
	<i>insert—</i>	21
	‘Consultation and negotiated agreement conditions	22
	‘81A.(1) This section applies if—	23
	(a) a consultation agreement under part 14, division 2, or a negotiated agreement under part 17, division 3 or 4, provides for the grant, renewal or variation of, or another act concerning, a mining claim; and	24 25 26 27

*Native Title (Queensland) State Provisions
Amendment*

- (b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and 1
2
 - (c) the mining registrar consents to the mining claim being subject to 1 or more of the conditions (the “**consent conditions**”); and 3
4
 - (d) the act is done. 5
- ‘(2) The mining claim is subject to the consent conditions. 6

‘Other agreement conditions 7

‘**81B.(1)** This section applies if— 8

- (a) an indigenous land use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, a mining claim; and 9
10
11
12
13
- (b) the State is a party to the agreement; and 14
- (c) the agreement includes a requirement that, if the act is done, the mining claim must be subject to conditions stated in the agreement (the “**stated conditions**”); and 15
16
17
- (d) the act is done. 18

‘(2) The mining claim is subject to the stated conditions.’. 19

Amendment of s 82 (Variation of conditions of mining claim) 20

Clause **21.(1)** Section 82— 21

insert— 22

‘(2) However, the mining registrar must not vary a condition of a mining claim if— 23
24

- (a) the condition was decided or recommended by the tribunal under the native title provisions; or 25
26

*Native Title (Queensland) State Provisions
Amendment*

(b) the mining claim is a surface alluvium (gold or tin) mining claim under part 14, division 2, but after the variation, the mining claim would no longer be a surface alluvium (gold or tin) mining claim.’. 1
2
3
4

(2) Section 82(2) and (3)— 5
renumber as section 82 (3) and (4). 6

Amendment of s 91 (Initial term of mining claim) 7

Clause 22. Section 91(1), ‘5 years’— 8
omit, insert— 9
‘10 years’. 10

Amendment of s 93 (Renewal of mining claim) 11

Clause 23.(1) Section 93(3), ‘shall grant’— 12
omit, insert— 13
‘must, subject to part 14, division 5, grant’. 14
(2) Section 93(3), ‘5 years’— 15
omit, insert— 16
‘10 years’. 17

Amendment of s 137 (Grant of exploration permit) 18

Clause 24. Section 137(1)(a), after ‘with’— 19
insert— 20
‘and that the requirements of this Act have otherwise been complied with’. 21
22

*Native Title (Queensland) State Provisions
Amendment*

	Insertion of new ss 141A–141C	1
Clause	25. After section 141—	2
	<i>insert—</i>	3
	‘Consultation and negotiated agreement conditions	4
	‘141A.(1) This section applies if—	5
	(a) an agreement under section 510 or 511, ² or a negotiated agreement under part 17, division 4, ³ provides for the grant, renewal or variation of, or another act concerning, an exploration permit; and	6 7 8 9
	(b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and	10 11
	(c) the Minister consents to the exploration permit being subject to 1 or more of the conditions (the “consent conditions”); and	12 13
	(d) the act is done.	14
	‘(2) The exploration permit is subject to the consent conditions.	15
	‘Other agreement conditions	16
	‘141B.(1) This section applies if—	17
	(a) an indigenous land use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, an exploration permit; and	18 19 20 21 22
	(b) the State is a party to the agreement; and	23
	(c) the agreement includes a requirement that, if the act is done, the exploration permit must be subject to conditions stated in the agreement (the “stated conditions”); and	24 25 26

² Section 510 (Agreement with or without conditions) or 511 (Agreement with conditions)

³ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

(d) the act is done. 1

‘(2) The exploration permit is subject to the stated conditions. 2

‘Application to vary conditions of existing permit 3

‘**141C.(1)** The holder of an exploration permit (the “existing permit”) 4
may apply to the Minister for a variation of the conditions of the existing 5
permit. 6

‘(2) The provisions of this part apply, with necessary changes, to an 7
application under subsection (1) as if it were an application under 8
section 133.⁴ 9

‘(3) Without limiting subsection (2), in deciding the application, the 10
Minister may— 11

(a) vary the conditions of the existing permit by imposing conditions 12
under section 141(1)(k)⁵ in addition to any conditions that apply 13
under the existing permit; and 14

(b) fix an amount of security to be deposited under section 144⁶ in 15
addition to any security for the existing permit. 16

‘(4) On the granting of the application, the varied conditions, including 17
imposed conditions mentioned in subsection (3)(a), are included in the 18
existing permit.’. 19

Amendment of s 144 (Provision of security) 20

Clause **26.(1)** Section 144(1), after ‘renewed’— 21

insert— 22

‘or a condition of the permit is varied’. 23

(2) Section 144(4)— 24

omit, insert— 25

⁴ Section 133 (Application for exploration permit)

⁵ Section 141 (Conditions of exploration permit)

⁶ Section 144 (Provision of security)

*Native Title (Queensland) State Provisions
Amendment*

‘(4) An exploration permit must not be granted or renewed, and a condition of an exploration permit must not be varied, until the applicant for the grant, renewal or variation deposits the security decided under this section.’. 1
2
3
4

Amendment of s 147 (Renewal of exploration permit) 5

Clause 27. Section 147(1), from ‘such that’ to ‘subsequent terms’— 6
omit, insert— 7
‘that’. 8

Insertion of new s 176A 9

Clause 28. After section 176— 10
insert— 11

‘Application to add excluded land to existing permit 12

‘176A.(1) The holder of an exploration permit (the “existing permit”) 13
may apply to the Minister to add excluded land to the existing permit. 14

‘(2) The provisions of this part apply, with necessary changes, to an 15
application under subsection (1) as if it were an application under 16
section 133.⁷ 17

‘(3) Without limiting subsection (2), in deciding the application, the 18
Minister may— 19

(a) impose conditions under section 141(1)(k)⁸ in addition to any 20
conditions that apply under the existing permit; and 21

(b) fix an amount of security to be deposited under section 144⁹ in 22
addition to any security for the existing permit. 23

⁷ Section 133 (Application for exploration permit)

⁸ Section 141 (Conditions of exploration permit)

⁹ Section 144 (Provision of security)

*Native Title (Queensland) State Provisions
Amendment*

‘(4) On the granting of the application, the excluded land is included in the existing permit. 1
2

‘(5) In this section— 3

“**excluded land**” means land that was the subject of a specific exclusion 4
when the existing permit was granted.’. 5

**Amendment of s 182 (Land is excluded from mineral development 6
licence if covered by other authority under Act) 7**

Clause 29.(1) Section 182(1)(a), ‘chief executive’— 8

omit, insert— 9

‘mining registrar’. 10

(2) Section 182(4), after ‘licence’ (second mention)— 11

insert— 12

‘unless the mineral development licence provides otherwise’. 13

Amendment of s 183 (Application for mineral development licence) 14

Clause 30.(1) Section 183(h) and (i), ‘chief executive’— 15

omit, insert— 16

‘mining registrar’. 17

(2) Section 183(1)— 18

omit, insert— 19

‘(l) be lodged with the mining registrar; and’. 20

Amendment of s 184 (Description of mineral development licence) 21

Clause 31. Section 184, ‘chief executive’— 22

omit, insert— 23

‘mining registrar’. 24

*Native Title (Queensland) State Provisions
Amendment*

	Amendment of s 189 (Abandonment of application for mineral development licence)	1 2
Clause	32. Section 189(1) and (2), ‘chief executive’— <i>omit, insert—</i> ‘mining registrar’.	3 4 5
	Amendment of s 190 (Provision of security)	6
Clause	33.(1) Section 190(1), after ‘renewed’— <i>insert—</i> ‘or a condition of the licence is varied’. (2) Section 190(2)— <i>omit, insert—</i> ‘(2) A mineral development licence must not be granted or renewed, and a condition of a mineral development licence must not be varied, until the applicant for the grant, renewal or variation deposits the security decided under this section.’. (3) Section 190(7), ‘chief executive’— <i>omit, insert—</i> ‘mining registrar’.	7 8 9 10 11 12 13 14 15 16 17 18
	Amendment of s 192 (Initial term of mineral development licence)	19
Clause	34. Section 192(1), ‘in exceptional circumstances’— <i>omit.</i>	20 21
	Insertion of new ss 194AA—194AC	22
Clause	35. After section 194— <i>insert—</i>	23 24

*Native Title (Queensland) State Provisions
Amendment*

‘Consultation and negotiated agreement conditions	1
‘194AA.(1) This section applies if—	2
(a) an agreement under section 566 or 567, ¹⁰ or a negotiated agreement under part 17, division 4, ¹¹ provides for the grant, renewal or variation of, or another act concerning, a mineral development licence; and	3 4 5 6
(b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and	7 8
(c) the Minister consents to the mineral development licence being subject to 1 or more of the conditions (the “consent conditions”); and	9 10 11
(d) the act is done.	12
‘(2) The mineral development licence is subject to the consent conditions.	13
 ‘Other agreement conditions	 14
‘194AB.(1) This section applies if—	15
(a) an indigenous land use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, a mineral development licence; and	16 17 18 19 20
(b) the State is a party to the agreement; and	21
(c) the agreement includes a requirement that, if the act is done, the mineral development licence must be subject to conditions stated in the agreement (the “stated conditions”); and	22 23 24
(d) the act is done.	25
‘(2) The mineral development licence is subject to the stated conditions.	26

¹⁰ Section 566 (Agreement with or without conditions) or 567 (Agreement with conditions)

¹¹ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

‘Application to vary conditions of existing licence

‘194AC.(1) The holder of a mineral development licence (the **“existing licence”**) may apply to the Minister for a variation of the conditions of the existing licence.

‘(2) The provisions of this part apply, with necessary changes, to an application under subsection (1) as if it were an application under section 183.¹²

‘(3) Without limiting subsection (2), in deciding the application, the Minister may—

- (a) vary the conditions of the existing licence by imposing conditions under section 194(1)(k)¹³ in addition to any conditions that apply under the existing licence; and
- (b) fix an amount of security to be deposited under section 190¹⁴ in addition to any security for the existing licence.

‘(4) On the granting of the application, the varied conditions, including imposed conditions mentioned in subsection (3)(a), are included in the existing licence.’

Amendment of s 197 (Renewal of mineral development licence)

Clause **36.** Section 197(3), ‘in exceptional circumstances’—
omit.

Amendment of s 208 (Adding other minerals to licence)

Clause **37.** Section 208(1), ‘chief executive’—
omit, insert—
‘mining registrar’.

¹² Section 183 (Application for mineral development licence)

¹³ Section 194 (Conditions of mineral development licence)

¹⁴ Section 190 (Provision of security)

*Native Title (Queensland) State Provisions
Amendment*

	Insertion of new s 226AA	1
Clause	38. After section 226—	2
	<i>insert—</i>	3
	‘Application to add excluded land to existing licence	4
	‘226AA.(1) The holder of a mineral development licence (the “existing licence”) may apply to the Minister to add excluded land to the existing licence.	5 6 7
	‘(2) The provisions of this part apply, with necessary changes, to an application under subsection (1) as if it were an application under section 183. ¹⁵	8 9 10
	‘(3) Without limiting subsection (2), in deciding the application, the Minister may—	11 12
	(a) impose conditions under section 194(1)(k) ¹⁶ in addition to any conditions that apply under the existing licence; and	13 14
	(b) fix an amount of security to be deposited under section 190 ¹⁷ in addition to any security for the existing licence.	15 16
	‘(4) On the granting of the application, the excluded land is included in the existing licence.	17 18
	‘(5) In this section—	19
	“excluded land” means land that was the subject of a specific exclusion when the existing licence was granted.’.	20 21
	Amendment of s 230 (Plant remaining on former mineral development licence may be sold etc.)	22 23
Clause	39. Section 230(1), ‘chief executive’—	24
	<i>omit, insert—</i>	25
	‘mining registrar’.	26

¹⁵ Section 133 (Application for mineral development licence)

¹⁶ Section 141 (Conditions of mineral development licence)

¹⁷ Section 190 (Provision of security)

*Native Title (Queensland) State Provisions
Amendment*

Amendment of s 271 (Minister to consider recommendation made in respect of application for grant of mining lease)

		1
		2
Clause	40. Section 271(1), after ‘section 269(4)’—	3
	<i>insert—</i>	4
	‘, 610, any native title issues decision of the tribunal under part 17, division 3 or 4 or any substituted decision made by the Minister under part 17, division 3 or 4 in overruling the tribunal’s native title issues decision,’.	5 6 7

Insertion of new ss 276A and 276B 8

Clause	41. After section 276—	9
	<i>insert—</i>	10

‘Consultation and negotiated agreement conditions 11

	‘ 276A.(1) This section applies if—	12
	(a) a consultation agreement under part 17, division 2, or a negotiated agreement under part 17, division 3 or 4, ¹⁸ provides for the grant, renewal or variation of, or another act concerning, a mining lease; and	13 14 15 16
	(b) the agreement includes conditions to be complied with by 1 or more of the parties to the agreement; and	17 18
	(c) the Minister consents to the mining lease being subject to 1 or more of the conditions (the “ consent conditions ”); and	19 20
	(d) the act is done.	21
	‘(2) The mining lease is subject to the consent conditions.	22

‘Other agreement conditions 23

	‘ 276B.(1) This section applies if—	24
--	--	----

¹⁸ Part 17 (Native title provisions for mining leases), divisions 3 (Other mining leases on alternative provision areas) and 4 (Other mining leases not on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

- (a) an indigenous land use agreement under the Commonwealth Native Title Act, or an agreement mentioned in section 31(1)(b) of the Commonwealth Native Title Act, provides for the grant, renewal or variation of, or another act concerning, a mining lease; and
- (b) the State is a party to the agreement; and
- (c) the agreement includes a requirement that, if the act is done, the mining lease must be subject to conditions stated in the agreement (the “**stated conditions**”); and
- (d) the act is done.
- ‘(2) The mining lease is subject to the stated conditions.’.

Amendment of s 286 (Renewal of mining lease) 12

- Clause 42. Section 286(3), ‘shall recommend’— 13
omit, insert— 14
‘must, subject to part 17, division 5, recommend’. 15

Amendment of s 294 (Variation of conditions of mining lease) 16

- Clause 43.(1) Section 294— 17
insert— 18
‘(2) However, the Governor in Council must not vary a condition of a mining lease if— 19
20
(a) the mining lease is a surface alluvium (gold or tin) mining lease under part 17, division 2;¹⁹ and 21
22
(b) the variation were to be made, the mining lease would no longer be a surface alluvium (gold or tin) mining lease.’. 23
24

¹⁹ Part 17 (Native title provisions for mining leases), division 2 (Surface alluvium (gold or tin) mining leases)

*Native Title (Queensland) State Provisions
Amendment*

	(2) Section 294(2) and (3)—	1
	<i>renumber</i> as section 294 (3) and (4).	2
	Amendment of s 315 (Approval of additional activities upon mining lease application)	3
		4
Clause	44.(1) Section 315(9), ‘subsection (1)’—	5
	<i>omit, insert</i> —	6
	‘subsection (2)’.	7
	(2) Section 315—	8
	<i>insert</i> —	9
	‘(11) The Minister must not grant an approval under this section for the entry of non-exclusive land under the native title provisions.’.	10
		11
	Amendment of s 412 (Offences and recovery of penalties etc.)	12
Clause	45. Section 412(1), after ‘this Act’, first mention—	13
	<i>insert</i> —	14
	‘, other than a provision of the native title provisions,’.	15
	Insertion of new s 416A	16
Clause	46. After section 416—	17
	<i>insert</i> —	18
	‘Approval of forms	19
	‘416A. The chief executive may approve forms for use under this Act.’.	20

*Native Title (Queensland) State Provisions
Amendment*

**PART 5—AMENDMENT OF NATIVE TITLE
(QUEENSLAND) ACT 1993**

	1
	2
Act amended in pt 5	3
Clause 47. This part amends the <i>Native Title (Queensland) Act 1993</i> .	4
Amendment of s 7 (Object of part)	5
Clause 48. Section 7—	6
<i>insert—</i>	7
‘(2) The object of this part is also to validate, under section 24EBA(3) ²⁰ of the Commonwealth Native Title Act, certain future acts.’	8
	9
Amendment of s 9 (Application of remaining provisions of part)	10
Clause 49. Section 9, after ‘of this part’—	11
<i>insert—</i>	12
‘, other than division 4.’	13
Insertion of new div 4	14
Clause 50. Part 2, after section 15—	15
<i>insert—</i>	16
<i>‘Division 4—Validation of certain future acts</i>	17
‘Effect of registration on previous acts covered by indigenous land use agreements (NTA, s 24EBA(1) and (3))	18
	19
‘15A.(1) This section applies if—	20

²⁰ Section 24EBA (Effect of registration on previous acts covered by indigenous land use agreements) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
Amendment*

- (a) details are on the Register of Indigenous Land Use Agreements of an agreement that includes a statement to the effect that the parties agree to—
- (i) the validating of a particular future act (other than an intermediate period act), or future acts (other than intermediate period acts) included in classes, that have already been done invalidly; or
- (ii) the validating, subject to conditions, of a particular future act (other than an intermediate period act), or of future acts (other than intermediate period acts) included in classes, that have already been done invalidly; and
- (b) the future act or class of acts is attributable to the State; and
- (c) the State is a party to the agreement; and
- (d) if, under the agreement or otherwise, a person other than the Crown in right of the Commonwealth, a State or a Territory is or may become liable to pay compensation in relation to the act or class of acts—that person is a party to the agreement.
- ‘(2) If this section applies in relation to a future act, the act is valid, and is taken always to have been valid.
- ‘(3) If this section applies in relation to a class of future acts, all acts included in the class are valid, and are taken always to have been valid.’.

**PART 6—AMENDMENT OF NATIVE TITLE
(QUEENSLAND) STATE PROVISIONS AMENDMENT
ACT (No. 2) 1998**

Act amended in pt 6

- Clause **51.** This part amends the *Native Title (Queensland) State Provisions Amendment Act (No. 2) 1998*.

*Native Title (Queensland) State Provisions
Amendment*

	Amendment of s 2 (Commencement)	1
Clause	52. Section 2—	2
	<i>insert—</i>	3
	‘(2) The <i>Acts Interpretation Act 1954</i> , section 15DA ²¹ does not apply to this Act.’.	4
		5
	Amendment of s 7 (Amendment of s 5 (Definitions))	6
Clause	53. Section 7, inserted definition “ native title provisions ”—	7
	<i>insert—</i>	8
	• part 19, division 2.’.	9
	Replacement of ss 9–12	10
Clause	54. Sections 9 to 12—	11
	<i>omit, insert—</i>	12
	‘Insertion of new pts 12–18	13
	‘9. After section 418—	14
	<i>insert—</i>	15
	‘PART 12—INTRODUCTION TO NATIVE TITLE PROVISIONS	16
		17
	‘Application of native title provisions	18
	‘419.(1) The native title provisions state additional requirements that apply for certain grants, renewals and variations of, and certain other acts concerning, mining tenements, including requirements for compensation, if the grants, renewals, variations and other acts concern non-exclusive land.	19
		20
		21
		22

²¹ *Acts Interpretation Act 1954*, section 15DA (Automatic commencement of postponed law)

*Native Title (Queensland) State Provisions
Amendment*

‘(2) Whether or not the additional requirements apply for particular acts concerning mining tenements, and the extent to which the additional requirements apply, may be determined from individual application provisions located in parts 13 to 18, and part 19, division 2.

‘(3) However, no additional requirements under parts 13 to 18, and part 19, division 2 apply to an act if a notice under section 29²² of the Commonwealth Native Title Act in relation to the act, required to be given as part of complying with the right to negotiate provisions, was given before the commencement of this section.

‘(4) Nothing in parts 12 to 18 limits the operation of section 26D of the Commonwealth Native Title Act in relation to an act mentioned in the section.

‘Exclusion of certain agreed acts from pts 13 to 17

‘420. Parts 13 to 17 do not apply to an act that is the grant of a prospecting permit, or the grant, renewal or variation of, or another act concerning, a mining claim, exploration permit, mineral development licence or mining lease if—

- (a) there is an indigenous land use agreement registered on the register of indigenous land use agreements; and
- (b) the agreement includes statements to the effect that—
 - (i) the parties to the agreement consent, with or without stated conditions, to the doing of the act; and
 - (ii) the right to negotiate provisions are not intended to apply to the act.

‘Effect of failure to comply with native title provisions

‘421. An act to which the native title provisions apply is invalid to the extent that it affects native title unless—

²² Section 29 (Notification of parties affected) of the Commonwealth Native Title Act

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- (a) the procedures of the native title provisions that are required to be complied with by the State before the act is done are complied with by the State, to the extent that the State is a party to any consultation or negotiation about the doing of the act; and 1
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- (b) the procedures of the native title provisions that are required to be complied with by the applicant for the doing of the act before the act is done are complied with by the applicant. 5
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- ‘Definitions for native title provisions’** 8
- ‘422.** In the native title provisions— 9
- “alternative provision area”** means an alternative provision area under section 43A(2) of the Commonwealth Native Title Act. 10
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- “applicant”**, for a proposed mining tenement, includes a person who intends to apply for the proposed mining tenement. 12
13
- “approved opal or gem mining area”** means an area of land that is— 14
- (a) an approved opal or gem mining area determined in writing by the Commonwealth Minister under section 26C²³ of the Commonwealth Native Title Act; and 15
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- (b) prescribed under a regulation. 18
- “decision”** includes the following— 19
- (a) a determination; 20
- (b) a recommendation made by the Minister or the tribunal and any thing done by the Minister or the tribunal for the making of a recommendation. 21
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- “mining tenement”** means a prospecting permit, mining claim, exploration permit, mineral development licence or mining lease. 24
25
- “native title notification party”**, for land, means an entity that is— 26
- (a) a registered native title body corporate in relation to any of the land; or 27
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²³ Section 26C (Excluded opal or gem mining) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
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- (b) a registered native title claimant in relation to any of the land; or 1
- (c) a representative Aboriginal/Torres Strait Islander body for an area 2
that includes any of the land. 3
- “non-exclusive land”** means land over which native title has not been 4
extinguished, but only to the extent that the land is a place mentioned in 5
section 26(3)²⁴ of the Commonwealth Native Title Act. 6
- “registered native title rights and interests”** means— 7
- (a) in relation to a registered native title claimant—the native title 8
rights and interests described in the relevant entry on the Register 9
of Native Title Claims; and 10
- (b) in relation to a registered native title body corporate—the native 11
title rights and interests described in the relevant entry on the 12
National Native Title Register established and maintained under 13
part 8 of the Commonwealth Native Title Act. 14
- “relevant special interest publication”**, for a proposed mining tenement, 15
means a newspaper or magazine that— 16
- (a) caters mainly or exclusively for the interests of Aboriginal 17
peoples or Torres Strait Islanders; and 18
- (b) circulates in the geographical area that may be affected by the 19
proposed mining tenement or, if the area is an offshore place, the 20
geographical area closest to it; and 21
- (c) is published at least once a month. 22
- “right to negotiate provisions”** means part 2, division 3, subdivision P²⁵ 23
of the Commonwealth Native Title Act. 24

²⁴ Section 26(3) (When Subdivision applies - *Seas and intertidal zone excluded*) of the Commonwealth Native Title Act

²⁵ Part 2 (Native Title), division 3 (Future acts etc. and native title), subdivision P (Right to negotiate) of the Commonwealth Native Title Act

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‘Other provisions for interpretation of native title provisions	1
‘423.(1) Words and expressions used in the Commonwealth Native Title Act and the native title provisions have the same meaning in the native title provisions as they have in the Commonwealth Native Title Act.	2 3 4
‘(2) Subsection (1) applies except so far as the context or subject matter otherwise indicates or requires.	5 6
‘(3) However, subsection (1) does not apply to a word or expression defined in section 5. ²⁶	7 8
‘(4) Without limiting subsection (3), a reference in the native title provisions to land, or to land or waters, is a reference to land as defined in section 5.	9 10 11
 ‘Application of Judicial Review Act	 12
‘424.(1) This section applies to an act to which the alternative provisions apply.	13 14
‘(2) To ensure compliance with section 43A(4)(f) of the Commonwealth Native Title Act, it is declared that the decision to do the act is a decision to which the <i>Judicial Review Act 1991</i> applies.	15 16 17
‘(3) Subsection (2) does not limit the <i>Judicial Review Act 1991</i> .	18
‘(4) In this section—	19
“alternative provisions” means laws of Queensland that, under a determination of the Commonwealth Minister made under section 43A of the Commonwealth Native Title Act, have effect instead of the right to negotiate provisions.	20 21 22 23

²⁶ Section 5 (Definitions)

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Amendment*

**‘PART 13—NATIVE TITLE PROVISIONS FOR
PROSPECTING PERMITS**

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‘Division 1—Preliminary

3

‘Purpose of pt 13

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‘425. The purpose of this part is—

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- (a) to state additional requirements that apply for—
 - (i) the granting of a prospecting permit under part 3 if the permit is a proposed low impact prospecting permit over non-exclusive land; and
 - (ii) the exercise of the entitlement, under a low impact prospecting permit, to enter non-exclusive land; and
- (b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26A²⁷ of the Commonwealth Native Title Act.

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‘Application of pt 13

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‘426.(1) This part applies to the granting of a prospecting permit if—

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- (a) the permit is a low impact prospecting permit; and
- (b) the granting of the permit is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and
 - (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.

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²⁷ Section 26A (Approved exploration etc. acts) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
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‘(2) However, this part applies to the granting of the prospecting permit—	1 2
(a) only to the extent that the prospecting permit relates to a place that is on the landward side of the mean high-water mark of the sea; and	3 4 5
(b) only to the extent that the land the subject of the permit is non-exclusive land, whether or not an alternative provision area.	6 7
‘(3) The requirements of this part are additional to the requirements of part 3.	8 9
 ‘Exclusion of certain prospecting permits from pt 13	 10
‘427. This part does not apply to a prospecting permit if the permit is solely for purposes necessary to enable the permit holder to apply for the granting of a mining claim or mining lease.	11 12 13
 ‘Limited application of pt 13 to prospecting permit in approved opal or gem mining area	 14 15
‘428. This part does not apply to an act relating to a prospecting permit in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d) ²⁸ of the Commonwealth Native Title Act.	16 17 18 19
 ‘Definitions for pt 13	 20
‘429. In this part—	21
“applicant” means the applicant for the proposed low impact prospecting permit.	22 23
“application notice” see section 431(1).	24
“consultation period” see section 435.	25
“low impact prospecting permit” see section 430.	26

²⁸ Section 26 (When Subdivision applies) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
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‘Meaning of “low impact prospecting permit” for pt 13

‘430. For this part, a **“low impact prospecting permit”** is a prospecting permit that—

- (a) is granted over land that is, or includes, non-exclusive land; and
- (b) at least to the extent the permit is granted over non-exclusive land, excludes all entitlement to enter for hand mining.

‘Division 2—Notification requirements

‘Requirement to notify

‘431.(1) The applicant must give written notice (the **“application notice”**) of the applicant’s intention to lodge an application for a low impact prospecting permit, or of the lodgement of the application, to—

- (a) each native title notification party for the land to which the application relates; and
- (b) the mining registrar.

‘(2) The notice must be given no earlier than 14 days before the lodgement, and no later than—

- (a) the lodgement; or
- (b) if, under section 432, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.

‘(3) The notice must state the following—

- (a) whether or not the application has been lodged;
- (b) a clear description of the land, and its location;
- (c) details of the activities proposed for the land;
- (d) an outline of the expected impact on the land of the proposed activities;

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- (e) that the applicant must not act under the permit applied for to enter non-exclusive land unless the applicant has complied with all the applicant's obligations for consultation with the native title notification parties under division 3.

'(4) The notice may also state a day for consultation to start under division 3.

'(5) The day must be at least 14 days after the giving of the notice to all of the native title notification parties.

'Failure to notify correctly

'432.(1) If the mining registrar is satisfied that a written notice given, or purportedly given, under section 431 has not been given in accordance with the requirements of section 431(1) and (2) or does not comply with the requirements of section 431(3) to (5), the mining registrar must—

- (a) give the applicant a written direction to give a new written notice under section 431; and
- (b) in the direction, nominate a period within which the direction must be complied with.

'(2) The new notice, when given, must—

- (a) state that it is a replacement notice; and
- (b) identify the previous notice.

'Division 3—Consultation requirements before entry

'Requirement to consult

'433.(1) It is a condition of a low impact prospecting permit that the permit holder must not act under the permit to enter, for the first time, non-exclusive land unless the holder has consulted with each native title notification party for the land to which the permit relates.

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‘(2) However, the condition does not require consultation with a native title notification party if the party has given the permit holder a written notice that the party does not wish to be consulted about the proposed activities stated in the application notice.

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‘Consultation matters

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‘434.(1) The purpose of the consultation is to minimise the impact of the low impact prospecting permit on the exercise of native title rights and interests in relation to the land that will be affected under the permit.

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‘(2) In particular, the consultation must be about the matters mentioned in section 26A(7)²⁹ of the Commonwealth Native Title Act, as follows—

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- (a) the protection and avoidance of any area or site, on the land or waters to which the native title rights and interests relate, of particular significance to the persons holding the native title in accordance with their traditional laws and customs;
- (b) any access to the land or waters to which the native title rights and interests relate by—
 - (i) the persons mentioned in paragraph (a); or
 - (ii) any person who will do anything that is authorised because of, or results from, or otherwise relates to, the permit;
- (c) the way in which any other thing that is authorised because of, results from, or otherwise relates to, the permit and affects native title rights and interests, is to be done.

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‘Consultation period

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‘435.(1) The “consultation period” for the permit—

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- (a) starts on the day (the “consultation start day”)—
 - (i) stated for that purpose in the application notice for the permit; or

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²⁹ Section 26A (Approved exploration etc. acts) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
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- (ii) if the day was not stated in the application notice, stated in a written notice given to each of the native title notification parties by the holder; and 1
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- (b) ends 14 days after the consultation start day, or if a later or earlier time is agreed under subsection (3) or (4), the later or earlier time. 4
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- ‘(2) A notice under subsection (1)(a)(ii) must be given at least 14 days before the consultation start day. 6
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- ‘(3) The consultation period may be extended if, within 14 days after the consultation start day— 8
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- (a) the holder and the native title notification parties agree to the extension; and 10
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- (b) the mining registrar is notified of the extension. 12
- ‘(4) If at any time the holder and the native title notification parties agree there has been enough consultation, the consultation period is taken to end. 13
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- ‘Native title notification parties may seek mediation 15**
- ‘436.(1) In the consultation period, a native title notification party may ask the mining registrar to hold a conference for mediation about the impact of the permit. 16
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- ‘(2) A native title notification party or the permit holder may be represented at the conference by a lawyer. 19
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- ‘(3) A party to the conference must pay the party’s own costs for the conference. 21
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- ‘Notice of result of consultation 23**
- ‘437.(1) The permit holder must, and any native title notification party may, as soon as practicable after the consultation period ends, give a written notice to the mining registrar about the consultation. 24
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- ‘(2) The notice must state— 27
- (a) details of the consultation undertaken in the consultation period; 28
and 29

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(b) any outcome of the consultation; and	1
(c) the day the holder proposes first to enter the land to which the native title rights and interests relate.	2 3
‘(3) A party who gives a notice to the mining registrar under this section must also give a copy of the notice to each other party.	4 5
‘(4) The copy of the notice by the holder must be given before the holder first enters the land	6 7
‘(5) If the permit holder does not comply with a requirement of this section about the giving of a notice or a copy of a notice, the permit holder commits an offence.	8 9 10
Maximum penalty for subsection (5)—100 penalty units.	11
‘(6) In this section—	12
“party” means—	13
(a) a permit holder; or	14
(b) a native title notification party.	15
‘Mining registrar may take action	16
‘438. The mining registrar may impose conditions on the permit under section 25 ³⁰ to address any matter raised by a native title notification party in the consultation.	17 18 19

³⁰ Section 25 (Conditions of prospecting permit)

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Amendment*

**‘PART 14—NATIVE TITLE PROVISIONS FOR
MINING CLAIMS**

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‘Division 1—Preliminary

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‘Purpose of pt 14

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‘439.(1) The purpose of this part is—

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(a) to state additional requirements that apply for the granting of a mining claim, or the variation or renewal of a mining claim, under part 4 if the mining claim is a surface alluvium (gold or tin) mining claim over non-exclusive land; and

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(b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26B³¹ of the Commonwealth Native Title Act.

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‘(2) The purpose of this part is also—

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(a) to state additional requirements that apply for the granting of a proposed mining claim, or variation or renewal of a mining claim, under part 4 over non-exclusive land if the mining claim is other than a surface alluvium (gold or tin) mining claim; and

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(b) in stating the additional requirements, to provide alternative provisions under sections 43 and 43A³² of the Commonwealth Native Title Act.

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³¹ Section 26B (Approved gold or tin mining acts) of the Commonwealth Native Title Act

³² Sections 43 (Modification of Subdivision if satisfactory alternative State or Territory provisions) and 43A (Exception to right to negotiate: satisfactory State/Territory provisions) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
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‘Limited application of pt 14 to mining claim in approved opal or gem mining area 1
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‘440. This part does not apply to an act relating to a mining claim in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d)³³ of the Commonwealth Native Title Act. 3
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‘Meaning of “surface alluvium (gold or tin) mining claim” 7

‘441. For this part, a “**surface alluvium (gold or tin) mining claim**” is a mining claim— 8
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- (a) that is granted over land that is, or includes, non-exclusive land; and 10
11
- (b) under which the only right to mine is the right to mine gold or tin in surface alluvium; and 12
13
- (c) under which the only way gold or tin may be recovered from the material that is mined is by a washing or an aeration process; and 14
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- (d) under which the person given the right to mine must rehabilitate any area of land or waters, in which the mining takes place and in relation to which native title rights and interests may exist, for the purpose of minimising the impact of the mining on the land or waters. 16
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‘Division 2—Surface alluvium (gold or tin) mining claims 21

‘Subdivision 1—Preliminary 22

‘Application of div 2 23

‘442.(1) This division applies to the granting of a proposed mining claim if— 24
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³³ Section 26 (When Subdivision applies) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
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(a) the mining claim is a surface alluvium (gold or tin) mining claim; and	1 2
(b) the granting of the mining claim is an act—	3
(i) that affects native title rights and interests; and	4
(ii) to which the right to negotiate provisions would have otherwise applied; and	5 6
(iii) that is an approved gold or tin mining act under a determination in force under section 26B(1) of the Commonwealth Native Title Act.	7 8 9
‘(2) However, this division applies to the granting of the proposed mining claim—	10 11
(a) only to the extent that the mining claim relates to a place that is on the landward side of the mean high-water mark of the sea; and	12 13
(b) only to the extent that the land the subject of the mining claim is non-exclusive land, whether or not an alternative provision area.	14 15
‘(3) The requirements of this division are additional to the requirements of part 4.	16 17
‘Definitions for div 2	18
‘443. In this division—	19
“applicant” means the applicant for the proposed surface alluvium (gold or tin) mining claim.	20 21
“consultation agreement” see section 451(4)(b).	22
“consultation matters” includes the purpose of consultation stated in section 449(1) and the matters that consultation must be about under section 449(2).	23 24 25
“consultation parties” see section 446.	26
“consultation period” see section 448.	27
“consultation result notice” see section 451(1).	28

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“consultation start day” see section 444(3). 1

“surface alluvium (gold or tin) mining claim” see section 441. 2

‘Subdivision 2—Notification requirements 3

‘Requirement to notify 4

‘444.(1) The applicant must give written notice of the applicant’s intention to lodge an application for a surface alluvium (gold or tin) mining claim, or of the lodgement of the application, to— 5
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(a) each native title notification party for the land the subject of the proposed mining claim; and 8
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(b) the Native Title Registrar. 10

‘(2) The notice must be given— 11

(a) no earlier than 2 months before the lodgement; and 12

(b) no later than— 13

(i) the end of the period of 7 days after the certificate of application for the proposed mining claim is endorsed by the mining registrar under section 64(2);³⁴ or 14
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(ii) if the mining registrar decides a longer period under section 64(6), the end of the longer period; or 17
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(iii) if, under section 445, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction. 19
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‘(3) The notice must state the following— 22

(a) whether or not the application has been lodged; 23

(b) a clear description of the land, and its location; 24

(c) details of the activities proposed for the land; 25

³⁴ Section 64 (Certificate of application etc.)

*Native Title (Queensland) State Provisions
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- (d) an outline of the expected impact on the land of the proposed activities; 1
2
- (e) that the applicant must consult with— 3
 - (i) each registered native title body corporate for the land to which the application relates; and 4
5
 - (ii) each registered native title claimant for the land; 6
- (f) a day (the “**consultation start day**”) for consultation to start under subdivision 3 that is at least 2 months after the giving of the notice to all of the native title notification parties; 7
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- (g) that the native title notification parties have a right to be heard by the tribunal about whether the claim should be granted and other matters relating to the grant. 10
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‘Notification of mining registrar 13

‘**445.(1)** Within 2 days after the applicant has complied, or purportedly complied, with the requirements of section 444, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with section 444. 14
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‘**(2)** A copy of the written notice given under section 444(1) must be attached to the approved form. 18
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‘**(3)** If the mining registrar is satisfied a written notice given, or purportedly given, under section 444 has not been given in accordance with the requirements of section 444(1) and (2), or does not comply with the requirements of section 444(3), the mining registrar must— 20
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- (a) give the applicant a written direction to give a new written notice under section 444; and 24
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- (b) in the direction, nominate a period within which the direction must be complied with. 26
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‘**(4)** The new notice, when given, must— 28

- (a) state that it is a replacement notice; and 29
- (b) identify the previous notice. 30

*Native Title (Queensland) State Provisions
Amendment*

Subdivision 3—Consultation requirements

‘Consultation parties

‘446. The “**consultation parties**”, for a surface alluvium (gold or tin) mining claim application, are—

- (a) the applicant; and
- (b) each registered native title body corporate for the land the subject of the proposed mining claim; and
- (c) each registered native title claimant for the land.

‘Requirement to consult

‘447.(1) The applicant must consult with each other consultation party.

‘(2) However, the applicant is not required to consult with another consultation party if the other party has given the applicant a written notice stating that the party does not wish to be consulted about the application.

‘Consultation period

‘448.(1) The “**consultation period**” for the application—

- (a) starts on the consultation start day; and
- (b) ends 2 months after the consultation start day, or if a later or earlier time is agreed under subsection (2) or (3), the later or earlier time.

‘(2) The consultation period may be extended to an agreed later time if, within 2 months after the consultation start day—

- (a) the consultation parties agree to the extension; and
- (b) the mining registrar is notified in writing of the extension.

‘(3) If at any time the consultation parties agree there has been enough consultation, the consultation period is taken to end.

*Native Title (Queensland) State Provisions
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‘Consultation matters

‘**449.(1)** The purpose of the consultation is to minimise the impact of the granting of the surface alluvium (gold or tin) mining claim applied for on land or waters in relation to which native title rights and interests may exist and that will be affected by the granting of the mining claim.

‘**(2)** In particular, the consultation must be about the matters mentioned in section 26B(8)³⁵ of the Commonwealth Native Title Act, as follows—

- (a) the protection and avoidance of any area or site, on the land or waters to which the native title rights and interests relate, of particular significance to the persons holding the native title in accordance with their traditional laws and customs;
- (b) any access to the land or waters to which the native title rights and interests relate by—
 - (i) the persons mentioned in paragraph (a); or
 - (ii) any person who will do anything that is authorised because of, or results from, or otherwise relates to, the mining claim applied for;
- (c) the way in which any rehabilitation or other thing that is authorised because of, results from, or otherwise relates to, the mining claim applied for, is to be done.

‘Consultation parties may seek mediation

‘**450.(1)** In the consultation period, a consultation party may ask the mining registrar to hold a conference for mediation about the application.

‘**(2)** Sections 65 to 70 apply to the conference as if the request were a request made under section 65(1)(a) by an owner of land affected by the application.

³⁵ Section 26B (Approved gold or tin mining acts) of the Commonwealth Native Title Act

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- ‘(3) Despite section 66(3),³⁶ a consultation party may be represented at the conference by a lawyer. 1
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- ‘(4) Subject to any order made under section 70,³⁷ a party to the conference must pay the party’s own costs for the conference. 3
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- ‘Notice of result of consultation 5**
- ‘451.(1) The applicant must, and a consultation party, other than the applicant, may, as soon as practicable after the consultation period ends, give a written notice (a “**consultation result notice**”) to the mining registrar. 6
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- ‘(2) The applicant must, as soon as practicable after giving a consultation result notice, give a copy of it to each other consultation party. 10
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- ‘(3) If a consultation party, other than the applicant, gives a consultation result notice, the party must, as soon as practicable after giving the notice, give a copy of it to each other consultation party. 12
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14
- ‘(4) A consultation result notice must state the following— 15
- (a) any outcome of the consultation; 16
 - (b) whether the consultation parties have reached an agreement for the granting of the surface alluvium (gold or tin) mining claim applied for (a “**consultation agreement**”); 17
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 - (c) if a consultation agreement has not been reached, but the consultation parties have agreed in part about the granting of the surface alluvium (gold or tin) mining claim applied for, details of the partial agreement. 20
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- ‘(5) If a consultation agreement has been reached, a copy of the consultation agreement, signed by all consultation parties, must be given to the mining registrar with the consultation result notice. 24
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- ‘(6) The consultation agreement has effect, if the proposed mining claim is granted, as if— 27
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³⁶ Section 66 (Who may attend conference)

³⁷ Section 70 (Tribunal may award costs)

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(a) any conditions included in the agreement are the terms of a contract; and	1 2
(b) the consultation parties are parties to the contract; and	3
(c) if a consultation party is a registered native title claimant—any individual included in the native title claim group concerned is a party to the contract.	4 5 6
‘(7) Subsection (6) has effect in addition to any other effect that the agreement may have apart from under subsection (6).	7 8
‘(8) The additional requirements provided for in subdivision 4 stop applying to the application if—	9 10
(a) a consultation result notice has been given; and	11
(b) a consultation agreement has been reached; and	12
(c) all other native title notification parties for the land have waived their rights to be heard.	13 14
 <i>‘Subdivision 4—Hearing requirements</i>	 15
‘ Application of sdiv 4	16
‘ 452. This subdivision applies only if—	17
(a) the consultation period for an application for the granting of the surface alluvium (gold or tin) mining claim has ended; and	18 19
(b) any of the following applies—	20
(i) a consultation agreement has not been reached about the application;	21 22
(ii) the applicant has not given a consultation result notice within 7 days after the end of the consultation period;	23 24
(iii) at least 1 of the native title notification parties for the land the subject of the proposed mining claim has not waived the party’s rights to be heard.	25 26 27

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‘Native title notification parties’ right to be heard	1
‘453.(1) Each native title notification party for the land has a right to be heard by the tribunal about—	2 3
(a) whether the surface alluvium (gold or tin) mining claim applied for is to be granted; and	4 5
(b) any other matter relating to the grant.	6
‘(2) A native title notification party may at any time, by a notice in writing to the mining registrar, waive the party’s right to be heard.	7 8
 ‘Fixing of combined hearing day	 9
‘454.(1) The mining registrar must, within 14 days after the consultation period ends, fix a day for the tribunal to hear the application under section 72, ³⁸ as if an objection had been lodged under section 71. ³⁹	10 11 12
‘(2) The mining registrar must give written notice of the day to—	13
(a) each consultation party for the application; and	14
(b) all other native title notification parties for the land who have not waived their rights to be heard.	15 16
‘(3) The notice must state that, at the hearing, each of the native title notification parties has a right to be heard by the tribunal about—	17 18
(a) whether the surface alluvium (gold or tin) mining claim applied for is to be granted; and	19 20
(b) any other matter relating to the grant.	21
‘(4) The mining registrar must not, under section 74, ⁴⁰ grant the application without a hearing.	22 23

³⁸ Section 72 (Mining registrar to fix hearing date)

³⁹ Section 71 (Objection to application for grant of mining claim)

⁴⁰ Section 74 (Grant of mining claim to which no objection lodged)

*Native Title (Queensland) State Provisions
Amendment*

‘Tribunal must consider consultation matters and agreed issues	1
‘455. In hearing the application under section 77 ⁴¹ and in making a decision under section 78, ⁴² the tribunal must take into account—	2 3
(a) the consultation matters; and	4
(b) any issue agreed between the consultation parties; and	5
(c) any other matter raised before the tribunal by a native title notification party relating to the grant of the surface alluvium (gold or tin) mining claim.	6 7 8
 ‘Decision about compensation to be made at hearing	 9
‘456. If, at the end of the hearing for the application, the consultation parties have not reached an agreement about compensation, the tribunal, whether or not an application has been made to the tribunal about compensation, must also make any compensation decision or compensation trust decision that is required to be made under part 18 ⁴³ before the surface alluvium (gold or tin) mining claim is granted.	10 11 12 13 14 15
 ‘General time requirement for hearing	 16
‘457.(1) The tribunal must take all reasonable steps to ensure the hearing for the application is finished within 3 months after the day the consultation parties were notified of the hearing.	17 18 19
‘(2) However, if the consultation parties ask, the tribunal may—	20
(a) provide mediation about the issues in dispute to the extent that it considers referral of the parties to mediation will be consistent with finishing the combined hearing as soon as practicable; or	21 22 23
(b) order further consultation on conditions it considers appropriate.	24

⁴¹ Section 77 (Tribunal hearing)

⁴² Section 78 (Tribunal’s determination on hearing)

⁴³ Part 18 (Compensation provisions)

*Native Title (Queensland) State Provisions
Amendment*

‘Subdivision 5—Notice of grant

‘Notice of grant to other consultation parties

‘458.(1) If the mining registrar grants the surface alluvium (gold or tin) mining claim, the holder of the mining claim must, within 28 days after the holder receives notice of the grant, give a written notice complying with subsection (2) to the following—

- (a) each other consultation party;
- (b) each representative Aboriginal/Torres Strait Islander body heard by the tribunal in any hearing for the grant of the surface alluvium (gold or tin) mining claim.

Maximum penalty—100 penalty units.

‘(2) The written notice must—

- (a) advise the granting of the surface alluvium (gold or tin) mining claim; and
- (b) state the conditions of the surface alluvium (gold or tin) mining claim.

‘Division 3—Other mining claims on alternative provision areas

‘Application of div 3

‘459.(1) This division applies to the granting of a proposed mining claim if—

- (a) the mining claim is other than a surface alluvium (gold or tin) mining claim; and
- (b) the granting of the mining claim is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and

*Native Title (Queensland) State Provisions
Amendment*

- (c) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 1
2
3
- ‘(2) However, this division applies to the granting of the proposed mining claim— 4
5
- (a) only to the extent that the mining claim relates to a place that is on the landward side of the mean high-water mark of the sea; and 6
7
- (b) only to the extent that the land the subject of the mining claim is non-exclusive land that is an alternative provision area. 8
9
- ‘(3) The requirements of this division are additional to the requirements of part 4. 10
11
- ‘(4) Despite subsections (1) to (3), this division does not apply to the granting of the mining claim if the applicant elects that the additional requirements stated in division 4 apply instead of the additional requirements stated in this division. 12
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- ‘Requirement for grant** 16
- ‘460.(1) The additional requirements applying under part 17, division 3⁴⁴ for the granting of a proposed mining lease also apply for the granting of the proposed mining claim. 17
18
19
- ‘(2) The requirements apply with necessary changes. 20
- ‘(3) However, for applying section 622⁴⁵ and other provisions about consultation and negotiation parties, the State is not a consultation and negotiation party. 21
22
23
- ‘Applying pt 17, div 3 for grant** 24
- ‘461.(1) This section— 25
- (a) applies for applying the provisions of part 17, division 3; and 26

⁴⁴ Part 17 (Native title provisions for mining leases), division 3 (Other mining leases on alternative provision areas)

⁴⁵ Section 622 (Parties to consultation and negotiation)

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Amendment*

- (b) does not limit section 460(1). 1
- ‘(2) References to the Governor in Council are taken to be references to the mining registrar. 2
3
- ‘(3) Sections 623(3), 637(2) to (4), 641, 643, 646 and 647 do not apply. 4
- ‘(4) Section 636(3) is taken to require that the mining registrar may not act under section 74 to grant the mining claim unless a negotiated agreement has been reached. 5
6
7
- ‘(5) Section 645 does not apply, but the native title issues decision must be complied with by the mining registrar. 8
9
- ‘(6) A reference in part 17, division 3 to a provision of part 7 is taken to be a reference to a corresponding provision of part 4. 10
11
- ‘Division 4—Other mining claims not on alternative provision areas*** 12
- ‘Application of div 4** 13
- ‘462.(1) This division applies to the granting of a proposed mining claim if— 14
15
- (a) the mining claim is other than a surface alluvium (gold or tin) mining claim; and 16
17
- (b) the granting of the mining claim is an act— 18
- (i) that affects native title rights and interests; and 19
- (ii) to which the right to negotiate provisions would have otherwise applied; and 20
21
- (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 22
23
24
- ‘(2) However, this division applies to the granting of the proposed mining claim— 25
26
- (a) only to the extent that the mining claim relates to a place that is on the landward side of the mean high-water mark of the sea; and 27
28

*Native Title (Queensland) State Provisions
Amendment*

- (b) only to the extent that the land the subject of the mining claim is non-exclusive land other than an alternative provision area. 1
2
- ‘(3) The requirements of this division are additional to the requirements of part 4. 3
4
- ‘(4) Despite subsections (1) to (3), this division also applies to the granting of a mining claim to the extent that the land the subject of the proposed mining claim is non-exclusive land that is an alternative provision area, if the applicant elects under division 3 that the additional requirements stated in this division apply instead of the additional requirements stated in division 3. 5
6
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- ‘Requirement for grant 11**
- ‘**463.(1)** The additional requirements applying under part 17, division 4⁴⁶ for the granting of a proposed mining lease also apply for the granting of the proposed mining claim. 12
13
14
- ‘(2) The requirements apply with necessary changes. 15
- ‘Applying pt 17, div 4 for grant 16**
- ‘**464.(1)** This section— 17
- (a) applies for applying the provisions of part 17, division 4; and 18
- (b) does not limit section 463(1). 19
- ‘(2) References to the Governor in Council are taken to be references to the mining registrar. 20
21
- ‘(3) For applying section 669, the pre-referral period is— 22
- (a) the period of 6 months starting on the notification day (native title issues); or 23
24

⁴⁶ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas)

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Amendment*

- (b) if the registered native title parties for the non-exclusive land and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—the period ending at the agreed later time. 1
2
3
4
5
- ‘(4) Section 671(3) is taken to require that the mining registrar must not act under section 74 to grant the mining claim unless a negotiated agreement has been reached. 6
7
8
- ‘(5) Sections 672(2) to (4), 676, 678 and subdivisions 6 and 7 do not apply. 9
10
- ‘(6) Section 680 does not apply, but the native title issues decision must be complied with by the mining registrar.. 11
12
- ‘(7) A reference in part 17, division 4 to a provision of part 7 is taken to be a reference to a corresponding provision of part 4. 13
14
- Division 5—Renewals of mining claims*** 15
- ‘Application of div 5** 16
- ‘465.(1) This division applies to the renewal of a mining claim if— 17
- (a) the mining claim is a surface alluvium (gold or tin) mining claim; 18
and 19
- (b) the renewal of the mining claim is an act— 20
- (i) that affects native title rights and interests; and 21
- (ii) to which the right to negotiate provisions would have otherwise applied; and 22
23
- (iii) that is an approved gold or tin mining act under a determination in force under section 26B(1) of the Commonwealth Native Title Act. 24
25
26
- ‘(2) However, this division applies to the renewal of a mining claim mentioned in subsection (1) only to the extent that the land the subject of the mining claim is non-exclusive land, whether or not an alternative provision area. 27
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*Native Title (Queensland) State Provisions
Amendment*

- ‘(3) This division also applies to the renewal of a mining claim if— 1
- (a) the mining claim is other than a surface alluvium (gold or tin) 2
mining claim; and 3
 - (b) the renewal of the mining claim is an act— 4
 - (i) that affects native title rights and interests; and 5
 - (ii) to which the right to negotiate provisions would have 6
otherwise applied; and 7
 - (c) a determination is in force under section 43A(1) of the 8
Commonwealth Native Title Act and this division is included in 9
the alternative provisions the subject of the determination. 10
- ‘(4) However, this division applies to the renewal of a mining claim 11
mentioned in subsection (3) only to the extent that the land the subject of the 12
mining claim is non-exclusive land that is an alternative provision area. 13
- ‘(5) This division also applies to the renewal of a mining claim if— 14
- (a) the mining claim is other than a surface alluvium (gold or tin) 15
mining claim; and 16
 - (b) the renewal of the mining claim is an act— 17
 - (i) that affects native title rights and interests; and 18
 - (ii) to which the right to negotiate provisions would have 19
otherwise applied; and 20
 - (c) a determination is in force under section 43(1) of the 21
Commonwealth Native Title Act and this division is included in 22
the alternative provisions the subject of the determination. 23
- ‘(6) However, this division applies to the renewal of a mining claim 24
mentioned in subsection (5) only to the extent that the land the subject of the 25
mining claim is non-exclusive land other than an alternative provision area. 26
- ‘(7) This division applies to the renewal of a mining claim mentioned in 27
subsection (1), (3) or (5) only to the extent that the mining claim relates to a 28
place that is on the landward side of the mean high-water mark of the sea. 29
- ‘(8) The requirements of this division are additional to the requirements 30
of part 4. 31

*Native Title (Queensland) State Provisions
Amendment*

‘(9) In this section—	1
“renewal” , of a mining claim, includes—	2
(a) the re-grant of the mining claim; and	3
(b) the re-making of the mining claim; and	4
(c) the extension of the term of the mining claim.	5
 ‘Requirements for renewal—applying div 2	 6
‘466.(1) If this division applies to the renewal of a mining claim because of section 465(1), the additional requirements applying under division 2 ⁴⁷ for the granting of a surface alluvium (gold or tin) mining claim also apply for the renewal.	7 8 9 10
‘(2) The requirements apply with necessary changes.	11
 ‘Applying div 2 for renewal	 12
‘467.(1) This section—	13
(a) applies for applying the provisions of division 2; and	14
(b) does not limit section 466.	15
‘(2) For applying section 444(2), the following period is substituted for the periods mentioned in section 444(2)(b)(i) and (ii), that is the end of the period of 7 days after lodgement of the application for the renewal.	16 17 18
‘(3) Section 454(1) and (4) does not apply, but—	19
(a) the mining registrar must within 14 days after the consultation period ends, fix a day for the tribunal to hear the application for the renewal; and	20 21 22
(b) the tribunal must hear the application for the renewal as if the application for renewal were the application for a grant of a mining claim heard under section 77; and	23 24 25

⁴⁷ Division 2 (Surface alluvium (gold or tin) mining claims)

*Native Title (Queensland) State Provisions
Amendment*

- (c) the tribunal must ask the Minister about the extent to which the Minister is satisfied about the matters stated in section 93(3). 1
2
- ‘(4) For applying section 455, the tribunal must also take into account information received from the Minister under subsection (3)(c). 3
4
- ‘Requirements for renewal—applying div 3 5**
- ‘468.(1) If this division applies to the renewal of a mining claim because of section 465(3), the additional requirements applying under division 3⁴⁸ for the granting of a mining claim other than a surface alluvium (gold or tin) mining claim on an alternative provision area also apply for the renewal. 6
7
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9
- ‘(2) The requirements apply with necessary changes. 10
- ‘Applying div 3 for renewal 11**
- ‘469.(1) This section— 12
- (a) applies for applying the provisions of division 3; and 13
- (b) does not limit section 468. 14
- ‘(2) Section 461(4) does not apply. 15
- ‘(3) For applying section 461, subsections (4) to (8) of this section are taken to be included in section 461. 16
17
- ‘(4) For applying section 616(3), the following period is substituted for the periods mentioned in section 616(3)(b)(i) and (ii), that is, the end of the period of 28 days after lodgement of the application for the renewal. 18
19
20
- ‘(5) Section 623(1) and (3) does not apply, but the consultation and negotiation period for the proposed renewal starts on the day immediately after the closing day (native title issues) for the proposed renewal. 21
22
23

⁴⁸ Division 3 (Other mining claims on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

‘(6) For applying part 17, division 3, subdivisions 4 and 5,⁴⁹ if the proposed renewal is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 633.

‘(7) Sections 636 and 637 do not apply, but—

(a) the mining registrar must within 14 days after the consultation and negotiation period ends, fix a day for the tribunal to hear the application for the renewal; and

(b) all consultation and negotiation parties have the right to be heard at the hearing; and

(c) the tribunal must hear the application for the renewal and make a native title issues decision; and

(d) before making its native title issues decision, the tribunal must ask the Minister about the extent to which the Minister is satisfied about the matters stated in section 286(3).

‘(8) For applying section 642, the tribunal must also take into account information received from the Minister under subsection (7)(d).

‘Requirements for renewal—applying div 4

‘470.(1) If this division applies to the renewal of a mining claim because of section 465(5), the additional requirements applying under division 4⁵⁰ for the granting of a mining claim other than a surface alluvium (gold or tin) mining claim on non-exclusive land other than an alternative provision area also apply for the renewal.

‘(2) The requirements apply with necessary changes.

⁴⁹ Part 17 (Native title provisions for mining leases), division 3 (Other mining leases on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

⁵⁰ Division 4 (Other mining claims not on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

- ‘Applying div 4 for renewal** 1
- ‘471.(1)** This section— 2
- (a) applies for applying the provisions of division 4; and 3
- (b) does not limit section 470. 4
- ‘(2)** Section 464(4) does not apply. 5
- ‘(3)** For applying section 464, subsections (4) to (7) of this section are 6
taken to be included in section 464. 7
- ‘(4)** For applying section 652(3), the following period is substituted for 8
the periods mentioned in section 652(3)(b)(i) and (ii), that is, the end of the 9
period of 28 days after lodgement of the application for the renewal. 10
- ‘(5)** For applying part 17, division 4, subdivisions 4 and 5,⁵¹ if the 11
proposed renewal is referred to the tribunal for a native title issues decision, 12
there is not a combined hearing, but there is a hearing for a native title issues 13
decision, including the hearing of any objections lodged under section 668. 14
- ‘(6)** Sections 671 and 672 do not apply, but— 15
- (a) the mining registrar must within 14 days after the pre-referral 16
period ends, fix a day for the tribunal to hear the application for 17
the renewal; and 18
- (b) all consultation and negotiation parties have the right to be heard at 19
the hearing; and 20
- (c) the tribunal must hear the application for the renewal and make a 21
native title issues decision; and 22
- (d) before making its native title issues decision, the tribunal must ask 23
the Minister about the extent to which the Minister is satisfied 24
about the matters stated in section 286(3). 25
- ‘(7)** For applying section 677, the tribunal must also take into account 26
information received from the Minister under subsection (6)(d). 27

⁵¹ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

*Native Title (Queensland) State Provisions
Amendment*

‘Division 6—Requirements for subsidiary approvals

‘Application of div 6

‘472.(1) This division applies to the addition, under section 105, of specified minerals to a mining claim if—

- (a) were the mining claim to be granted again, but only for the stated minerals, the granting would be an act affecting native title rights and interests; and
- (b) the addition is an act to which the right to negotiate provisions would have otherwise applied; and
- (c) after the addition takes effect, the mining claim will be a surface alluvium (gold or tin) mining claim; and
- (d) the addition is an approved gold or tin mining act under a determination in force under section 26B(1) of the Commonwealth Native Title Act.

‘(2) However, this division applies to the addition mentioned in subsection (1) only to the extent that the addition relates to non-exclusive land, whether or not an alternative provision area.

‘(3) This division also applies to the addition, under section 105, of specified minerals to a mining claim if—

- (a) were the mining claim to be granted again, but only for the stated minerals, the granting would be an act affecting native title rights and interests; and
- (b) the addition is an act to which the right to negotiate provisions would have otherwise applied; and
- (c) the addition relates to an alternative provision area; and
- (d) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.

‘(4) However, this division applies to the addition mentioned in subsection (3) only to the extent that the addition relates to an alternative provision area.

*Native Title (Queensland) State Provisions
Amendment*

- ‘(5) This division also applies to the addition, under section 105, of specified minerals to a mining claim if—
- (a) were the mining claim to be granted again, but only for the stated minerals, the granting would be an act affecting native title rights and interests; and
 - (b) the addition is an act to which the right to negotiate provisions would have otherwise applied; and
 - (c) the addition relates to non-exclusive land other than an alternative provision area; and
 - (d) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.
- ‘(6) However, this division applies to the addition mentioned in subsection (5) only to the extent that the addition relates to non-exclusive land other than an alternative provision area.
- ‘(7) This division applies to an addition mentioned in subsection (1), (3) or (5) only to the extent that the addition relates to a place that is on the landward side of the mean high-water mark of the sea.
- ‘(8) The requirements of this division are additional to the requirements of part 4.
- ‘Requirements for addition—applying div 2**
- ‘473.(1) If this division applies to the addition of minerals to a mining claim because of section 472(1), the additional requirements applying under division 2⁵² for the granting of a surface alluvium (gold or tin) mining claim also apply for the renewal.
- ‘(2) The requirements apply with necessary changes.

⁵² Division 2 (Surface alluvium (gold or tin) mining claims)

*Native Title (Queensland) State Provisions
Amendment*

‘Applying div 2 for addition	1
‘474.(1) This section—	2
(a) applies for applying the provisions of division 2; and	3
(b) does not limit section 473.	4
‘(2) For applying section 444(2), the following period is substituted for the periods mentioned in section 444(2)(b)(i) and (ii), that is the end of the period of 7 days after lodgement of the application for the addition.	5 6 7
‘(3) Section 454(1) and (4) does not apply, but—	8
(a) the mining registrar must within 14 days after the consultation period ends, fix a day for the tribunal to hear the application for the addition; and	9 10 11
(b) the tribunal must hear the application for the addition as if the application for the addition were the application for a grant of a mining claim heard under section 77.	12 13 14
 ‘Requirements for addition—applying div 3	 15
‘475.(1) If this division applies to the addition of minerals to a mining claim because of section 472(3), the additional requirements applying under division 3 ⁵³ for the granting of a mining claim other than a surface alluvium (gold or tin) mining claim on an alternative provision area also apply for the addition.	16 17 18 19 20
‘(2) The requirements apply with necessary changes.	21
 ‘Applying div 3 for addition	 22
‘476.(1) This section—	23
(a) applies for applying the provisions of division 3; and	24
(b) does not limit section 475.	25
‘(2) Section 461(4) does not apply.	26

⁵³ Division 3 (Other mining claims on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

‘(3) For applying section 461, subsections (4) to (7) of this section are taken to be included in section 461. 1
2

‘(4) For applying section 616(3), the following period is substituted for the periods mentioned in section 616(3)(b)(i) and (ii), that is, the end of the period of 28 days after lodgement of the application for the addition. 3
4
5

‘(5) Section 623(1) and (3) does not apply, but the consultation and negotiation period for the proposed addition starts on the day immediately after the closing day (native title issues) for the proposed addition. 6
7
8

‘(6) For applying part 17, division 3, subdivisions 4 and 5,⁵⁴ if the proposed addition is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 633. 9
10
11
12

‘(7) Sections 636 and 637 do not apply, but— 13

(a) the mining registrar must within 14 days after the consultation and negotiation period ends, fix a day for the tribunal to hear the application for the addition; and 14
15
16

(b) all consultation and negotiation parties have the right to be heard at the hearing; and 17
18

(c) the tribunal must hear the application for the addition and make a native title issues decision. 19
20

‘Requirements for addition—applying div 4 21

‘477.(1) If this division applies to the addition of minerals to a mining claim because of section 472(5), the additional requirements applying under division 4⁵⁵ for the granting of a mining claim other than a surface alluvium (gold or tin) mining claim on non-exclusive land other than an alternative provision area also apply for the addition. 22
23
24
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26

‘(2) The requirements apply with necessary changes. 27

⁵⁴ Part 17 (Native title provisions for mining leases), division 3 (Other mining leases on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

⁵⁵ Division 4 (Other mining claims not on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

‘Applying div 4 for addition	1
‘478.(1) This section—	2
(a) applies for applying the provisions of division 4; and	3
(b) does not limit section 477.	4
‘(2) Section 464(4) does not apply.	5
‘(3) For applying section 464, subsections (4) to (6) of this section are taken to be included in section 464.	6 7
‘(4) For applying section 652(3), the following period is substituted for the periods mentioned in section 652(3)(b)(i) and (ii), that is, the end of the period of 28 days after lodgement of the application for the addition.	8 9 10
‘(5) For applying part 17, division 4, subdivisions 4 and 5, ⁵⁶ if the proposed addition is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 668.	11 12 13 14
‘(6) Sections 671 and 672 do not apply, but—	15
(a) the mining registrar must within 14 days after the pre-referral period ends, fix a day for the tribunal to hear the application for the addition; and	16 17 18
(b) all consultation and negotiation parties have the right to be heard at the hearing; and	19 20
(c) the tribunal must hear the application for the addition and make a native title issues decision.	21 22

⁵⁶ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

*Native Title (Queensland) State Provisions
Amendment*

**‘PART 15—NATIVE TITLE PROVISIONS FOR
EXPLORATION PERMITS**

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2

‘Division 1—Preliminary

3

‘Purpose of pt 15

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‘479.(1) The purpose of this part is—

5

(a) to state additional requirements that apply for—

6

(i) the granting of a proposed exploration permit, or the variation or renewal of an exploration permit, under part 5 if the permit is a low impact exploration permit over non-exclusive land; and

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(ii) the exercise of the entitlement, under a low impact exploration permit, to enter non-exclusive land; and

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(b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26A⁵⁷ of the Commonwealth Native Title Act.

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‘(2) The purpose of this part is also—

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(a) to state additional requirements that apply for the granting of a proposed exploration permit, or the variation or renewal of an exploration permit, under part 5 if the permit is a high impact exploration permit over—

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(i) an alternative provision area; or

21

(ii) non-exclusive land other than land that includes all or part of an alternative provision area; and

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23

⁵⁷ Section 26A (Approved exploration etc. acts) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
Amendment*

- (b) in stating the additional requirements, to provide alternative provisions under sections 43 and 43A of the Commonwealth Native Title Act.⁵⁸

‘Limited application of pt 15 to exploration permit in approved opal or gem mining area

‘480. This part does not apply to an act relating to an exploration permit in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d)⁵⁹ of the Commonwealth Native Title Act.

‘Meaning of “low impact exploration permit”

‘481. For this part, a **“low impact exploration permit”** is an exploration permit that—

- (a) is granted over land that is, or that includes, non-exclusive land; and
- (b) has a condition that, to the extent that the land the subject of the permit is non-exclusive land, only low impact activities may be carried out.

‘Meaning of “low impact activity”

‘482. For this part, a **“low impact activity”**, for an exploration permit, means the following activities—

- (a) aerial surveys;
- Examples—*
- geological, geophysical, photogrammetric and topographic aerial surveys.

⁵⁸ Sections 43 (Modification of Subdivision if satisfactory alternative State or Territory provisions) and 43A (Exception to right to negotiate: satisfactory State/Territory provisions) of the Commonwealth Native Title Act

⁵⁹ Section 26 (When Subdivision applies) of the Commonwealth Native Title Act

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(b) geological and surveying field work that does not involve clearing;	1 2
<i>Examples—</i>	3
• flagging of sites and sample locations	4
• geological reconnaissance and field mapping	5
• surveying that does not involve clearing.	6
(c) sampling by hand methods;	7
<i>Examples—</i>	8
• grab sampling	9
• mine tailings and mine mullock sampling	10
• panning and sieving	11
• rock chip sampling	12
• stream sediment sampling (disturbed and undisturbed samples)	13
• soil sampling (disturbed and undisturbed samples)	14
• water sampling.	15
(d) ground-based geophysical surveys that do not involve clearing;	16
<i>Examples—</i>	17
• potential-field methods of surveying, including, for example, gravity, magnetic and radiometric surveys	18 19
• electrical methods of surveying, including, for example, electromagnetic, ground penetrating radar, induced polarisation and resistivity surveys	20 21 22
• seismic methods of surveying, including, for example, ‘hammer’, refraction and vibration-sourced surveys.	23 24
(e) drilling and activities associated with drilling that—	25
(i) do not include clearing or site excavation, other than the minimum necessary to establish a drill pad for a mobile rig; and	26 27 28
(ii) do not include clearing for a road or track;	29
<i>Examples—</i>	30
• auger drilling	31

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• downhole geophysical logging	1
• mechanical drilling.	2
(f) environmental field work that does not involve clearing.	3
<i>Examples—</i>	4
• cultural heritage, environmental and geobotanical surveys	5
• environmental monitoring.	6
‘Meaning of “high impact exploration permit”	7
‘483. For this part, a “high impact exploration permit” is an exploration permit that—	8 9
(a) is granted over land that is, or includes, non-exclusive land; and	10
(b) allows activities to be carried out that are not limited to low impact activities.	11 12
<i>‘Division 2—Low impact exploration permits</i>	13
<i>‘Subdivision 1—Preliminary</i>	14
‘Application of div 2	15
‘484.(1) This division applies to the granting of a proposed exploration permit if—	16 17
(a) the exploration permit is a low impact exploration permit; and	18
(b) the granting of the exploration permit is an act—	19
(i) that affects native title rights and interests; and	20
(ii) to which the right to negotiate provisions would have otherwise applied; and	21 22
(iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.	23 24 25

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‘(2) However, this division applies to the granting of the proposed exploration permit—	1 2
(a) only to the extent that the exploration permit relates to a place that is on the landward side of the mean high-water mark of the sea; and	3 4 5
(b) only to the extent that the land the subject of the exploration permit is non-exclusive land, whether or not an alternative provision area.	6 7 8
‘(3) The requirements of this division are additional to the requirements of part 5.	9 10
‘Definitions for div 2	11
‘485. In this division—	12
“applicant” means the applicant for the proposed low impact exploration permit.	13 14
“application notice” see section 486(1).	15
“consultation period” see section 490(1).	16
<i>‘Subdivision 2—Notification requirements</i>	17
‘Requirement to notify	18
‘486.(1) The applicant must give written notice (the “application notice”) of the applicant’s intention to lodge an application for a low impact exploration permit, or of the lodgement of the application, to—	19 20 21
(a) each native title notification party for the land the subject of the proposed exploration permit; and	22 23
(b) the Native Title Registrar.	24
‘(2) The notice must be given no earlier than 1 month before the lodgement, and no later than—	25 26
(a) 7 days after the lodgement; or	27

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(b) if, under section 487, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.	1 2 3
‘(3) The notice must state the following—	4
(a) whether or not the application has been lodged;	5
(b) a clear description of the land, and its location;	6
(c) details of the activities proposed for the land under a program of work;	7 8
(d) an outline of the expected impact on the land of the proposed activities;	9 10
(e) that the applicant must not act under the permit applied for to enter non-exclusive land unless the applicant has complied with all the applicant’s obligations for consultation with the native title notification parties provided for in subdivision 3.	11 12 13 14
‘ Notification of mining registrar	15
‘ 487.(1) Within 2 days after the applicant has complied, or purportedly complied, with the requirements of section 486, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with section 486.	16 17 18 19
‘(2) A copy of the written notice given under section 486(1) must be attached to the approved form.	20 21
‘(3) If the mining registrar is satisfied that a written notice given, or purportedly given, under section 486 has not been given in accordance with the requirements of section 486(1) and (2), or does not comply with the requirements of section 486(3), the mining registrar must—	22 23 24 25
(a) give the applicant a written direction to give a new written notice under section 486; and	26 27
(b) in the direction, nominate a period within which the direction must be complied with.	28 29

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- ‘(4) The new notice, when given, must— 1
- (a) state that it is a replacement notice; and 2
 - (b) identify the previous notice. 3

‘Subdivision 3—Consultation requirements before entry 4

‘Requirement to consult 5

‘488.(1) It is a condition of a low impact exploration permit that the 6
permit holder must not act under the permit to enter, for the first time, any 7
area of non-exclusive land unless the holder has consulted with each native 8
title notification party for the area. 9

‘(2) However, the condition does not require consultation with a native 10
title notification party if the party has given the permit holder a written notice 11
that the party does not wish to be consulted about the proposed activities 12
stated in the application notice. 13

‘Consultation matters 14

‘489.(1) The purpose of the consultation is to minimise the impact of the 15
low impact exploration permit on the exercise of native title rights and 16
interests in relation to the land that will be affected under the permit. 17

‘(2) In particular, the consultation must be about the matters mentioned in 18
section 26A(7)⁶⁰ of the Commonwealth Native Title Act, as follows— 19

- (a) the protection and avoidance of any area or site, on the land or 20
waters to which the native title rights and interests relate, of 21
particular significance to the persons holding the native title in 22
accordance with their traditional laws and customs; 23
- (b) any access to the land or waters to which the native title rights and 24
interests relate by— 25
 - (i) the persons mentioned in paragraph (a); or 26

⁶⁰ Section 26A (Approved exploration etc. acts) of the Commonwealth Native Title Act

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(ii) any person who will do anything that is authorised because of, or results from, or otherwise relates to, the permit;	1 2
(c) the way in which any other thing that is authorised because of, results from, or otherwise relates to, the permit and affects native title rights and interests, is to be done.	3 4 5
‘Consultation period	6
‘490.(1) The “consultation period”, for an entry to an area—	7
(a) starts on a day that must be—	8
(i) not earlier than when the applicant is advised of the amount of security decided by the Minister under section 144; and	9 10
(ii) at least 1 month after the notice of the day on which the consultation period starts is given under subsection (2); and	11 12
(b) ends—	13
(i) if subparagraph (ii) does not apply—2 months after the consultation period starts; or	14 15
(ii) if, within 2 months after the consultation period starts, the holder and the native title notification parties agree on a time, which must be later than the time that would otherwise apply under subparagraph (i), and advise the mining registrar in writing of the agreed later time—at the agreed later time.	16 17 18 19 20
‘(2) Notice of the day on which the consultation period starts, and the area to which the consultation relates, must be given to each of the native title notification parties for the area and to the mining registrar by—	21 22 23
(a) if the permit has not been granted when the notice is given—the applicant; or	24 25
(b) otherwise—by the holder of the granted exploration permit.	26
‘(3) If at any time the holder and the native title notification parties agree there has been enough consultation, the consultation period is taken to be ended.	27 28 29

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‘Native title notification parties may seek mediation

‘**491.(1)** In the consultation period for the entry to the area, a native title notification party for the area may ask the mining registrar to hold a conference for mediation about the impact of the permit.

‘**(2)** Sections 169 to 174 apply to the conference as if the request were a request by an owner of land affected by the application made under section 169(1)(a) by an owner of land mentioned in section 169(1)(a).

‘**(3)** Despite section 170(3),⁶¹ a native title notification party or the permit holder may be represented at the conference by a lawyer.

‘**(4)** Subject to any order made under section 174,⁶² a party to the conference must pay the party’s own costs for the conference.

‘Notice of result of consultation

‘**492.(1)** The permit holder must, as soon as practicable after the consultation period ends, but in any event before the holder first enters the area—

- (a) give a written notice complying with subsection (2) to the mining registrar about the consultation; and
- (b) give a copy of the notice to each native title notification party for the area.

Maximum penalty—100 penalty units.

‘**(2)** The written notice must state—

- (a) details of the consultation undertaken in the consultation period; and
- (b) any outcome of the consultation; and
- (c) the day the holder proposes to first enter the area.

‘**(3)** A native title notification party for the area may also give a written notice about the consultation to the mining registrar if—

⁶¹ Section 170 (Who may attend conference)

⁶² Section 174 (Tribunal may award costs)

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- | | |
|--|--------|
| (a) the written notice states— | 1 |
| (i) details of the consultation undertaken in the consultation period; and | 2
3 |
| (ii) any outcome of the consultation; and | 4 |
| (b) the written notice is also given to the permit holder and each other native title notification party for the area. | 5
6 |

‘Mining registrar may recommend action 7

‘493.(1) The mining registrar may recommend action to the Minister to address any matter raised by a native title notification party in the consultation. 8
9
10

‘(2) The Minister may give the exploration permit holder the directions the Minister considers appropriate about the recommended action. 11
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‘(3) A failure by the holder to comply with the Minister’s directions is taken to be a breach of the conditions of the exploration permit. 13
14

‘Division 3—High impact exploration permits on alternative provision areas 15
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‘Subdivision 1—Preliminary 17

‘Application of div 3 18

‘494.(1) This division applies to the granting of a proposed exploration permit if— 19
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- | | |
|---|----------|
| (a) the exploration permit is a high impact exploration permit; and | 21 |
| (b) the granting of the exploration permit is an act— | 22 |
| (i) that affects native title rights and interests; and | 23 |
| (ii) to which the right to negotiate provisions would have otherwise applied; and | 24
25 |

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(c) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.	1 2 3
‘(2) However, this division applies to the granting of the proposed exploration permit—	4 5
(a) only to the extent that the exploration permit relates to a place that is on the landward side of the mean high-water mark of the sea; and	6 7 8
(b) only to the extent that the land the subject of the exploration permit is non-exclusive land that is an alternative provision area.	9 10
‘(3) The requirements of this division are additional to the requirements of part 5.	11 12
‘(4) Despite subsections (1) to (3), this division does not apply to the granting of the exploration permit if the applicant elects that the additional requirements stated in division 4 apply instead of the additional requirements stated in this division.	13 14 15 16
‘Definitions for div 3	17
‘495. In this division—	18
“applicant” means the applicant for the proposed high impact exploration permit.	19 20
“application notice” see section 497(1).	21
“closing day (native title issues)” , for the proposed high impact exploration permit, see section 498(3).	22 23
“consultation period” , for the proposed high impact exploration permit, see section 507.	24 25
“consultation start day” see section 506(1).	26
“contract conditions” see section 517.	27
“hearing day” see section 506(2).	28
“native title issues decision” see section 517.	29

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“ notification day (native title issues) ”, for the proposed high impact exploration permit, see section 498(2).	1 2
“ objector ” see section 509(3).	3
“ registered native title party ” see section 496.	4
‘Meaning of “registered native title party” for div 3	5
‘496.(1) A “ registered native title party ” is a person who, at the time the issue arises of whether or not the person is a registered native title party, is a registered native title claimant or a registered native title body corporate in relation to the land, or part of the land, the subject of the proposed high impact exploration permit.	6 7 8 9 10
‘(2) If a person (the “ first person ”) becomes a registered native title claimant because the first person replaces another person as the applicant in relation to a claimant application, and the other person is a registered native title party, the first person also replaces the other person as the registered native title party.	11 12 13 14 15
<i>‘Subdivision 2—Notification requirements and right to object</i>	16
‘Requirement to notify	17
‘497.(1) The applicant must give a written notice (the “ application notice ”) about the proposed high impact exploration permit to—	18 19
(a) all native title notification parties for the land the subject of the proposed permit; and	20 21
(b) the Native Title Registrar.	22
‘(2) The notice must be given—	23
(a) within 14 days of the applicant being notified of the Minister’s decision, under section 144(1) or (3), ⁶³ of the amount of security to be deposited if the permit is granted; or	24 25 26

⁶³ Section 144 (Provision of security)

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- (b) if, under section 499, the mining registrar has given a direction for the giving of a new written notice—within the period nominated in the direction. 1
2
3
- ‘(3) The notice may be about more than 1 proposed permit. 4
- ‘Content of notice 5**
- ‘498.(1) The application notice must state the following— 6
- (a) the following days for the proposed high impact exploration permit— 7
8
- (i) the notification day (native title issues); 9
- (ii) the closing day (native title issues); 10
- (b) a clear description of the land, and its location; 11
- (c) a description of the nature of the proposed permit; 12
- (d) that the proposed permit, if granted, will be granted by the Minister; 13
14
- (e) how further information about the proposed permit can be obtained from the applicant or the mining registrar; 15
16
- (f) that registered native title parties have a right to object to the granting of the proposed permit so far as it affects their registered native title rights and interests; 17
18
19
- (g) that an objection must— 20
- (i) be in the approved form; and 21
- (ii) state the grounds for objection and the facts and circumstances relied on in support of the grounds; and 22
23
- (iii) be lodged with the mining registrar on or before the closing day (native title issues); 24
25
- (h) that if a registered native title party objects, the applicant must consult with the party. 26
27

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‘(2) The “**notification day (native title issues)**” must be a day that may reasonably be assumed to be a day by which the written notice will have been received by each person to whom it is to be given. 1
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‘(3) The “**closing day (native title issues)**” must be a day at least 2 months after the notification day (native title issues). 4
5

‘Notification of mining registrar 6

‘**499.(1)** Within 2 days after the applicant has complied, or purportedly complied, with the requirements of sections 497 and 498, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with sections 497 and 498. 7
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‘(2) A copy of the written notice given under section 497 must be attached to the approved form. 11
12

‘(3) If the mining registrar is satisfied a written notice given, or purportedly given, under section 497 has not been given under section 497, or does not comply with the requirements of section 498, the mining registrar must— 13
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(a) give the applicant a written direction to give a new written notice under sections 497 and 498; and 17
18

(b) in the direction, nominate a period within which the direction must be complied with. 19
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‘(4) The new notice, when given, must— 21

(a) state that it is a replacement notice; and 22

(b) identify the previous notice. 23

‘Right to object 24

‘**500.(1)** Each registered native title party has a right to object to the granting of the proposed high impact exploration permit so far as it is likely to affect their registered native title rights and interests. 25
26
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‘(2) An objection must— 28

(a) be in the approved form; and 29

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- (b) state the grounds for objection; and 1
- (c) be lodged with the mining registrar on or before the closing day 2
(native title issues). 3
- ‘(3) If at any time a person who has lodged an objection under this 4
section stops being a registered native title party, the objection is taken never 5
to have been lodged. 6
- ‘(4) However, an objection continues to have effect as an objection if the 7
person who lodged the objection stops being a registered native title party 8
because— 9
- (a) the person is replaced by another person (the “**replacing 10
person**”) under section 66B⁶⁴ of the Commonwealth Native Title 11
Act; or 12
- (b) an approved determination of native title that native title exists is 13
made, and immediately before the determination is made, the 14
person is a registered native title claimant. 15
- ‘(5) If an objection continues to have effect as an objection because of 16
subsection (4)(a), the objection it taken to have been lodged by the replacing 17
person. 18
- ‘(6) If an objection continues to have effect as an objection because of 19
subsection (4)(b), the objection it taken to have been lodged by the relevant 20
registered native title body corporate. 21
- ‘Ending of additional requirements if no objection lodged 22**
- ‘501. If no objection is lodged by the closing day (native title issues), the 23
additional requirements under subdivisions 3 and 4 stop applying for the 24
proposed high impact exploration permit. 25

⁶⁴ Section 66B (Replacing the applicant) of the Commonwealth Native Title Act

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‘Subdivision 3—Consultation and mediation

‘Application of sdiv 3

‘502. This subdivision applies only if an objection is lodged by the closing day (native title issues).

‘Notice of objections by mining registrar

‘503. The mining registrar, must as soon as practicable after the closing day (native title issues) give the applicant—

- (a) a copy of each objection; and
- (b) a written notice that the applicant must—
 - (i) consult with all objectors; and
 - (ii) fix the consultation start day; and
 - (iii) give written notice of the day to each objector and the mining registrar.

‘Requirement to consult

‘504.(1) The applicant must consult with each objector under this subdivision.

‘(2) Nothing in this subdivision stops the applicant and an objector discussing consultation matters outside the consultation period.

‘Consultation matters

‘505. The consultation must be about ways of minimising the effect of the grant of the proposed high impact exploration permit on registered native title rights and interests of the objectors in relation to the land or waters concerned, including any access to the land or waters or the way in which anything authorised by the permit may be done.

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‘Fixing of consultation start day and hearing day

- ‘506.(1)** The applicant must—
- (a) fix a day for the consultation to start (the **“consultation start day”**), which must be within 2 months after the closing day (native title issues), but not earlier than 14 days after the closing day (native title issues); and
 - (b) give written notice of the consultation start day to each objector and the mining registrar at least 7 days before the consultation start day.
- ‘(2)** The mining registrar must, as soon as practicable after receiving the notice, fix a day (the **“hearing day”**) for the tribunal to hear the objections.
- ‘(3)** The hearing day must be after the consultation period ends.
- ‘(4)** After fixing the hearing day, the mining registrar must notify the applicant and each objector of the day.

‘Consultation period

- ‘507.(1)** The **“consultation period”** for the proposed high impact exploration permit—
- (a) starts on the consultation start day; and
 - (b) ends 2 months after the consultation start day, or if a later time is agreed under subsection (2), at the agreed later time.
- ‘(2)** The consultation period may be extended to an agreed later time if, within 2 months after the consultation start day—
- (a) the applicant and objectors agree to the extension; and
 - (b) the applicant notifies the mining registrar in writing of the extension.
- ‘(3)** The agreed later time under subsection (2) must not be later than the end of 4 months after the consultation start day.

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‘Request for mediation

‘508.(1) At any time in the consultation period, the applicant or an objector may ask for mediation to help in resolving issues relevant to the consultation.

‘(2) If a request for mediation is made, mediation must be carried out in the consultation period by—

- (a) a mediator chosen by the applicant and the objectors; or
- (b) if the applicant and the objectors are not able to agree on a mediator and the applicant or an objector asks the tribunal to provide the mediation—the tribunal, or a mediator chosen by the tribunal.

‘Process for consultation—guidelines for applicant

‘509.(1) This section sets out guidelines for the applicant to consult under this subdivision.

‘(2) The consultation should start as soon as practicable after the consultation period starts.

‘(3) The applicant should—

- (a) give each registered native title party who objects under section 500 (“**objector**”) information about the activities under the application; and
- (b) convene at least 1 meeting (“**consultation meeting**”) to provide a reasonable opportunity for all objectors to be given a presentation about the activities proposed under the high impact exploration permit.

‘(4) A consultation meeting may be—

- (a) in the town or city where the mining registrar is located; or
- (b) in a town or city in which there is an office of the representative Aboriginal/Torres Strait Islander body for the area that includes the alternative provision area; or
- (c) at another place agreed between the applicant and the objectors.

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‘(5) A consultation meeting should be convened at a time and place suitable for maximising attendance. 1
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‘(6) If the applicant has convened a consultation meeting under subsection (3)(b), the meeting is taken to have happened even though not all, or none, of the objectors attended the meeting. 3
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‘(7) The presentation mentioned in subsection (3)(b) should be directed at providing objectors with an understanding of the anticipated nature, extent and impact of the project authorised by the grant of the proposed high impact exploration permit. 6
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‘Agreement with or without conditions 10

‘510.(1) This section applies if an agreement for the grant of the proposed high impact exploration permit is reached between the applicant and each objector, whether or not the agreement includes conditions to be complied with by the applicant or an objector if the proposed high impact exploration permit is granted. 11
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‘(2) The applicant must give a written notice to the mining registrar stating that an agreement has been reached, and must include with the notice a copy of the agreement signed by the applicant and each objector. 16
17
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‘(3) When the notice is given— 19

(a) the additional requirements provided for under subdivision 4 stop applying; and 20
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(b) the mining registrar must notify the tribunal that the agreement has been reached. 22
23

‘Agreement with conditions 24

‘511.(1) This section applies if an agreement for the grant of the proposed high impact exploration permit is reached between the applicant and each objector, and the agreement includes conditions to be complied with by the applicant or an objector if the proposed high impact exploration permit is granted. 25
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‘(2) The agreement has effect, if the proposed permit is granted, as if— 30

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(a) the conditions included in the agreement are the terms of a contract; and	1 2
(b) the applicant and the objector are parties to the contract; and	3
(c) if an objector is a registered native title claimant—any individual included in the native title claim group concerned is a party to the contract.	4 5 6
‘(3) Subsection (2) has effect in addition to any other effect that the agreement may have apart from under subsection (2).	7 8
<i>‘Subdivision 4—Hearing of objections and tribunal’s decision</i>	9
‘Hearing of objections by tribunal	10
‘512.(1) If the consultation period has ended and an agreement between the applicant and each objector for the grant of the proposed high impact exploration permit has not been reached, the tribunal must—	11 12 13
(a) starting on the hearing day, hear all the objections; and	14
(b) make a native title issues decision.	15
‘(2) However, the applicant and the objectors may continue to consult to reach an agreement for the grant of the high impact exploration permit.	16 17
‘(3) If an agreement is reached, the tribunal may not make a native title issues decision under this subdivision.	18 19
‘Directions for hearing	20
‘513. The tribunal may give directions to the applicant and the objectors, including directions about the filing and serving of—	21 22
(a) a statement by each objector, stating the effect of the grant of the proposed high impact exploration permit on the objector’s registered native title rights and interests; or	23 24 25
(b) submissions by the applicant or any objector on the matters the tribunal must consider at the hearing.	26 27

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‘Identifying agreed issues

‘514. Before making a native title issues decision the tribunal must establish whether there are any issues relevant to its decision on which the applicant and any objector are currently in agreement.

‘Matters tribunal must consider

‘515. In making a native title issues decision, the tribunal must consider—

- (a) the content of all objections lodged and submissions made; and
- (b) the effect of the grant of the proposed high impact exploration permit on each objector’s registered native title rights and interests; and
- (c) any way to minimise the impact of the grant of the proposed permit on the registered native title rights and interests of the objectors, including in relation to—
 - (i) any access to the land the subject of the proposed permit; and
 - (ii) the way in which anything authorised under the proposed permit might be done.
- (d) any issues agreed between the applicant and an objector.

‘General time requirement for hearing

‘516.(1) The tribunal must take all reasonable steps to ensure a native title issues decision is made within 2 months after the hearing day.

‘(2) If a native title issues decision is not made within the 2 months, the tribunal must, as soon as practicable after the 2 months ends, give a written notice to the Minister—

- (a) advising why a native title issues decision has not yet been made; and
- (b) giving an estimate of when a native title issues decision is likely to be made.

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‘Meaning of “native title issues decision”	1
‘517. A “native title issues decision” is 1 of the following—	2
(a) that the proposed high impact exploration permit may be granted;	3
(b) that the proposed high impact exploration permit may be granted, but subject to either or both of the following—	4 5
(i) that conditions, described or identified in the native title issues decision, are to be included in the permit;	6 7
(ii) that conditions (“ contract conditions ”), described or identified in the native title issues decision, are required to be complied with by 1 or more of the applicant and the objectors (even though the conditions are not included in the permit);	8 9 10 11 12
(c) that the proposed high impact exploration permit should not be granted.	13 14
 ‘Advice of native title issues decision to Minister	 15
‘518. The tribunal must give the Minister a copy of the native title issues decision.	16 17
 ‘Effect of native title issues decision	 18
‘519. The native title issues decision must be complied with by the Minister unless the Minister overrules the native title issues decision under section 521.	19 20 21
 ‘Contract conditions	 22
‘520.(1) If the Minister grants the proposed high impact exploration permit, a contract condition has effect in addition to any effect that it may have other than under this subsection, as if it were included in the terms of a contract between the holder and each objector.	23 24 25 26
‘(2) If an objector is a registered native title claimant, any individual included in the native title claim group concerned is a party to the contract.	27 28

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‘Overruling of native title issues decision	1
‘521.(1) The Minister may overrule the native title issues decision only if—	2 3
(a) the Minister principally responsible for indigenous affairs has been given a copy of the native title issues decision and is consulted about—	4 5 6
(i) the native title issues decision; and	7
(ii) the Minister’s proposed substituted decision under subsection (2); and	8 9
(b) the consultation is taken into account; and	10
(c) it is in the interests of Queensland to overrule the native title issues decision. ⁶⁵	11 12
‘(2) If the Minister overrules the native title issues decision, the Minister must make a substituted decision, and the substituted decision has effect as the native title issues decision.	13 14 15
‘(3) The Minister must give a copy of the substituted decision to the tribunal, the applicant and each objector.	16 17
‘(4) In this section—	18
“in the interests of Queensland” includes—	19
(a) for the social or economic benefit of Queensland, including of Aboriginal peoples and Torres Strait Islanders; and	20 21
(b) in the interests of the relevant region or locality in Queensland.	22
 <i>‘Division 4—High impact exploration permits not on alternative provision areas</i>	 23 24
 ‘Application of div 4	 25
‘522.(1) This division applies to the granting of a proposed exploration permit if—	26 27

⁶⁵ See also section 383 (Appeals from tribunal)

*Native Title (Queensland) State Provisions
Amendment*

- (a) the exploration permit is a high impact exploration permit; and 1
- (b) the granting of the exploration permit is an act— 2
- (i) that affects native title rights and interests; and 3
- (ii) to which the right to negotiate provisions would have 4
otherwise applied; and 5
- (c) a determination is in force under section 43(1) of the 6
Commonwealth Native Title Act and this division is included in 7
the alternative provisions the subject of the determination. 8
- ‘(2) However, this division applies to the granting of the proposed 9
exploration permit— 10
- (a) only to the extent that the exploration permit relates to a place that 11
is on the landward side of the mean high-water mark of the sea; 12
and 13
- (b) only to the extent that the land the subject of the exploration 14
permit is non-exclusive land other than an alternative provision 15
area. 16
- ‘(3) The requirements of this division are additional to the requirements 17
of part 5. 18
- ‘(4) Despite subsections (1) to (3), this division also applies to the 19
granting of a high impact exploration permit to the extent that the land the 20
subject of the proposed exploration permit is non-exclusive land that is an 21
alternative provision area, if the applicant elects under division 3 that the 22
additional requirements stated in this division apply instead of the additional 23
requirements stated in division 3. 24

*Native Title (Queensland) State Provisions
Amendment*

‘Requirements for grant	1
‘523.(1) The additional requirements applying under part 17, division 4 ⁶⁶ for the granting of a proposed mining lease also apply for the granting of the proposed high impact exploration permit.	2 3 4
‘(2) The requirements apply with necessary changes.	5
 ‘Applying pt 17, div 4 for grant	 6
‘524.(1) This section—	7
(a) applies for applying the provisions of part 17, division 4; and	8
(b) does not limit section 523(1).	9
‘(2) References to the Governor in Council are taken to be references to the Minister.	10 11
‘(3) For applying section 652, section 652(3)(a) does not apply, and the following period is substituted for the periods mentioned in section 652(3)(b)(i) and (ii), that is, the period of 14 days after the applicant is notified of the Minister’s decision under section 144(1) ⁶⁷ or (3) of the amount of security to be deposited if the permit is granted.	12 13 14 15 16
‘(4) For applying section 669, the pre-referral period is—	17
(a) the period of 6 months starting on the notification day (native title issues); or	18 19
(b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—the period ending at the agreed later time.	20 21 22 23 24

⁶⁶ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas)

⁶⁷ Section 144 (Provision of security)

*Native Title (Queensland) State Provisions
Amendment*

‘(5) For applying part 17, division 4, subdivisions 4 and 5,⁶⁸ if the proposed exploration permit is referred to the tribunal for a native title issues decision, there is not a combined hearing, but the mining registrar must fix a date for a hearing for the native title issues decision, including the hearing of any objections lodged under section 668 as applied under this section.

‘(6) Sections 675(2), 681(4) and (5), 682 and 688 and part 17, division 4, subdivision 7⁶⁹ do not apply.

‘(7) Section 676 does not apply, but the tribunal must advise the Minister of its native title issues decision.

‘(8) Section 680 does not apply, but the native title issues decision must be complied with by the Minister unless it is overruled under part 17, division 4, subdivision 6.⁷⁰

‘(9) A reference in part 17, division 4 to a provision of part 7 is taken to be a reference to a corresponding provision of part 5.

Division 5—Renewals of exploration permits

‘Application of div 5

‘525.(1) This division applies to the renewal of an exploration permit if—

(a) the exploration permit is a low impact exploration permit; and

(b) the renewal of the exploration permit is an act—

(i) that affects native title rights and interests; and

⁶⁸ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

⁶⁹ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas), subdivision 7 (Special provisions about completion of combined hearing and making of native titles issues decision)

⁷⁰ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas), subdivision 6 (Overruling of native title issues decision)

*Native Title (Queensland) State Provisions
Amendment*

- (ii) to which the right to negotiate provisions would have otherwise applied; and 1
2
- (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act. 3
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- ‘(2) However, this division applies to the renewal of an exploration permit mentioned in subsection (1) only to the extent that the land the subject of the exploration permit is non-exclusive land, whether or not an alternative provision area. 6
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- ‘(3) This division also applies to the renewal of an exploration permit if— 10
11
- (a) the exploration permit is a high impact exploration permit; and 12
- (b) the renewal of the exploration permit is an act— 13
- (i) that affects native title rights and interests; and 14
- (ii) to which the right to negotiate provisions would have otherwise applied; and 15
16
- (c) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 17
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19
- ‘(4) However, this division applies to the renewal of an exploration permit mentioned in subsection (3) only to the extent that the land the subject of the exploration permit is non-exclusive land that is an alternative provision area. 20
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- ‘(5) This division also applies to the renewal of an exploration permit if— 24
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- (a) the exploration permit is a high impact exploration permit; and 26
- (b) the renewal of the exploration permit is an act— 27
- (i) that affects native title rights and interests; and 28
- (ii) to which the right to negotiate provisions would have otherwise applied; and 29
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*Native Title (Queensland) State Provisions
Amendment*

- (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 1
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- ‘(6) However, this division applies to the renewal of an exploration permit mentioned in subsection (5) only to the extent that the land the subject of the exploration permit is non-exclusive land other than an alternative provision area. 4
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- ‘(7) This division applies to the renewal of an exploration permit mentioned in subsection (1), (3) or (5) only to the extent that the exploration permit relates to a place that is on the landward side of the mean high-water mark of the sea. 8
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- ‘(8) The requirements of this division are additional to the requirements of part 5. 12
13
- ‘(9) In this section— 14
- “renewal”, of an exploration permit, includes— 15
- (a) the re-grant of the exploration permit; and 16
- (b) the re-making of the exploration permit; and 17
- (c) the extension of the term of the exploration permit. 18
- ‘Requirements for renewal—applying div 2** 19
- ‘526.(1) If this division applies to the renewal of an exploration permit because of section 525(1), the additional requirements applying under division 2⁷¹ for the granting of a low impact exploration permit also apply for the renewal. 20
21
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23
- ‘(2) The requirements apply with necessary changes. 24

⁷¹ Division 2 (Low impact exploration permits)

*Native Title (Queensland) State Provisions
Amendment*

‘Requirements for renewal—applying div 3	1
‘527.(1) If this division applies to the renewal of an exploration permit because of section 525(3), the additional requirements applying under division 3 ⁷² for the granting of a high impact exploration permit on an alternative provision area also apply for the renewal.	2 3 4 5
‘(2) The requirements apply with necessary changes.	6
‘Applying div 3 for renewal	7
‘528.(1) This section—	8
(a) applies for applying the provisions of division 3; and	9
(b) does not limit section 527.	10
‘(2) For applying section 514, the tribunal must also, before making its native title issues decision, ask the Minister about the extent to which the Minister is satisfied that the holder of the exploration permit proposed to be renewed has complied with the conditions of the exploration permit.	11 12 13 14
‘(3) For applying section 515, the tribunal must also consider information received from the Minister under subsection (2).	15 16
‘Requirements for renewal—applying div 4	17
‘529.(1) If this division applies to the renewal of an exploration permit because of section 525(5), the additional requirements applying under division 4 ⁷³ for the granting of a high impact exploration permit on non-exclusive land other than an alternative provision area also apply for the renewal.	18 19 20 21 22
‘(2) The requirements apply with necessary changes.	23
‘Applying div 4 for renewal	24
‘530.(1) This section—	25

⁷² Division 3 (High impact exploration permits on alternative provision areas)

⁷³ Division 4 (High impact exploration permits not on alternative provision areas)

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Amendment*

- (a) applies for applying the provisions of division 4; and 1
- (b) does not limit section 529. 2
- ‘(2) For applying section 524, subsections (3) and (4) of this section are 3
taken to be included in section 524. 4
- ‘(3) The tribunal must, before making its native title issues decision, ask 5
the Minister about the extent to which the Minister is satisfied that the holder 6
of the exploration permit proposed to be renewed has complied with the 7
conditions of the exploration permit. 8
- ‘(4) For applying section 677, the tribunal must also consider 9
information received from the Minister under subsection (3). 10
- ‘Division 6—Requirements for subsidiary approvals*** 11
- ‘Application of div 6** 12
- ‘531.(1) This division applies to the following— 13
- (a) the variation of the conditions of a low impact exploration permit 14
over non-exclusive land to allow for activities not limited to low 15
impact activities; 16
- (b) the variation of the conditions of a high impact exploration permit 17
on an alternative provision area to allow for activities not limited 18
to low impact activities on non-exclusive land, other than an 19
alternative provision area; 20
- (c) the variation of the conditions of an exploration permit granted on 21
land where native title has been extinguished to include 22
non-exclusive land; 23
- (d) the addition, under section 176A,⁷⁴ of land to an exploration 24
permit granted over land where native title has been extinguished 25
to include non-exclusive land. 26
- ‘(2) However, this division applies to the variation or addition only if— 27
- (a) either of the following applies— 28

⁷⁴ Section 176A (Application to add excluded land to existing permit)

*Native Title (Queensland) State Provisions
Amendment*

(i) for the variation of conditions—were the exploration permit to be granted again, but containing only the varied conditions, the granting would be an act affecting native title rights and interests;	1 2 3 4
(ii) for the addition of land—were the mining claim to be granted again, but only for the added land, the granting would be an act affecting native title rights and interests; and	5 6 7
(b) the variation or addition is an act to which the right to negotiate provisions would have otherwise applied; and	8 9
(c) either of the following applies to the variation or addition—	10
(i) the variation or addition is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act;	11 12 13
(ii) a determination is in force under section 43(1) or 43A(1) of the Commonwealth Native Title Act about alternative provisions applying to the variation or addition, and this division is included in the alternative provisions.	14 15 16 17
‘(3) This division applies to the variation or addition only to the extent that the variation or addition relates to a place that is on the landward side of the mean high-water mark of the sea.	18 19 20
‘(4) The requirements of this division are additional to the requirements of part 5.	21 22
‘Requirements for variation—low impact exploration permit	23
‘532.(1) For the variation of the conditions of a low impact exploration permit to allow for activities not limited to low impact activities on an alternative provision area, division 3 ⁷⁵ applies, with necessary changes, as if the variation were the granting of a high impact exploration permit.	24 25 26 27

⁷⁵ Division 3 (High impact exploration permits on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

‘(2) For the variation of the conditions of a low impact exploration permit to allow for activities not limited to low impact activities on non-exclusive land, other than an alternative provision area, division 4 applies, with necessary changes, as if the variation were the granting of a high impact exploration permit. 1
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‘Requirements for variation—high impact exploration permit 6

‘533. For the variation of the conditions of a high impact exploration permit for an alternative provision area to allow for activities not limited to low impact activities on non-exclusive land other than an alternative provision area, division 4⁷⁶ applies, with necessary changes, as if the variation were the granting of the high impact exploration permit. 7
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‘Requirements for variation or addition—other exploration permits 12

‘534.(1) This section applies to the variation of the conditions of an exploration permit granted only over land where native title has been extinguished to include non exclusive land. 13
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‘(2) This section also applies to the addition, under section 176A, of land to an exploration permit granted only over land where native title has been extinguished to include non-exclusive land. 16
17
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‘(3) If the variation or addition is only for low impact activities, division 2⁷⁷ applies, with necessary changes, as if the variation or addition were the granting of the exploration permit. 19
20
21

‘(4) If the variation or addition is for activities not limited to low impact activities on an alternative provision area, division 3⁷⁸ applies, with necessary changes, as if the variation or addition were the granting of the exploration permit. 22
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⁷⁶ Division 4 (High impact exploration permits not on alternative provision areas)

⁷⁷ Division 2 (Low impact exploration permits)

⁷⁸ Division 3 (High impact exploration permits on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

‘(5) If the variation or addition is for activities not limited to low impact activities on non-exclusive land, other than an alternative provision area, division 4⁷⁹ applies, with necessary changes, as if the variation or addition were the granting of the exploration permit.

**‘PART 16—NATIVE TITLE PROVISIONS FOR
MINERAL DEVELOPMENT LICENCES**

‘Division 1—Preliminary

‘Purpose of pt 16

‘535.(1) The purpose of this part is—

(a) to state additional requirements that apply for—

(i) the granting of a proposed mineral development licence, or the variation or renewal of a mineral development licence, under part 6 if the licence is a low impact mineral development licence over non-exclusive land; and

(ii) the exercise of the entitlement, under a low impact mineral development licence, to enter non-exclusive land; and

(b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26A⁸⁰ of the Commonwealth Native Title Act.

‘(2) The purpose of this part is also—

⁷⁹ Division 4 (High impact exploration permits not on alternative provision areas)

⁸⁰ Section 26A (Approved exploration etc. acts) of the Commonwealth Native Title Act

*Native Title (Queensland) State Provisions
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- (a) to state additional requirements that apply for the granting of a proposed mineral development licence, or the variation or renewal of a mineral development licence, under part 6 if the licence is a high impact mineral development licence over—
- (i) an alternative provision area; or
- (ii) non-exclusive land other than land that includes all or part of an alternative provision area; and
- (b) in stating the additional requirements, to provide alternative provisions under sections 43 and 43A⁸¹ of the Commonwealth Native Title Act.

‘Limited application of pt 16 to mineral development licence in approved opal or gem mining area

‘536. This part does not apply to an act relating to a mineral development licence in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d)⁸² of the Commonwealth Native Title Act.

‘Meaning of “low impact mineral development licence”

‘537. For this part, a “low impact mineral development licence” is a mineral development licence that—

- (a) is granted over land that is, or includes, non-exclusive land; and
- (b) has a condition that, to the extent that the land the subject of the licence is non-exclusive land, only low impact activities may be carried out.

⁸¹ Sections 43 (Modification of Subdivision if satisfactory alternative State or Territory provisions) and 43A (Exception to right to negotiate: satisfactory State/Territory provisions) of the Commonwealth Native Title Act

⁸² Section 26 (When Subdivision applies) of the Commonwealth Native Title Act

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‘Meaning of “low impact activity”	1
‘538. For this part, a “low impact activity” , for a mineral development licence, means the following activities—	2 3
(a) aerial surveys;	4
<i>Examples—</i>	5
geological, geophysical, photogrammetric and topographic aerial surveys.	6
(b) geological and surveying field work that does not involve clearing;	7 8
<i>Examples—</i>	9
• flagging of sites and sample locations	10
• geological reconnaissance and field mapping	11
• surveying that does not involve clearing.	12
(c) sampling by hand methods;	13
<i>Examples—</i>	14
• grab sampling	15
• mine tailings and mine mullock sampling	16
• panning and sieving	17
• rock chip sampling	18
• stream sediment sampling (disturbed and undisturbed samples)	19
• soil sampling (disturbed and undisturbed samples)	20
• water sampling.	21
(d) ground-based geophysical surveys that do not involve clearing;	22
<i>Examples—</i>	23
• potential-field methods of surveying, including, for example, gravity, magnetic and radiometric surveys	24 25
• electrical methods of surveying, including, for example, electromagnetic, ground penetrating radar, induced polarisation and resistivity surveys	26 27 28
• seismic methods of surveying, including, for example, ‘hammer’, refraction and vibration-sourced surveys.	29 30

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Amendment*

- (e) drilling and activities associated with drilling that— 1
- (i) do not include clearing or site excavation, other than the 2
minimum necessary to establish a drill pad for a mobile rig; 3
and 4
- (ii) do not include clearing for a road or track; 5
- Examples—* 6
- auger drilling 7
 - downhole geophysical logging. 8
 - mechanical drilling. 9
- (f) environmental field work that does not involve clearing; 10
- Examples—* 11
- cultural heritage, environmental and geobotanical surveys 12
 - environmental monitoring. 13
- (g) investigations associated with mine feasibility and development. 14
- Examples—* 15
- engineering and design studies 16
 - environmental studies and monitoring. 17

‘Meaning of “high impact mineral development licence” 18

‘539. For this part, a **“high impact mineral development licence”** is a 19
mineral development licence that— 20

- (a) is granted over land that is, or includes, non-exclusive land; and 21
- (b) allows activities to be carried out that are not limited to low impact 22
activities. 23

*Native Title (Queensland) State Provisions
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‘Division 2—Low impact mineral development licences 1

‘Subdivision 1—Preliminary 2

‘Application of div 2 3

‘540.(1) This division applies to the granting of a proposed mineral development licence if— 4
5

(a) the mineral development licence is a low impact mineral development licence; and 6
7

(b) the granting of the mineral development licence is an act— 8

(i) that affects native title rights and interests; and 9

(ii) to which the right to negotiate provisions would have otherwise applied; and 10
11

(iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act. 12
13
14

‘(2) However, this division applies to the granting of the proposed mineral development licence— 15
16

(a) only to the extent that the mineral development licence relates to a place that is on the landward side of the mean high-water mark of the sea; and 17
18
19

(b) only to the extent that the land the subject of the mineral development licence is non-exclusive land, whether or not an alternative provision area. 20
21
22

‘(3) The requirements of this division are additional to the requirements of part 6. 23
24

‘Definitions for div 2 25

‘541. In this division— 26

“applicant” means the applicant for the proposed low impact mineral development licence. 27
28

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Amendment*

“application notice” see section 542(1).	1
“consultation period” see section 546.	2
“consultation start day” , for a mineral development licence, see section 546(1)(a).	3 4
<i>‘Subdivision 2—Notification requirements</i>	
‘Requirement to notify	6
‘542.(1) The applicant must give written notice (the “application notice”) of the applicant’s intention to lodge an application for a low impact mineral development licence, or of the lodgement of the application, to—	7 8 9
(a) each native title notification party for the land the subject of the proposed mineral development licence; and	10 11
(b) the Native Title Registrar.	12
‘(2) The notice must be given no earlier than 1 month before the lodgement, and no later than—	13 14
(a) 7 days after the lodgement; or	15
(b) if, under section 543, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.	16 17 18
‘(3) The notice must state the following—	19
(a) whether or not the application has been lodged;	20
(b) a clear description of the land, and its location;	21
(c) details of the activities proposed for the land;	22
(d) an outline of the expected impact on the land of the proposed activities;	23 24
(e) that the applicant must not act under the licence applied for to enter non-exclusive land unless the applicant has complied with all the applicant’s obligations for consultation with the native title notification parties provided for in subdivision 3.	25 26 27 28

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- ‘(4) The notice may also state a day for consultation to start under subdivision 3. 1
2
- ‘(5) The day must be at least 1 month after the giving of the notice to all of the native title notification parties. 3
4
- ‘Notification of mining registrar 5**
- ‘543.(1) Within 2 days after the applicant has complied, or purportedly complied, with the requirements of section 542, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with section 542. 6
7
8
9
- ‘(2) A copy of the written notice given under section 542(1) must be attached to the approved form. 10
11
- ‘(3) If the mining registrar is satisfied that a written notice given, or purportedly given, under section 542 has not been given in accordance with the requirements of section 542(1) and (2), or does not comply with the requirements of section 542(3) to (5), the mining registrar must— 12
13
14
15
- (a) give the applicant a written direction to give a new written notice under section 542; and 16
17
 - (b) in the direction, nominate a period within which the direction must be complied with. 18
19
- ‘(4) The new notice, when given, must— 20
- (a) state that it is a replacement notice; and 21
 - (b) identify the previous notice. 22
- ‘Subdivision 3—Consultation requirements before entry 23**
- ‘Requirement to consult 24**
- ‘544.(1) It is a condition of a low impact mineral development licence that the licence holder must not act under the licence to enter, for the first time, non-exclusive land unless the holder has consulted with each native title notification party for the land to which the licence relates. 25
26
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‘(2) However, the condition does not require consultation with a native title notification party if the party has given the licence holder a written notice that the party does not wish to be consulted about the proposed activities stated in the application notice.

‘Consultation matters

‘545.(1) The purpose of the consultation is to minimise the impact of the low impact mineral development licence on the exercise of native title rights and interests in relation to the land that will be affected under the licence.

‘(2) In particular, the consultation must be about the matters mentioned in section 26A(7)⁸³ of the Commonwealth Native Title Act, as follows—

- (a) the protection and avoidance of any area or site, on the land or waters to which the native title rights and interests relate, of particular significance to the persons holding the native title in accordance with their traditional laws and customs;
- (b) any access to the land or waters to which the native title rights and interests relate by—
 - (i) the persons mentioned in paragraph (a); or
 - (ii) any person who will do anything that is authorised because of, or results from, or otherwise relates to, the licence;
- (c) the way in which any other thing that is authorised because of, results from, or otherwise relates to, the licence and affects native title rights and interests, is to be done.

‘Consultation period

‘546.(1) The “consultation period” for the licence—

- (a) starts on the day (the “consultation start day”)—
 - (i) stated for that purpose in the application notice for the licence; or

⁸³ Section 26A (Approved exploration etc. acts) of the Commonwealth Native Title Act

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- (ii) if the day was not stated in the application notice—stated in a written notice given to each of the native title notification parties and the mining registrar by the licence holder; and 1
2
3
- (b) ends— 4
- (i) if subparagraph (ii) does not apply—2 months after the consultation start day; or 5
6
- (ii) if, within 2 months after the consultation start day, the holder and the native title notification parties agree on a time, which must be later than the time that would otherwise apply under subparagraph (i), and advise the mining registrar in writing of the agreed later time—at the agreed later time. 7
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- ‘(2) A notice under subsection (1)(a)(ii) must be given at least 1 month before the consultation start day. 12
13
- ‘(3) If at any time the holder and the native title notification parties agree there has been enough consultation, the consultation period is taken to end. 14
15
- ‘Native title notification parties may seek mediation 16**
- ‘547.(1) In the consultation period, a native title notification party may ask the mining registrar to hold a conference for mediation about the impact of the licence. 17
18
19
- ‘(2) Sections 217 to 222 apply to the conference as if the request were a request made under section 217(1)(a)⁸⁴ by an owner of land mentioned in section 217(1)(a). 20
21
22
- ‘(3) Despite section 218(3),⁸⁵ a native title notification party or the licence holder may be represented at the conference by a lawyer. 23
24
- ‘(4) Subject to any order made under section 222,⁸⁶ a consultation party must pay the party’s own costs for the conference. 25
26

⁸⁴ Section 217 (Mining registrar may call conference in some cases)

⁸⁵ Section 218 (Who may attend conference)

⁸⁶ Section 222 (Tribunal may award costs)

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‘Notice of result of consultation

‘548.(1) The licence holder must, as soon as practicable after the consultation period ends, but in any event before the holder first enters the land to which the native title rights and interests relate—

- (a) give a written notice complying with subsection (2) to the mining registrar about the consultation; and
- (b) give a copy of the notice to each native title notification party for the land.

Maximum penalty—100 penalty units.

‘(2) The written notice must state—

- (a) details of the consultation undertaken in the consultation period; and
- (b) any outcome of the consultation; and
- (c) the day the holder proposes to first enter the land.

‘(3) A native title notification party for the land may also give a written notice about the consultation to the mining registrar if—

- (a) the written notice states—
 - (i) details of the consultation undertaken in the consultation period; and
 - (ii) any outcome of the consultation; and
- (b) the written notice is also given to the licence holder and each other native title notification party for the land.

‘Mining registrar may recommend action

‘549.(1) The mining registrar may recommend action to the Minister to address any matter raised by a native title notification party in the consultation.

‘(2) The Minister may give the mineral development licence holder the directions the Minister considers appropriate about the recommended action.

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‘(3) A failure by the holder to comply with the Minister’s directions is take to be a breach of the conditions of the mineral development licence. 1
2

Division 3—High impact mineral development licences on alternative provision areas 3
4

Subdivision 1—Preliminary 5

‘Application of div 3 6

‘550.(1) This division applies to the granting of a proposed mineral development licence if— 7
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(a) the mineral development licence is a high impact mineral development licence; and 9
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(b) the granting of the mineral development licence is an act— 11

(i) that affects native title rights and interests; and 12

(ii) to which the right to negotiate provisions would have otherwise applied; and 13
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(c) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 15
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‘(2) However, this division applies to the granting of the proposed mineral development licence— 18
19

(a) only to the extent that the mineral development licence relates to a place that is on the landward side of the mean high-water mark of the sea; and 20
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22

(b) only to the extent that the land the subject of the mineral development licence is non-exclusive land that is an alternative provision area. 23
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‘(3) The requirements of this division are additional to the requirements of part 6. 26
27

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‘(4) Despite subsections (1) to (3), this division does not apply to the granting of the mineral development licence if the applicant elects that the additional requirements stated in division 4 apply instead of the additional requirements stated in this division. 1
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‘Definitions for div 3 5

‘551. In this division— 6

“**applicant**” means the applicant for the proposed high impact mineral development licence. 7
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“**application notice**” see section 553(1). 9

“**closing day (native title issues)**”, for the proposed high impact mineral development licence, see section 554(3). 10
11

“**consultation period**”, for the proposed high impact mineral development licence, means the period described in section 563. 12
13

“**consultation start day**” see section 562(1). 14

“**contract conditions**” see section 573. 15

“**hearing day**” see section 562(2). 16

“**native title issues decision**” see section 573. 17

“**notification day (native title issues)**”, for the proposed high impact mineral development licence, see section 554(2). 18
19

“**objector**” see section 565(3). 20

“**registered native title party**” see section 552. 21

‘Meaning of “registered native title party” 22

‘552.(1) A “**registered native title party**” is a person who, at the time when the issue arises of whether or not the person is a registered native title party, is a registered native title claimant or a registered native title body corporate in relation to the land, or part of the land, the subject of the proposed high impact mineral development licence. 23
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‘(2) If a person (the “**first person**”) becomes a registered native title claimant because the first person replaces another person as the applicant in relation to a claimant application, and the other person is a registered native title party, the first person also replaces the other person as the registered native title party.

‘Subdivision 2—Notification requirements and right to object 6

‘Requirement to notify 7

‘553.(1) The applicant must give a written notice (the “**application notice**”) about the proposed high impact mineral development licence to— 8
9

(a) all native title notification parties for the land the subject of the proposed licence; and 10
11

(b) the Native Title Registrar. 12

‘(2) The notice must be given— 13

(a) within 14 days of the applicant being notified of the Minister’s decision, under section 190(1),⁸⁷ of the amount of security to be deposited if the licence is granted.; or 14
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(b) if, under section 555, the mining registrar has given a direction for the giving of a new written notice—before the end of the period nominated in the direction. 17
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‘(3) The notice may be about more than 1 proposed licence. 20

‘Content of notice 21

‘554.(1) The application notice must state the following— 22

(a) the following days for the proposed high impact mineral development licence— 23
24

(i) the notification day (native title issues); 25

(ii) the closing day (native title issues); 26

⁸⁷ Section 190 (Provision of security)

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(b) a clear description of the land, and its location;	1
(c) a description of the nature of the proposed licence;	2
(d) that the proposed licence, if granted, will be granted by the Minister;	3 4
(e) how further information about the proposed licence can be obtained from the applicant or the mining registrar;	5 6
(f) that registered native title parties have a right to object to the granting of the proposed licence so far as it affects their registered native title rights and interests;	7 8 9
(g) that an objection must—	10
(i) be in the approved form; and	11
(ii) state the grounds for objection and the facts and circumstances relied on in support of the grounds; and	12 13
(iii) be lodged with the mining registrar on or before the closing day (native title issues);	14 15
(h) that if a registered native title party objects, the applicant must consult with the party.	16 17
‘(2) The “ notification day (native title issues) ” must be a day that may reasonably be assumed to be a day by which the written notice will have been received by each person to whom it is to be given.	18 19 20
‘(3) The “ closing day (native title issues) ” must be a day at least 2 months after the notification day (native title issues).	21 22
‘Notification of mining registrar	23
‘555.(1) Within 2 days after the applicant has complied, or purportedly complied, with the requirements of sections 553 and 554, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with sections 553 and 554.	24 25 26 27
‘(2) A copy of the written notice given under section 553 must be attached to the approved form.	28 29

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- ‘(3) If the mining registrar is satisfied that a written notice given, or purportedly given, under sections 553 and 554 has not been given in accordance with the requirements of section 553, or does not comply with the requirements of section 554, the mining registrar must—
- (a) give the applicant a written direction to give a new written notice under sections 553 and 554; and
 - (b) in the direction, nominate a period within which the direction must be complied with.
- ‘(4) The new notice, when given, must—
- (a) state that it is a replacement notice; and
 - (b) identify the previous notice.
- ‘Right to object**
- ‘556.(1) Each registered native title party has a right to object to the granting of the proposed high impact mineral development licence so far as it is likely to affect their registered native title rights and interests.
- ‘(2) An objection must—
- (a) be in the approved form; and
 - (b) state the grounds for objection; and
 - (c) be lodged with the mining registrar on or before the closing day (native title issues).
- ‘(3) If at any time a person who has lodged an objection under this section stops being a registered native title party, the objection is taken never to have been lodged.
- ‘(4) However, an objection continues to have effect as an objection if the person who lodged the objection stops being a registered native title party because—

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(a) the person is replaced by another person (the “ replacing person ”) under section 66B ⁸⁸ of the Commonwealth Native Title Act; or	1 2 3
(b) an approved determination of native title that native title exists is made, and immediately before the determination is made, the person is a registered native title claimant.	4 5 6
‘(5) If an objection continues to have effect as an objection because of subsection (4)(a), the objection it taken to have been lodged by the replacing person.	7 8 9
‘(6) If an objection continues to have effect as an objection because of subsection (4)(b), the objection it taken to have been lodged by the relevant registered native title body corporate.	10 11 12
‘Ending of additional requirements if no objection lodged	13
‘557. If no objection is lodged by the closing day (native title issues), the additional requirements under subdivisions 3 and 4 stop applying for the proposed high impact mineral development licence.	14 15 16
<i>‘Subdivision 3—Consultation and mediation</i>	17
‘Application of sdiv 3	18
‘558. This subdivision applies if an objection is lodged by the closing day (native title issues).	19 20
‘Notice of objections by mining registrar	21
‘559. The mining registrar, must as soon as practicable after the closing day (native title issues), give the applicant—	22 23
(a) a copy of each objection; and	24
(b) a written notice that the applicant must—	25

⁸⁸ Section 66B (Replacing the applicant) of the Commonwealth Native Title Act

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(i) consult with all objectors; and	1
(ii) fix the consultation start day; and	2
(iii) give written notice of the day to each objector and the mining registrar.	3 4
‘Requirement to consult	5
‘560.(1) The applicant must consult with each objector under this subdivision.	6 7
‘(2) Nothing in this subdivision stops the applicant and an objector discussing consultation matters outside the consultation period.	8 9
‘Consultation matters	10
‘561. The consultation must be about ways of minimising the effect of the grant of the proposed high impact mineral development licence on registered native title rights and interests of the objectors in relation to the land or waters concerned, including any access to the land or waters or the way in which anything authorised by the licence may be done.	11 12 13 14 15
‘Fixing of consultation start day and hearing day	16
‘562.(1) The applicant must—	17
(a) fix a day for the consultation to start (the “ consultation start day ”), which must be within 2 months after the closing day (native title issues), but not earlier than 14 days after the closing day (native title issues); and	18 19 20 21
(b) give written notice of the consultation start day to each objector and the mining registrar at least 7 days before the consultation start day.	22 23 24
‘(2) The mining registrar must, as soon as practicable after receiving the notice, fix a day (the “ hearing day ”) for the tribunal to hear the objections.	25 26
‘(3) The hearing day must be after the consultation period ends.	27

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‘(4) After fixing the hearing day, the mining registrar must notify the applicant and each objector of the day. 1
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‘Consultation period’ 3

‘563.(1) The “consultation period” for the proposed high impact mineral development licence— 4
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(a) starts on the consultation start day; and 6

(b) ends 2 months after the consultation start day, or if a later time is agreed under subsection (2), at the agreed later time. 7
8

‘(2) The consultation period may be extended to an agreed later time if, within 2 months after the consultation start day— 9
10

(a) the applicant and objectors agree to the extension; and 11

(b) the applicant notifies the mining registrar in writing of the extension. 12
13

‘(3) The agreed later time under subsection (2) must not be later than the end of 4 months after the consultation start day. 14
15

‘Request for mediation’ 16

‘564.(1) At any time in the consultation period, the applicant or an objector may ask for mediation to help in resolving issues relevant to the consultation. 17
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‘(2) If a request for mediation is made, mediation must be carried out in the consultation period by— 20
21

(a) a mediator chosen by the applicant and the objectors; or 22

(b) if the applicant and the objectors are not able to agree on a mediator and the applicant or an objector asks the tribunal to provide the mediation—the tribunal, or a mediator chosen by the tribunal. 23
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‘Process for consultation—guidelines for applicant

‘565.(1) This section states guidelines for the applicant to consult under this subdivision.

‘(2) The consultation should start as soon as practicable after the consultation period starts.

‘(3) The applicant should—

- (a) give each registered native title party who objects under section 556⁸⁹ (“**objector**”) information about the activities under the application; and
- (b) convene at least 1 meeting (“**consultation meeting**”) to provide a reasonable opportunity for all objectors to be given a presentation about the activities proposed under the high impact mineral development licence.

‘(4) A consultation meeting may be—

- (a) in the town or city where the mining registrar is located; or
- (b) in a town or city in which there is an office of the representative Aboriginal/Torres Strait Islander body for the area that includes the alternative provision area; or
- (c) at another place agreed between the applicant and the objectors.

‘(5) A consultation meeting should be convened at a time and place suitable for maximising attendance.

‘(6) If the applicant has convened a consultation meeting under subsection (3)(b), the meeting is taken to have happened even though not all, or none, of the objectors attended the meeting.

‘(7) The presentation mentioned in subsection (3)(b) should be directed at providing objectors with an understanding of the anticipated nature, extent and impact of the project authorised by the grant of the high impact mineral development licence applied for.

⁸⁹ Section 556 (Right to object)

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‘Agreement with or without conditions

‘566.(1) This section applies if an agreement for the grant of the proposed high impact mineral development licence is reached between the applicant and each objector, whether or not the agreement includes conditions to be complied with by the applicant or an objector if the proposed high impact mineral development licence is granted.

‘(2) The applicant must give a written notice to the mining registrar stating that an agreement has been reached, and must include with the notice a copy of the agreement signed by the applicant and each objector.

‘(3) When the notice is given—

- (a) the additional requirements provided for under subdivision 4 stop applying; and
- (b) the mining registrar must notify the tribunal that the agreement has been reached.

‘Agreement with conditions

‘567.(1) This section applies if an agreement for the grant of the proposed high impact mineral development licence is reached between the applicant and each objector, and the agreement includes conditions to be complied with by the applicant or an objector if the proposed high impact mineral development licence is granted.

‘(2) The agreement has effect, if the proposed licence is granted, as if—

- (a) the conditions included in the agreement were the terms of a contract; and
- (b) the applicant and the objector were parties to the contract; and
- (c) if an objector is a registered native title claimant—any individual included in the native title claim group concerned were a party to the contract.

‘(3) Subsection (2) has effect in addition to any other effect that the agreement may have apart from under subsection (2).

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‘Subdivision 4—Hearing of objections and tribunal’s decision	1
‘Hearing of objections by tribunal	2
‘568.(1) If the consultation period has ended and an agreement between the applicant and each objector for the grant of the proposed high impact mineral development licence has not been reached, the tribunal must—	3 4 5
(a) starting on the hearing day, hear all the objections; and	6
(b) make a native title issues decision.	7
‘(2) However, the applicant and the objectors may continue to consult to reach an agreement for the grant of the proposed high impact mineral development licence.	8 9 10
‘(3) If an agreement is reached, the tribunal may not make a native title issues decision under this subdivision.	11 12
‘Directions for hearing	13
‘569. The tribunal may give directions to the applicant and the objectors, including directions about the filing and serving of—	14 15
(a) a statement by each objector, stating the effect of the grant of the proposed high impact mineral development licence on the objector’s registered native title rights and interests; or	16 17 18
(b) submissions by the applicant or any objector on the matters the tribunal must consider at the hearing.	19 20
‘Identifying agreed issues	21
‘570. Before making a native title issues decision the tribunal must establish whether there are any issues relevant to its decision on which the applicant and any objector are currently in agreement.	22 23 24
‘Matters tribunal must consider	25
‘571. In making a native title issues decision, the tribunal must consider—	26 27

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(a) the content of all objections lodged and submissions made; and	1
(b) the effect of the grant of the proposed high impact mineral development licence on each objector’s registered native title rights and interests; and	2 3 4
(c) any way to minimise the impact of the grant of the proposed licence on the registered native title rights and interests of the objectors, including in relation to—	5 6 7
(i) any access to the land the subject of the proposed licence; and	8 9
(ii) the way in which anything authorised under the proposed licence might be done; and	10 11
(d) any issues agreed between the applicant and an objector.	12
‘General time requirement for hearing	13
‘572.(1) The tribunal must take all reasonable steps to ensure a native title issues decision is made within 2 months after the hearing day.	14 15
‘(2) If a native title issues decision is not made within the 2 months, the tribunal must, as soon as practicable after the 2 months ends, give a written notice to the Minister—	16 17 18
(a) advising why a native title issues decision has not yet been made; and	19 20
(b) giving an estimate of when a native title issues decision is likely to be made.	21 22
‘Meaning of “native title issues decision”	23
‘573. A “native title issues decision” is 1 of the following—	24
(a) that the proposed high impact mineral development licence may be granted;	25 26
(b) that the proposed high impact mineral development licence may be granted, but subject to either or both of the following—	27 28

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(i) that conditions, described or identified in the native title issues decision, are to be included in the licence;	1 2
(ii) that conditions (“ contract conditions ”), described or identified in the native title issues decision, are required to be complied with by 1 or more of the applicant and the objectors (even though the conditions are not included in the licence);	3 4 5 6 7
(c) that the proposed high impact mineral development licence should not be granted.	8 9
 ‘Advice of native title issues decision to Minister	 10
‘574. The tribunal must give the Minister a copy of the native title issues decision.	11 12
 ‘Effect of native title issues decision	 13
‘575. The native title issues decision must be complied with by the Minister unless the Minister overrules the native title issues decision under section 577.	14 15 16
 ‘Contract conditions	 17
‘576.(1) If the Minister grants the proposed high impact mineral development licence, a contract condition has effect in addition to any effect that it may have other than under this subsection, as if it were included in the terms of a contract between the holder and each objector.	18 19 20 21
‘(2) If an objector is a registered native title claimant, any individual included in the native title claim group concerned is a party to the contract.	22 23

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‘Overruling of native title issues decision

‘577.(1) The Minister may overrule the native title issues decision only if—

- (a) the Minister principally responsible for indigenous affairs has been given a copy of the native title issues decision and is consulted about—
 - (i) the native title issues decision; and
 - (ii) the Minister’s proposed substituted decision under subsection (2); and
- (b) the consultation is taken into account; and
- (c) it is in the interests of Queensland to overrule the native title issues decision.

‘(2) If the Minister overrules the native title issues decision, the Minister must make a substituted decision, and the substituted decision has effect as the native title issues decision.

‘(3) The Minister must give a copy of the substituted decision to the tribunal, the applicant and each objector.

‘(4) In this section—

“in the interests of Queensland” includes—

- (a) for the social or economic benefit of Queensland, including of Aboriginal peoples and Torres Strait Islanders; and
- (b) in the interests of the relevant region or locality in Queensland.

‘Subdivision 5—Notice of grant

‘Notice of grant to other consultation parties

‘578.(1) If the Minister grants the high impact mineral development licence, the holder of the mineral development licence must, within 28 days after the holder receives notice of the grant, give a written notice complying with subsection (2) to each registered native title party.

Maximum penalty—100 penalty units.

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- ‘(2) The written notice must— 1
- (a) advise the granting of the high impact mineral development licence; and 2
3
 - (b) state the conditions of the high impact mineral development licence. 4
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- Division 4—High impact mineral development licences not on alternative provision areas*** 6
7
- ‘Application of div 4** 8
- ‘579.(1) This division applies to the granting of a proposed mineral development licence if— 9
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- (a) the mineral development licence is a high impact mineral development licence; and 11
12
 - (b) the granting of the mineral development licence is an act— 13
 - (i) that affects native title rights and interests; and 14
 - (ii) to which the right to negotiate provisions would have otherwise applied; and 15
16
 - (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 17
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- ‘(2) However, this division applies to the granting of the proposed mineral development licence— 20
21
- (a) only to the extent that the mineral development licence relates to a place that is on the landward side of the mean high-water mark of the sea; and 22
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24
 - (b) only to the extent that the land the subject of the mineral development licence is non-exclusive land other than an alternative provision area. 25
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- ‘(3) The requirements of this division are additional to the requirements of part 6. 28
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Amendment*

‘(4) Despite subsections (1) to (3), this division also applies to the granting of a high impact mineral development licence to the extent that the land the subject of the mineral development licence is non-exclusive land that is an alternative provision area, if the applicant elects under division 3 that the additional requirements stated in this division apply instead of the additional requirements stated in division 3.

‘Requirements for grant

‘580.(1) The additional requirements applying under part 17, division 4⁹⁰ for the granting of a proposed mining lease also apply for the granting of the proposed high impact mineral development licence.

‘(2) The requirements apply with necessary changes.

‘Applying pt 17, div 4 for grant

‘581.(1) This section—

(a) applies for applying the provisions of part 17, division 4; and

(b) does not limit section 580(1).

‘(2) References to the Governor in Council are taken to be references to the Minister.

‘(3) For applying section 652, section 652(3)(a) does not apply, and the following period is substituted for the periods mentioned in section 652(3)(b)(i) and (ii), that is, the period of 14 days after the applicant is notified of the Minister’s decision under section 190(1)⁹¹ and (2) of the amount of security to be deposited if the permit is granted.

‘(4) For applying section 669, the pre-referral period is—

(a) the period of 6 months starting on the notification day (native title issues); or

⁹⁰ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas)

⁹¹ Section 190 (Provision of security)

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Amendment*

(b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—the period ending at the agreed later time. 1
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‘(5) For applying part 17, division 4, subdivisions 4 and 5,⁹² if the proposed exploration permit is referred to the tribunal for a native title issues decision, there is not a combined hearing, but the mining registrar must fix a date for a hearing for the native title issues decision, including the hearing of any objections lodged under section 668 as applied under this section. 6
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‘(6) Sections 675(2), 681(4) and (5) and 682 and part 17, division 4, subdivision 7⁹³ do not apply. 11
12

‘(7) Section 676 does not apply, but the tribunal must advise the Minister of its native title issues decision. 13
14

‘(8) Section 680 does not apply, but the native title issues decision must be complied with by the Minister unless it is overruled under part 17, division 4, subdivision 6.⁹⁴ 15
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‘(9) A reference in part 17, division 4 to a provision of part 7 is taken to be a reference to a corresponding provision of part 6. 18
19

⁹² Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision area), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

⁹³ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas), subdivision 7 (Special provisions about completion of combined hearing and making of native titles issues decision)

⁹⁴ Part 17 (Native title provisions for mining leases), division 4 (Other mining leases not on alternative provision areas), subdivision 6 (Overruling of native title issues decision)

*Native Title (Queensland) State Provisions
Amendment*

Division 5—Renewals of mineral development licences

‘Application of div 5

‘582.(1) This division applies to the renewal of a mineral development licence if—

- (a) the mineral development licence is a low impact mineral development licence; and
- (b) the renewal of the mineral development licence is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and
 - (iii) that is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act.

‘(2) However, this division applies to the renewal of a mineral development licence mentioned in subsection (1) only to the extent that the land the subject of the mineral development licence is non-exclusive land, whether or not an alternative provision area.

‘(3) This division also applies to the renewal of a mineral development licence if—

- (a) the mineral development licence is a high impact mineral development licence; and
- (b) the renewal of the mineral development licence is an act—
 - (i) that affects native title rights and interests; and
 - (ii) to which the right to negotiate provisions would have otherwise applied; and
- (c) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.

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‘(4) However, this division applies to the renewal of a mineral development licence mentioned in subsection (3) only to the extent that the land the subject of the mineral development licence is non-exclusive land that is an alternative provision area. 1
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‘(5) This division also applies to the renewal of a mineral development licence if— 5
6

(a) the mineral development licence is a high impact mineral development licence; and 7
8

(b) the renewal of the mineral development licence is an act— 9

(i) that affects native title rights and interests; and 10

(ii) to which the right to negotiate provisions would have otherwise applied; and 11
12

(c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 13
14
15

‘(6) However, this division applies to the renewal of a mineral development licence mentioned in subsection (5) only to the extent that the land the subject of the mineral development licence is non-exclusive land other than an alternative provision area. 16
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‘(7) This division applies to the renewal of a mineral development licence mentioned in subsection (1), (3) or (5) only to the extent that the mineral development licence relates to a place that is on the landward side of the mean high-water mark of the sea. 20
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23

‘(8) The requirements of this division are additional to the requirements of part 6. 24
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‘(9) In this section— 26

“renewal”, of a mineral development licence, includes— 27

(a) the re-grant of the mineral development licence; and 28

(b) the re-making of the mineral development licence; and 29

(c) the extension of the term of the mineral development licence. 30

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‘Requirements for renewal—applying div 2	1
‘583.(1) If this division applies to the renewal of a mineral development licence because of section 582(1), the additional requirements applying under division 2 ⁹⁵ for the granting of a low impact mineral development licence also apply for the renewal.	2 3 4 5
‘(2) The requirements apply with necessary changes.	6
 ‘Requirements for renewal—applying div 3	 7
‘584.(1) If this division applies to the renewal of a mineral development licence because of section 582(3), the additional requirements applying under division 3 ⁹⁶ for the granting of a high impact mineral development licence on an alternative provision area also apply for the renewal.	8 9 10 11
‘(2) The requirements apply with necessary changes.	12
 ‘Applying div 3 for renewal	 13
‘585.(1) This section—	14
(a) applies for applying the provisions of division 3; and	15
(b) does not limit section 584.	16
‘(2) For applying section 570, the tribunal must also, before making its native title issues decision, ask the Minister about the extent to which the Minister is satisfied that the holder of the mineral development licence proposed to be renewed has complied with the conditions of the mineral development licence.	17 18 19 20 21
‘(3) For applying section 571, the tribunal must also consider information received from the Minister under subsection (2).	22 23

⁹⁵ Division 2 (Low impact mineral development licences)

⁹⁶ Division 3 (High impact mineral development licences on alternative provision areas)

*Native Title (Queensland) State Provisions
Amendment*

‘Requirements for renewal—applying div 4	1
‘586.(1) If this division applies to the renewal of a mineral development licence because of section 582(5), the additional requirements applying under division 4 ⁹⁷ for the granting of a high impact mineral development licence on non-exclusive land other than an alternative provision area also apply for the renewal.	2 3 4 5 6
‘(2) The requirements apply with necessary changes.	7
 ‘Applying div 4 for renewal	 8
‘587.(1) This section—	9
(a) applies for applying the provisions of division 4; and	10
(b) does not limit section 586.	11
‘(2) For applying section 581, subsections (3) and (4) of this section are taken to be included in section 581.	12 13
‘(3) The tribunal must, before making its native title issues decision, ask the Minister about the extent to which the Minister is satisfied that the holder of the mineral development licence proposed to be renewed has complied with the conditions of the mineral development licence.	14 15 16 17
‘(4) For applying section 677, the tribunal must also consider information received from the Minister under subsection (3).	18 19
 <i>‘Division 6—Requirements for subsidiary approvals</i>	 20
 ‘Application of div 6	 21
‘588.(1) This division applies to the following—	22
(a) the variation of the conditions of—	23
(i) a low impact mineral development licence to allow for activities not limited to low impact activities; or	24 25

⁹⁷ Division 4 (High impact mineral development licences not on alternative provision areas)

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- (ii) a high impact mineral development licence on an alternative provision area to allow for activities not limited to low impact activities on non-exclusive land, other than an alternative provision area; or
 - (iii) a mineral development licence granted on land where native title has been extinguished to include non-exclusive land;
 - (b) the addition, under section 208,⁹⁸ of stated minerals to a high impact mineral development licence;
 - (c) the addition, under section 226AA,⁹⁹ of land to a mineral development licence granted over land where native title has been extinguished to include non-exclusive land.
- ‘(2) However, this division applies to the variation or addition only if—
- (a) either of the following applies—
 - (i) for the variation of conditions—were the mineral development licence to be granted again, but containing only the varied conditions, the granting would be an act affecting native title rights and interests;
 - (ii) for the addition of minerals or land—were the mineral development licence to be granted again, but only for the added minerals or the added land, the granting would be an act affecting native title rights and interests; and
 - (b) the variation or addition is an act to which the right to negotiate provisions would have otherwise applied; and
 - (c) either of the following applies to the variation or addition—
 - (i) the variation or addition is an approved exploration etc. act under a determination in force under section 26A(1) of the Commonwealth Native Title Act;

⁹⁸ Section 208 (Adding other minerals to licence)

⁹⁹ Section 226AA (Application to add excluded land to existing licence)

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(ii) a determination is in force under section 43(1) or 43A(1) of the Commonwealth Native Title Act about alternative provisions applying to the variation or addition, and this division is included in the alternative provisions. 1
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‘(3) This division applies to the variation or addition only to the extent that the variation or addition relates to a place that is on the landward side of the mean high-water mark of the sea. 5
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‘(4) The requirements of this division are additional to the requirements of part 6. 8
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‘Requirements for variation—low impact mineral development licence 10

‘589.(1) For the variation of the conditions of a low impact mineral development licence to allow for activities not limited to low impact activities on an alternative provision area, division 3¹⁰⁰ applies, with necessary changes, as if the variation were the granting of a high impact mineral development licence. 11
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‘(2) For the variation of the conditions of a low impact mineral development licence to allow for activities not limited to low impact activities on non-exclusive land, other than an alternative provision area, division 4¹⁰¹ applies, with necessary changes, as if the variation were the granting of a high impact mineral development licence. 16
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¹⁰⁰ Division 3 (High impact mineral development licences on alternative provision areas)

¹⁰¹ Division 4 (High impact mineral development licences not on alternative provision areas)

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‘Requirements for variation—high impact mineral development licences	1 2
‘590. For the variation of the conditions of a high impact mineral development licences for an alternative provision area to allow for activities not limited to low impact activities on non-exclusive land other than an alternative provision area, division 4 applies, with necessary changes, as if the variation were the granting of a high impact mineral development licence.	3 4 5 6 7 8
‘Requirements for variation or addition—other mineral development licences	9 10
‘591.(1) This section applies to the variation of the conditions of a mineral development licence granted only over land where native title has been extinguished to include non-exclusive land.	11 12 13
‘(2) This section also applies to the addition, under section 226AA of land to a mineral development licence granted over land where native title has been extinguished to include non-exclusive land.	14 15 16
‘(3) If the variation or addition is only for low impact activities, division 2 ¹⁰² applies, with necessary changes, as if the variation or addition were the granting of the mineral development licence.	17 18 19
‘(4) If the variation or addition is for activities not limited to low impact activities on an alternative provision area, division 3 applies, with necessary changes, as if the variation or addition were the granting of the mineral development licence.	20 21 22 23
‘(5) If the variation or addition is for activities not limited to low impact activities on non-exclusive land, other than an alternative provision area, division 4 applies, with necessary changes, as if the variation or addition were the granting of the mineral development licence.	24 25 26 27

¹⁰² Division 2 (Low impact mineral development licences)

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‘Requirements for approval—adding minerals to mineral development licence	1 2
‘592.(1) For the addition, under section 208, of stated minerals to a low impact mineral development licence, division 2 applies, with necessary changes, as if the addition were the granting of the mineral development licence.	3 4 5 6
‘(2) For the addition, under section 208, of stated minerals to a high impact mineral development licence on an alternative provision area, division 3 applies, with necessary changes, as if the addition were the granting of the mineral development licence.	7 8 9 10
‘(3) For the addition, under section 208, of stated minerals to a high impact mineral development licence on non-exclusive land, other than an alternative provision area, division 4 applies, with necessary changes, as if the addition were the granting of the mineral development licence.	11 12 13 14
 ‘PART 17—NATIVE TITLE PROVISIONS FOR MINING LEASES	 15 16
 <i>‘Division 1—Preliminary</i>	 17
 ‘Purpose of pt 17	 18
‘593.(1) The purpose of this part is—	19
(a) to state the additional requirements that apply for the granting of a proposed mining lease or the variation or renewal of a mining lease, under part 7 if the lease is a surface alluvium (gold or tin) mining lease over non-exclusive land; and	20 21 22 23

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- (b) in stating the additional requirements, to provide a basis for a determination by the Commonwealth Minister under section 26B¹⁰³ of the Commonwealth Native Title Act. 1
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‘(2) The purpose of this part is also— 4

- (a) to state additional requirements that apply for the granting of a proposed mining lease, or variation or renewal of a mining lease under part 7 over non-exclusive land if the mining lease is other than a surface alluvium (gold or tin) mining lease; and 5
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- (b) in stating the additional requirements, to provide alternative provisions under sections 43 and 43A¹⁰⁴ of the Commonwealth Native Title Act. 9
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**‘Limited application of pt 17 to mining lease in approved opal or gem mining area 12
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‘594. This part does not apply to an act relating to a mining lease in an approved opal or gem mining area to the extent that the act is excluded from the application of the right to negotiate provisions under section 26(2)(d)¹⁰⁵ of the Commonwealth Native Title Act. 14
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‘Meaning of “surface alluvium (gold or tin) mining lease” 18

‘595. In this part, a “surface alluvium (gold or tin) mining lease” is a mining lease— 19
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- (a) that is granted over land that is, or includes, non-exclusive land; and 21
22
- (b) under which the only right to mine is the right to mine gold or tin in surface alluvium; and 23
24

¹⁰³ Section 26B (Approved gold or tin mining acts) of the Commonwealth Native Title Act

¹⁰⁴ Sections 43 (Modification of Subdivision if satisfactory alternative State or Territory provisions) and 43A (Exception to right to negotiate: satisfactory State/Territory provisions) of the Commonwealth Native Title Act

¹⁰⁵ Section 26 (When Subdivision applies) of the Commonwealth Native Title Act

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- (c) under which the only way gold or tin may be recovered from the material that is mined is by a washing or an aeration process; and 1
2
- (d) under which the person given the right to mine must rehabilitate any area of land or waters, in which the mining takes place and in relation to which native title rights and interests may exist, for the purpose of minimising the impact of the mining on the land or waters. 3
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- ‘No re-opening of issues previously decided** 8
- ‘596.(1)** This section applies if— 9
- (a) the parties to a hearing under this part about the grant of a proposed mining lease (the **“mining lease hearing”**) are identical to the parties to an earlier relevant agreement or hearing; and 10
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- (b) an issue was decided in the relevant agreement or at the relevant hearing. 13
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- ‘(2)** A party to the mining lease hearing must not, without the leave of the tribunal, seek to vary the decision on the issue. 15
16
- ‘(3)** In this section— 17
- “relevant agreement”** means an agreement under part 15 or 16, or under the right to negotiate provisions, about the grant of the exploration permit or mineral development licence for the land the subject of the mining lease. 18
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- “relevant hearing”** means a hearing under part 15 or 16, or under the right to negotiate provisions, about the grant of the exploration permit or mineral development licence for the land the subject of the proposed mining lease. 22
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Division 2—Surface alluvium (gold or tin) mining leases

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Subdivision 1—Preliminary

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Application of div 2

3

597.(1) This division applies to the granting of a proposed mining lease if—

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(a) the mining lease is a surface alluvium (gold or tin) mining lease; and

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(b) the granting of the mining lease is an act—

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(i) that affects native title rights and interests; and

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(ii) to which the right to negotiate provisions would have otherwise applied; and

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(iii) that is an approved gold or tin mining act under a determination in force under section 26B(1) of the Commonwealth Native Title Act.

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(2) However, this division applies to the granting of the proposed mining lease—

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(a) only to the extent that the mining lease relates to a place that is on the landward side of the mean high-water mark of the sea; and

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(b) only to the extent that the land the subject of the mining lease is non-exclusive land, whether or not an alternative provision area.

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(3) The requirements of this division are additional to the requirements of part 7.

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Definitions for div 2

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598. In this division—

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“applicant” means the applicant for the proposed surface alluvium (gold or tin) mining lease.

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“consultation agreement” see section 606(4)(b).

27

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“ consultation matters ” includes the purpose of consultation stated in section 604(1) and the matters that consultation must be about under section 604(2).	1 2 3
“ consultation parties ” see section 601.	4
“ consultation result notice ” see section 606(1).	5
“ consultation start day ” see section 599(3)(f).	6
“ consultation period ” see section 603.	7
<i>‘Subdivision 2—Notification requirements</i>	
‘Requirement to notify	9
‘599.(1) The applicant must give written notice of the applicant’s intention to lodge an application for the grant of a surface alluvium (gold or tin) mining lease, or of the lodgement of the application, to—	10 11 12
(a) each native title notification party for the land the subject of the proposed mining lease; and	13 14
(b) the Native Title Registrar	15
‘(2) The notice must be given—	16
(a) no earlier than 2 months before the proposed lodgement; and	17
(b) no later than—	18
(i) the end of the period of 7 days after the certificate of application for the proposed mining lease is endorsed by the mining registrar under section 252(2); ¹⁰⁶ or	19 20 21
(ii) if the mining registrar decides a longer period under section 252(7)—the end of the longer period; or	22 23
(iii) if, under section 600, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.	24 25 26

¹⁰⁶ Section 252 (Certificate of application etc.)

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‘(3) The notice must state the following—	1
(a) whether or not the application has been lodged;	2
(b) a clear description of the land, and its location;	3
(c) details of the activities proposed for the land;	4
(d) an outline of the expected impact on the land of the proposed activities;	5 6
(e) that the applicant must consult with—	7
(i) each registered native title body corporate for the land; and	8
(ii) each registered native title claimant for the land;	9
(f) a day (the “ consultation start day ”) for consultation to start under subdivision 3 that is at least 2 months after the giving of the notice to all of the native title notification parties;	10 11 12
(g) that the native title notification parties have a right to be heard by the tribunal about whether the lease should be granted and about other matters relating to the grant.	13 14 15
‘Notification of mining registrar	16
‘600.(1) Within 2 days after the applicant has complied, or purportedly complied, with the requirements of section 599, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with section 599.	17 18 19 20
‘(2) A copy of the written notice given under section 599(1) must be attached to the approved form.	21 22
‘(3) If the mining registrar is satisfied that a written notice given, or purportedly given, under section 599 has not been given in accordance with the requirements of section 599(1) and (2), or does not comply with the requirements of section 599(3), the mining registrar must—	23 24 25 26
(a) give the applicant a written direction to give a new written notice under section 599; and	27 28
(b) in the direction, nominate a period within which the direction must be complied with.	29 30

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‘(4) The new notice, when given, must—	1
(a) state that it is a replacement notice; and	2
(b) identify the previous notice.	3
<i>‘Subdivision 3—Consultation requirements</i>	4
‘Consultation parties	5
‘601. The “ consultation parties ”, for a surface alluvium (gold or tin) mining lease application, are—	6
(a) the applicant; and	7
(b) each registered native title body corporate for the land the subject of the proposed mining lease; and	8
(c) each registered native title claimant for the land.	9
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‘Requirement to consult	12
‘602.(1) The applicant must consult with each other consultation party.	13
‘(2) However, the applicant is not required to consult with another consultation party if the other party has given the applicant a written notice stating that the party does not wish to be consulted about the application.	14
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‘Consultation period	17
‘603.(1) The “ consultation period ” for the application—	18
(a) starts on the consultation start day; and	19
(b) ends 2 months after the consultation start day, or if a later or earlier time is agreed under subsection (2) or (3), the later or earlier time.	20
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‘(2) The consultation period may be extended to an agreed later time if, within 2 months after the consultation start day—	23
(a) the consultation parties agree to the extension; and	24
	25

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- (b) the mining registrar is notified in writing of the extension. 1
- ‘(3) If at any time the consultation parties agree that there has been 2
enough consultation, the consultation period is taken to end. 3
- ‘Consultation matters 4**
- ‘604.(1) The purpose of the consultation is to minimise the impact of the 5
granting of the surface alluvium (gold or tin) mining lease applied for on 6
land in relation to which native title rights and interests may exist and that 7
will be affected by the granting of the mining lease. 8
- ‘(2) In particular, the consultation must be about the matters mentioned in 9
section 26B(8)¹⁰⁷ of the Commonwealth Native Title Act, as follows— 10
- (a) the protection and avoidance of any area or site, on the land or 11
waters to which the native title rights and interests relate, of 12
particular significance to the persons holding the native title in 13
accordance with their traditional laws and customs; 14
- (b) any access to the land or waters to which the native title rights and 15
interests relate by— 16
- (i) the persons mentioned in paragraph (a); or 17
- (ii) any person who will do anything that is authorised because 18
of, or results from, or otherwise relates to, the mining lease 19
applied for; 20
- (c) the way in which any rehabilitation or other thing that is 21
authorised because of, results from, or otherwise relates to, the 22
mining lease applied for, is to be done. 23

¹⁰⁷ Section 26B (Approved gold or tin mining acts) of the Commonwealth Native Title Act

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‘Consultation parties may seek mediation

‘605.(1) In the consultation period, a consultation party may ask the mining registrar to hold a conference for mediation about the application.

‘(2) Sections 254 to 259 apply to the conference as if the request were a request made under section 254(1)(a)¹⁰⁸ by an owner of land affected by the application.

‘(3) Despite section 255(3),¹⁰⁹ a consultation party may be represented at the conference by a lawyer.

‘(4) Subject to any order made under section 259,¹¹⁰ a party to the conference must pay the party’s own costs for the conference.

‘Notice of result of consultation

‘606.(1) The applicant must, and a consultation party, other than the applicant, may, as soon as practicable after the consultation period ends, give a written notice (a **“consultation result notice”**) to the mining registrar.

‘(2) The applicant must, as soon as practicable after giving a consultation result notice, give a copy of it to each other consultation party.

‘(3) If a consultation party, other than the applicant, gives a consultation result notice, the party must, as soon as practicable after giving the notice, give a copy of it to each other consultation party.

‘(4) A consultation result notice must state the following—

- (a) any outcome of the consultation;
- (b) whether the consultation parties have reached an agreement for the granting of the surface alluvium (gold or tin) mining lease applied for (a **“consultation agreement”**);

¹⁰⁸ Section 254 (Mining registrar may call conference in some cases)

¹⁰⁹ Section 255 (Who may attend conference)

¹¹⁰ Section 259 (Tribunal may award costs)

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- (c) if a consultation agreement has not been reached, but the consultation parties have agreed in part about the granting of the surface alluvium (gold or tin) mining lease applied for, details of the partial agreement. 1
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- ‘(5) If a consultation agreement has been reached, a copy of the consultation agreement, signed by all consultation parties, must be given to the mining registrar with the consultation result notice. 5
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- ‘(6) The consultation agreement has effect, if the proposed mining lease is granted, as if— 8
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- (a) any conditions included in the agreement are the terms of a contract; and 10
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- (b) the consultation parties are parties to the contract; and 12
- (c) if a consultation party is a registered native title claimant—any individual included in the native title claim group concerned is a party to the contract. 13
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- ‘(7) Subsection (6) has effect in addition to any other effect that the agreement may have apart from under subsection (6). 16
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- ‘(8) The additional requirements provided for in subdivision 4 stop applying to the application if— 18
19
- (a) a consultation result notice has been given; and 20
- (b) a consultation agreement has been reached; and 21
- (c) all other native title notification parties for the land have waived their rights to be heard. 22
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- ‘Subdivision 4—Hearing requirements** 24
- ‘Application of sdiv 4** 25
- ‘607. This subdivision applies only if— 26
- (a) the consultation period for an application for the granting of the surface alluvium (gold or tin) mining lease has ended; and 27
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(b) any of the following applies—	1
(i) a consultation agreement has not been reached about the application;	2 3
(ii) the applicant has not given a consultation result notice within 7 days after the end of the consultation period;	4 5
(iii) at least 1 of the native title notification parties for the land the subject of the proposed mining lease has not waived the party’s right to be heard.	6 7 8
‘Native title notification parties’ right to be heard	9
‘608.(1) Each native title notification party for the land has a right to be heard by the tribunal about—	10 11
(a) whether the surface alluvium (gold or tin) mining lease applied for is to be granted; and	12 13
(b) any other matter relating to the grant.	14
‘(2) A native title notification party may at any time, by a notice in writing to the mining registrar, waive the party’s right to be heard.	15 16
‘Fixing of combined hearing day	17
‘609.(1) The mining registrar must, within 14 days after the consultation period ends, fix a day for the tribunal to hear the application under section 265 ¹¹¹ , as if an objection had been lodged under section 260. ¹¹²	18 19 20
‘(2) The mining registrar must give written notice of the day to—	21
(a) each consultation party for the application; and	22
(b) all other native title notification parties for the land who have not waived their rights to be heard.	23 24
‘(3) The notice must state that, at the hearing, each of the native title notification parties has a right to be heard by the tribunal about—	25 26

¹¹¹ Section 265 (Mining registrar to fix hearing date)

¹¹² Section 260 (Objection to application for grant of mining lease)

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- (a) whether the surface alluvium (gold or tin) mining lease applied for is to be granted; and 1
2
- (b) any other matter relating to the grant. 3
- ‘(4) The tribunal must not, under section 270,¹¹³ dispense with a hearing. 4
- ‘Tribunal must consider consultation matters and agreed issues 5**
- ‘610. In making its recommendation to the Minister under section 269,¹¹⁴ the tribunal must take into account— 6
7
- (a) the consultation matters; and 8
- (b) any issue agreed between the consultation parties; and 9
- (c) any other matter raised before the tribunal by a native title notification party relating to the grant of the surface alluvium (gold or tin) mining lease. 10
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- ‘Decision about compensation to be made at hearing 13**
- ‘611. If, at the end of the hearing for the application, the consultation parties have not reached an agreement about compensation, the tribunal, whether or not an application has been made to the tribunal about compensation, must also make any compensation decision or compensation trust decision that is required to be made under part 18¹¹⁵ before the surface alluvium (gold or tin) mining claim is granted. 14
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- ‘General time requirement for hearing 20**
- ‘612.(1) The tribunal must take all reasonable steps to ensure the hearing for the application is finished within 3 months after the day the consultation parties were notified of the hearing. 21
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- ‘(2) However, if the consultation parties ask, the tribunal may— 24

¹¹³ Section 270 (Procedure where no objections lodged)

¹¹⁴ Section 269 (Tribunal’s recommendation on hearing)

¹¹⁵ Part 18 (Compensation provisions)

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- (a) provide mediation about the issues in dispute to the extent that, it considers, referral of the parties to mediation will be consistent with finishing the combined hearing as soon as practicable; or
- (b) order further consultation on conditions it sees fit.

‘Subdivision 5—Notice of grant 5

‘Notice of grant to other consultation parties 6

‘613.(1) If the Governor in Council grants the surface alluvium (gold or tin) mining lease, the holder of the mining lease must, within 28 days after the holder receives notice of the grant, give a written notice complying with subsection (2) to the following— 7
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- (a) each other consultation party; 11
- (b) each representative Aboriginal/Torres Strait Islander body heard by the tribunal in any hearing for the grant of the surface alluvium (gold or tin) mining lease. 12
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Maximum penalty—100 penalty units. 15

‘(2) The written notice must— 16

- (a) advise the granting of the surface alluvium (gold or tin) mining lease; and 17
18
- (b) state the conditions of the surface alluvium (gold or tin) mining lease. 19
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‘Division 3—Other mining leases on alternative provision areas 21

‘Subdivision 1—Preliminary 22

‘Application of div 3 23

‘614.(1) This division applies to the granting of a proposed mining lease if— 24
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(a) the mining lease is other than a surface alluvium (gold or tin) mining lease; and	1 2
(b) the granting of the mining lease is an act—	3
(i) that affects native title rights and interests; and	4
(ii) to which the right to negotiate provisions would have otherwise applied; and	5 6
(c) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.	7 8 9
‘(2) However, this division applies to the granting of the proposed mining lease—	10 11
(a) only to the extent that the mining lease relates to a place that is on the landward side of the mean high-water mark of the sea; and	12 13
(b) only to the extent that the land is non-exclusive land that is an alternative provision area.	14 15
‘(3) The requirements of this division are additional to the requirements of part 7.	16 17
‘(4) Despite subsections (1) to (3), this division does not apply to the granting of the proposed mining lease if the applicant elects that the additional requirements stated in division 4 apply instead of the additional requirements stated in this division.	18 19 20 21
‘Definitions for div 3	22
‘615. In this division—	23
“applicant” means the applicant for the proposed mining lease.	24
“closing day (native title issues)” , for the proposed mining lease, see section 617(3).	25 26
“combined hearing” , for the proposed mining lease, see section 636.	27
“consultation and negotiation parties” , for the proposed mining lease, see section 622(1).	28 29

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“consultation and negotiation period” , for the proposed mining lease, see section 623.	1 2
“contract conditions” see section 640(1).	3
“land” means the land the subject of the proposed mining lease.	4
“native title issues decision” see section 634(1).	5
“negotiated agreement” , for the proposed mining lease, see section 624(1).	6 7
“notification day (native title issues)” , for the proposed mining lease, see section 617(2).	8 9
“registered native title party” see section 619.	10
<i>‘Subdivision 2—Notification and registration requirements</i>	11
‘Requirement to notify	12
‘616.(1) The applicant must give a written notice about the proposed mining lease to—	13 14
(a) all native title notification parties for the land; and	15
(b) the Native Title Registrar	16
‘(2) The applicant must also make sure that a public notice, containing the information contained in the written notice mentioned in subsection (1), is published in—	17 18 19
(a) a newspaper circulating generally in the area of the land; and	20
(b) a relevant special interest publication.	21
‘(3) The written notice must be given under subsection (1), and the public notice must be published under subsection (2)—	22 23
(a) not earlier than 3 months before the application for the proposed mining lease is lodged; and	24 25
(b) not later than—	26

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- (i) the end of the period of 28 days after the certificate of application for the proposed mining lease is endorsed by the mining registrar under section 252(2) or reissued under section 253;¹¹⁶ or
 - (ii) if the mining registrar decides a longer period under section 252(7)—the end of the longer period; or
 - (iii) if, under section 618, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.
- ‘(4) The written notice may be about more than 1 proposed mining lease.
- ‘Content of written notice**
- ‘617.(1) The written notice must state the following—
- (a) the following days for the proposed mining lease—
 - (i) the notification day (native title issues);
 - (ii) the closing day (native title issues);
 - (b) how a person may become a registered native title party;
 - (c) that registered native title parties have a right—
 - (i) to be consulted about the proposed mining lease; and
 - (ii) to object to the granting of the proposed mining lease; and
 - (iii) to negotiate with a view to reaching agreement about the granting of the proposed mining lease;
 - (d) a clear description of the land, and its location;
 - (e) a description of the nature of the proposed mining lease;
 - (f) that the proposed mining lease, if granted, will be granted by the Governor in Council;

¹¹⁶ Section 252 (Certificate of application etc.), section 253 (Reissue of certificate of application)

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- (g) how further information about the proposed mining lease, and about the matters mentioned in paragraph (c), can be obtained from the applicant and from the mining registrar. 1
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- ‘(2) The “**notification day (native title issues)**” must be a day that may reasonably be assumed to be a day by which— 4
5
- (a) the written notice will have been received by each person to whom it is to be given, and 6
7
- (b) the public notice will have come to the attention of each person to whom the public notice is directed. 8
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- ‘(3) The “**closing day (native title issues)**” must be a day at least 3 months after the notification day (native title issues). 10
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- ‘Notification of mining registrar** 12
- ‘**618.(1)** Within 2 days after the applicant has complied, or purportedly complied, with the requirements of sections 616 and 617, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with sections 616 and 617. 13
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- ‘(2) The following must be attached to the approved form— 17
- (a) a copy of the written notice given under section 616(1); 18
- (b) the page, or a copy of the page, of the newspaper mentioned in section 616(2)(a) that contained the public notice mentioned in section 616(2); 19
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- (c) the page, or a copy of the page, of the relevant special interest publication mentioned in section 616(2)(b) that contained the public notice mentioned in section 616(2). 22
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- ‘(3) The mining registrar must give the applicant a written direction to give a new written notice, and publish a new public notice, under sections 616 and 617 if the mining registrar is satisfied that 1 or more of the following applies— 25
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- (a) the giving of the written notice was not in accordance with the requirements of section 616(1) and (3); 29
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- (b) the content of the written notice was not in accordance with the requirements of section 617; 1
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- (c) the publication of the public notice was not in accordance with the requirements of section 616(2) and (3). 3
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- ‘(4) The written direction must nominate a period within which the direction must be complied with. 5
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- ‘(5) The new written notice, when given, and the new public notice, when published, must— 7
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- (a) state that it is a replacement notice; and 9
- (b) identify the previous notice. 10
- ‘Registered native title parties 11**
- ‘**619.(1)** An entity is a **“registered native title party”** depending on when the issue has to be considered. 12
13
- ‘(2) On the closing day (native title issues), and at any time before it, each of the following entities is a “registered native title party”— 14
15
- (a) a registered native title body corporate in relation to the land; 16
- (b) a registered native title claimant in relation to the land. 17
- ‘(3) At any time in the 1 month immediately following the closing day (native title issues), each of the following entities is a “registered native title party”— 18
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- (a) a registered native title body corporate in relation to the land, if the body corporate was a registered native title body corporate in relation to the land on or before the closing day (native title issues); 21
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- (b) a registered native title body corporate in relation to the land, if the body corporate became a registered native title body corporate in relation to the land— 25
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- (i) after the closing day (native title issues); and 28

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- (ii) as a result of a native title determination application containing a claim that was entered on the register of native title claims as at the closing day (native title issues); 1
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- (c) an entity that filed a native title determination application in the Federal Court in relation to the land on or before the closing day (native title issues). 4
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- “(4) At any time after the 1 month immediately following the closing day (native title issues), each of the following entities is a “registered native title party”— 7
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- (a) a registered native title body corporate in relation to the land, if the body corporate was a registered native title body corporate in relation to the land on or before the closing day (native title issues); 10
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- (b) a registered native title body corporate in relation to the land, if the body corporate became a registered native title body corporate in relation to the land as a result of a native title determination application containing a claim that was entered on the register of native title claims as at the closing day (native title issues); 14
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- (c) an entity that is a registered native title claimant in relation to the land, if the entity— 19
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- (i) filed a native title determination application in the Federal Court on or before the closing day (native title issues); and 21
22
- (ii) was a registered native title claimant in relation to the land as at 1 month after the closing day (native title issues). 23
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- “(5) If a person (the “**first person**”) becomes a registered native title claimant because the first person replaces another person as the applicant in relation to a claimant application, and the other person is a registered native title party, the first person also replaces the other person as the registered native title party. 25
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‘Advice to mining registrar

‘**620.(1)** As soon as practicable after the closing day (native title issues) for the proposed mining lease, the applicant must give the mining registrar a list, in the approved form, of the names and addresses of—

- (a) all registered native title parties as at the closing day (native title issues); and
- (b) all entities that may become registered native title parties.

‘**(2)** As soon as practicable after the end of 1 month after the closing day (native title issues) for the proposed mining lease, the applicant must give the mining registrar a list in the approved form of the names and addresses of all entities that have become registered native title parties in the month.

‘**(3)** Subsection (2) does not apply if at the closing day (native title issues), there were no entities that might have become registered native title parties.

‘Ending of additional requirements

‘**621.** The additional requirements provided for under this division stop applying for the proposed mining lease if after the closing day (native title issues)—

- (a) there are no registered native title parties, and no entities who may become registered native title parties; or
- (b) the following entities certify in the approved form lodged with the mining registrar that they do not object to the grant of the proposed mining lease and do not wish to be consulted about it—
 - (i) all registered native title parties;
 - (ii) if 1 month after the closing day (native title issues) has not expired, all entities who may become registered native title parties.

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Subdivision 3—Consultation and negotiation

Parties to consultation and negotiation

622.(1) The parties to the consultation and negotiation required under this subdivision about the granting of the proposed mining lease are the following (the “**consultation and negotiation parties**” for the proposed mining lease)—

- (a) the applicant;
- (b) the registered native title parties;
- (c) the State.

(2) However, the State stops being a consultation and negotiation party for the proposed mining lease if the State and the other consultation and negotiation parties for the proposed mining lease at any time agree, in the approved form lodged with the mining registrar, that the State is not to be a consultation and negotiation party.

(3) Also, if the consultation and negotiation parties at any time agree, in the approved form lodged with the mining registrar, that the State is to take a particular role in the consultation and negotiation, stated in the lodged approved form, the State may adopt the stated role, even though it is no longer a consultation and negotiation party.

(4) A registered native title party is taken to stop being a consultation and negotiation party if the party lodges an approved form under section 621(b).

Consultation and negotiation period

623.(1) The “**consultation and negotiation period**” for the proposed mining lease starts on the later of the following—

- (a) the day immediately after the closing day (native title issues) for the proposed mining lease;
- (b) the day the mining registrar endorses the certificate of application under section 252(2).¹¹⁷

¹¹⁷ Section 252 (Certificate of application etc.)

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- ‘(2) The “consultation and negotiation period” for the proposed mining lease ends—
- (a) if paragraph (b) does not apply—3 months after the period starts; or
 - (b) if, within 3 months after the period starts, the consultation and negotiation parties agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—at the agreed later time.
- ‘(3) However, if an environmental impact statement is completed under part 7 for the proposed mining lease, the consultation and negotiation period for the proposed mining lease ends on the later of the following—
- (a) 3 months after the day the mining registrar displays the notice about the environmental impact statement at the mining registrar’s office under section 264(3);¹¹⁸
 - (b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—at the agreed later time;
 - (c) the time that would otherwise apply under subsection (2).
- ‘Requirement for consultation and negotiation**
- ‘624.(1) In the consultation and negotiation period, the consultation and negotiation parties for the proposed mining lease must consult and negotiate with a view to obtaining the agreement of each of the registered native title parties (a “**negotiated agreement**”) to—
- (a) the granting of the proposed mining lease; and
 - (b) any conditions to be complied with by the consultation and negotiation parties if the proposed mining lease is granted.
- ‘(2) Also, as part of the consultation and negotiation—

¹¹⁸ Section 264 (What happens after environmental impact statement is prepared?)

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(a) the applicant—	1
(i) must consult the registered native title parties about ways of minimising the impact of the grant of the proposed mining lease on their registered native title rights and interests in relation to the land, including about—	2 3 4 5
(A) any access to the land; and	6
(B) the way in which anything authorised by the proposed mining lease might be done; and	7 8
(ii) for the consultation, must have regard to the guidelines set out in this subdivision for applicant consultation; and	9 10
(b) the registered native title parties—	11
(i) must consult the other consultation and negotiation parties about the effect of the grant of the proposed mining lease on their registered native title rights and interests; and	12 13 14
(ii) for the consultation, must have regard to the guidelines stated in this subdivision for registered native title party consultation.	15 16 17
 ‘Content of negotiation	 18
‘ 625.(1) Subsections (3) to (5) apply for the requirement under this subdivision to negotiate.	19 20
‘ (2) However, subject to those subsections, this subdivision does not limit the requirements that apply for negotiation.	21 22
‘ (3) A consultation and negotiation party must make every reasonable effort to reach agreement.	23 24
‘ (4) A consultation and negotiation party is not required to negotiate about issues unrelated or unconnected to the proposed mining lease.	25 26
‘ (5) A consultation and negotiation party is not required to negotiate about matters unrelated to the impact of the grant of the proposed mining lease on the registered native title rights and interests of registered native title parties.	27 28 29 30

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‘Failure to negotiate

‘626. The failure of 1 consultation and negotiation party to negotiate as required under this subdivision can not be used to establish that another consultation and negotiation party has not negotiated as required under this subdivision.

‘Request for mediation

‘627.(1) At any time during the consultation and negotiation period, a consultation and negotiation party may ask for mediation to help in resolving issues relevant to the consultation and negotiation.

‘(2) If a consultation and negotiation party asks for mediation under subsection (1), mediation—

(a) must be conducted by—

(i) a mediator chosen by the consultation and negotiation parties; or

(ii) if the consultation and negotiation parties are not able to agree on a mediator and the party asks the tribunal to provide the mediation—the tribunal, or a mediator chosen by the tribunal; and

(b) does not extend the consultation and negotiation period; and

(c) may continue after the consultation and negotiation period has ended if the consultation and negotiation parties agree; and

(d) may end at any time—

(i) by decision of the mediator; or

(ii) by agreement of the consultation and negotiation parties.

‘Process for consultation and negotiation—applicant consultation

‘628.(1) This section states guidelines for applicant consultation under this subdivision.

‘(2) The consultation should start as soon as practicable after the consultation and negotiation period starts.

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‘(3) The applicant should—	1
(a) give each registered native title party a true copy of the application for the proposed mining lease (but not the statement detailing the applicant’s financial and technical resources) and the endorsed certificate of application; and	2 3 4 5
(b) convene at least 1 meeting (“ consultation meeting ”) to provide a reasonable opportunity for all registered native title parties to be given a presentation about the proposed mining lease.	6 7 8
‘(4) A consultation meeting may be—	9
(a) in the town or city where the mining registrar is located; or	10
(b) in a town or city in which there is an office of the representative Aboriginal/Torres Strait Islander body for the area that includes the land; or	11 12 13
(c) at another place agreed between the consultation and negotiation parties.	14 15
‘(5) A consultation meeting should be convened at a time and place suitable for maximising attendance.	16 17
‘(6) If the applicant has convened a consultation meeting under subsection (3)(b), the meeting is taken to have happened even though not all, or none, of the registered native title parties attended the meeting.	18 19 20
‘(7) The presentation mentioned in subsection (3)(b) should be directed at providing registered native title parties with an understanding of the anticipated nature, extent and impact of the project authorised by the grant of the proposed mining lease.	21 22 23 24
‘(8) Consultation under this section should be completed within 1 month after the consultation and negotiation period starts.	25 26
‘Process for consultation and negotiation—registered native title parties consultation	27 28
‘629.(1) This section states the guidelines for registered native title party consultation under this subdivision.	29 30

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‘(2) The consultation should be carried out as soon as practicable after the applicant consultation has been completed. 1
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‘(3) Each registered native title party should advise the other consultation and negotiation parties about the impact the party considers the grant of the proposed mining lease will have on the party’s registered native title rights and interests. 3
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**‘Process for consultation and negotiation—taking account of existing rights, interests and use 7
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‘630. Without limiting the scope of consultation and negotiation under this subdivision, the nature and extent of the following may be taken into account— 9
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- (a) existing non-native title rights and interests in relation to the land; 12
- (b) existing use of the land by persons, other than the registered native title parties; 13
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- (c) the practical effect of the exercise of any existing non-native title rights and interests mentioned in paragraph (a), and of the existing use mentioned in paragraph (b), on the exercise of native title rights and interests in relation to the land. 15
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**‘Process for consultation and negotiation—negotiated agreement with or without conditions attached 19
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‘631.(1) This section applies if a negotiated agreement is reached, whether or not the negotiated agreement includes conditions to be complied with by the consultation and negotiation parties for the proposed mining lease if the proposed mining lease is granted. 21
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‘(2) The consultation and negotiation parties must— 25

- (a) lodge a certificate in the approved form with the mining registrar stating that a negotiated agreement has been reached for the proposed mining lease; and 26
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- (b) give a copy of the certificate to the tribunal. 29

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‘(3) When the approved form has been lodged under subsection (2), the additional requirements provided for under this division, other than section 632, stop applying to the proposed mining lease. 1
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**‘Process for consultation and negotiation—negotiated agreement with conditions attached 4
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‘632.(1) This section applies if a negotiated agreement is reached, and the negotiated agreement includes conditions to be complied with by the consultation and negotiation parties for the proposed mining lease if the proposed mining lease is granted. 6
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‘(2) The negotiated agreement has effect, if the proposed mining lease is granted, as if— 10
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(a) the conditions included in the agreement were the terms of a contract; and 12
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(b) all the consultation and negotiation parties were parties to the contract; and 14
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(c) if a registered native title party is a registered native title claimant—any individual included in the native title claim group concerned were a party to the contract. 16
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‘(3) Subsection (2) has effect in addition to any other effect that the negotiated agreement may have apart from under subsection (2). 19
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‘Objection during consultation and negotiation period 21

‘633.(1) At any time during the consultation and negotiation period, a registered native title party may lodge an objection to the proposed mining lease on the ground that the granting of the proposed mining lease would affect the party’s registered native title rights and interests or on any other matter relating to the grant. 22
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‘(2) The objection— 27

(a) must be made in writing in the approved form; and 28

(b) must be lodged with the mining registrar; and 29

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- (c) must state the facts and circumstances relied on by the registered native title party in support of the ground of objection. 1
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- ‘(3) Anything about the amount or payment of compensation is not a ground for objection. 3
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- ‘(4) The registered native title party must also give a copy of the objection, and all material accompanying the objection, to the other consultation and negotiation parties and the tribunal as soon as practicable after the objection is lodged with the mining registrar. 5
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- ‘(5) At any time before the consultation and negotiation period has ended, the registered native title party may withdraw the objection by lodging with the mining registrar a written notice withdrawing the objection. 9
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- ‘(6) The registered native title party must also give a copy of the written notice withdrawing the objection to the other consultation and negotiation parties and the tribunal as soon as practicable after the withdrawal of the objection is lodged with the mining registrar. 12
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- ‘(7) The registered native title party must withdraw the objection under this section if at any time a negotiated agreement is reached. 16
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- ‘(8) The registered native title party may object about the effect of the grant of the proposed mining lease on its registered native title rights and interests under this section only, and may not object under section 260¹¹⁹ about the effect of the grant of the proposed mining lease on its registered native title rights and interests. 18
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- ‘(9) If at any time a person who has lodged an objection under this section stops being a registered native title party, the objection is taken to have been withdrawn. 23
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- ‘(10) However, an objection continues to have effect as an objection if the person who lodged the objection stops being a registered native title party because— 26
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¹¹⁹ Section 260 (Objection to application for grant of mining lease)

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- (a) the person is replaced by another person (the “**replacing person**”) under section 66B¹²⁰ of the Commonwealth Native Title Act; or 1
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- (b) an approved determination of native title that native title exists is made, and immediately before the determination is made, the person is a registered native title claimant. 4
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- ‘(11) If an objection continues to have effect as an objection because of subsection (10)(a), the objection it taken to have been lodged by the replacing person. 7
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- ‘(12) If an objection continues to have effect as an objection because of subsection (10)(b), the objection it taken to have been lodged by the relevant registered native title body corporate. 10
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- ‘(13) An objection lodged under this section, if it is not withdrawn, must be given to the tribunal and must be heard by the tribunal in a combined hearing under subdivision 4. 13
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- ‘(14) However, the tribunal must not hear an objection if the objection has not been made in substantial compliance with this section. 16
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- ‘Subdivision 4—Referral and native title issues decision 18*
- ‘Referral of proposed mining lease to tribunal 19**
- ‘634.(1) If the consultation and negotiation period has ended, but a negotiated agreement has not been reached, a consultation and negotiation party for the proposed mining lease may refer the proposed mining lease to the tribunal for a decision under this division (a “**native title issues decision**”). 20
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- ‘(2) The referral must be— 25
- (a) lodged with the mining registrar; and 26
- (b) made in the approved form. 27

¹²⁰ Section 66B (Replacing the applicant) of the Commonwealth Native Title Act

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‘(3) A copy of the approved form lodged with the mining registrar must also be given to the other consultation and negotiation parties for the proposed mining lease. 1
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‘(4) If there has been no referral within 3 months after the end of the consultation and negotiation period, the Minister may reject the application for the proposed mining lease. 4
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‘(5) If the consultation and negotiation period has ended, and a registered native title party who lodged an objection under section 633 has not withdrawn the objection, the proposed mining lease is taken to have been referred to the tribunal under subsection (1). 7
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‘Continuing negotiation and mediation 11

‘635.(1) After the referral of the proposed mining lease to the tribunal, the consultation and negotiation parties for the proposed mining lease may continue to negotiate to reach a negotiated agreement before the native title issues decision is made. 12
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‘(2) If a negotiated agreement is reached, all referrals of the proposed mining lease to the tribunal are taken to be withdrawn, and the tribunal must not make a native title issues decision. 16
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‘Combined hearing 19

‘636.(1) The hearing under part 7 of the application for the grant of the proposed mining lease must include the following— 20
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(a) the hearing of the objections and other matters mentioned in section 268(1);¹²¹ 22
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(b) the hearing for a native title issues decision, including the hearing of any objections lodged under section 633. 24
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‘(2) The hearing mentioned in subsection (1) is a **“combined hearing”**. 26

¹²¹ Section 268 (Hearing of application for grant of mining lease)

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- ‘(3) The tribunal must not act under section 270¹²² to dispense with a hearing, unless a negotiated agreement has been reached. 1
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- ‘(4) All consultation and negotiation parties have the right to be heard at the combined hearing. 3
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- ‘Fixing of date for combined hearing 5**
- ‘637.(1) This section applies if the mining registrar is required to fix under section 265¹²³ a hearing date for the combined hearing, but there has not yet been a referral (other than a referral that has been withdrawn) of the mining lease for a native title issues decision. 6
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- ‘(2) The mining registrar may, if the applicant agrees, fix a hearing date for the application for the proposed mining lease, and any objections to the application, under section 265 as if the hearing were not a combined hearing. 10
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- ‘(3) At the hearing, the tribunal may— 14
- (a) proceed with the hearing of the application for the proposed mining lease, and any objections to the application, as if the hearing were not a combined hearing; and 15
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- (b) at an appropriate time adjourn the hearing; and 18
- ‘(4) However, as soon as practicable after a negotiated agreement is reached or the proposed mining lease is referred to the tribunal for a native title issues decision, the tribunal must reconvene the combined hearing. 19
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- ‘(5) The mining registrar may defer fixing a date for the combined hearing until the proposed mining lease is referred to the tribunal for a native title issues decision. 22
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- ‘(6) If the proposed mining lease has been referred to the tribunal for a native title issues decision, but the mining registrar is not yet required under section 265 to fix a hearing date for the combined hearing, the mining registrar must fix a date for the combined hearing when the mining registrar is able to fix a date under section 265. 25
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¹²² Section 270 (Procedure where no objections lodged)

¹²³ Section 265 (Mining registrar to fix hearing date)

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Subdivision 5—Requirements for combined hearing

Directions about conduct of combined hearing

638. At any time after the referral of the proposed mining lease for a native title issues decision, the tribunal may give directions to the consultation and negotiation parties, including directions about the filing and serving of the following—

- (a) a statement by the applicant that includes a copy of the material provided to the registered native title parties under subdivision 3;
- (b) a statement of impact by each registered native title party, stating the effect the party considers the grant of the proposed mining lease will have on the party’s registered native title rights and interests;
- (c) submissions by any of the consultation and negotiation parties on the matters the tribunal will be required to take into account for making its native title issues decision.

Issue of compliance with sdiv 3

639.(1) If a consultation and negotiation party raises the issue of whether another consultation and negotiation party has complied with subdivision 3, including with the requirement for negotiation, the issue must be dealt with as a part of the combined hearing for the application for the grant of the proposed mining lease.

(2) If at the combined hearing the tribunal is not satisfied that the applicant or the State has complied with subdivision 3, including with the requirement for negotiation, it may adjourn the combined hearing to allow for the subdivision to be complied with by all the consultation and negotiation parties.

(3) An adjournment under subsection (2) may only be for a maximum period of 3 months.

(4) If the tribunal is satisfied that a registered native title party did not comply with subdivision 3, including with the requirement for negotiation, the tribunal may not adjourn the combined hearing on that ground alone.

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‘(5) However, the tribunal may take the failure of a consultation and negotiation party to comply with subdivision 3 into account in making its native title issues decision. 1
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‘(6) A consultation and negotiation party can not raise the issue of the State’s compliance with subdivision 3, including the requirement for negotiation, on the ground that the State stopped being a consultation and negotiation party under section 622(2) or took a particular role under section 622(3). 4
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‘Nature of native title issues decision 9

‘640.(1) The native title issues decision must be 1 of the following— 10

(a) that the proposed mining lease may be granted; 11

(b) that the proposed mining lease may be granted, but subject to either or both of the following— 12
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(i) that conditions, described or identified in the native title issues decision, are to be included in the mining lease; 14
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(ii) that conditions (“**contract conditions**”), described or identified in the native title issues decision, are required to be complied with by 1 or more of the consultation and negotiation parties (even though the conditions are not included in the mining lease); 16
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(c) that the proposed mining lease should not be granted. 21

‘(2) If, at the end of the combined hearing, the consultation and negotiation parties have not reached an agreement about compensation, the tribunal, whether or not an application has been made to the tribunal about compensation, must also make any compensation decision or compensation trust decision that is required to be made under part 18 before the mining lease is granted. 22
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‘(3) The tribunal must not include a condition, whether or not a contract condition, that has the effect that a registered native title party is entitled to payments from the applicant worked out by reference to 1 or more of the following— 28
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(a) the amount of profits to be made under the proposed mining lease;	1 2
(b) the amount of any income to be derived under the proposed mining lease;	3 4
(c) anything to be produced under the proposed mining lease.	5
‘Timing of tribunal’s recommendation and native title issues decision	6
‘641. The tribunal must advise the Minister of its native title issues decision when the tribunal forwards its recommendation to the Minister under section 269(1). ¹²⁴	7 8 9
‘Tribunal’s native title issues decision	10
‘642.(1) In making its native title issues decision, the tribunal must take into account the effect of the proposed mining lease on—	11 12
(a) the enjoyment by the registered native title parties of their registered native title rights and interests; and	13 14
(b) the economic or other significance of the grant of the proposed mining lease to the following—	15 16
(i) Australia;	17
(ii) Queensland;	18
(iii) the region;	19
(iv) the inhabitants of the area in which the land is located.	20
(2) In taking into account the matters mentioned in subsection (1), the tribunal may also consider the effect of the grant of the proposed mining lease on—	21 22 23
(a) the way of life, culture, traditions and economic interests of any of the registered native title parties; and	24 25
(b) the freedom of access by any of the registered native title parties to the land; and	26 27

¹²⁴ Section 269 (Tribunal recommendation on hearing)

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- (c) the carrying out, by any of the registered native title parties, of rites, ceremonies or other activities of cultural significance, on the land, in accordance with their traditions; and
- (d) any area or site of particular significance to the registered native title parties in accordance with their traditions, that is located on the land; and
- (e) any other matter the tribunal considers relevant.
- ‘(3) In deciding the effect of the grant of the proposed mining lease on the matter mentioned in subsection (1)(a), the tribunal must also take into account—
- (a) the nature and extent of—
- (i) existing non-native title rights and interests in relation to the land of persons other than the registered native title parties; and
- (ii) existing use of the land by persons other than the registered native title parties; and
- (b) the practical effect on the exercise of native title rights and interests in relation to the land of—
- (i) the exercise of any existing non-native title rights and interests mentioned in paragraph (a)(i); and
- (ii) the existing use mentioned in paragraph (a)(ii).
- ‘(4) In complying with subsections (1) to (3), the tribunal must take into account the content of all objections lodged under this division to the granting of the proposed mining lease, and any other documents lodged or filed under this division.
- ‘(5) Taking into account the effect of the grant of the proposed mining lease on an area or site mentioned in subsection (2)(d) does not affect the operation of any law of the State for the preservation or protection of those areas or sites.
- ‘(6) Before making the native title issues decision—

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- (a) the tribunal must establish whether there are any issues relevant to its decision on which the consultation and negotiation parties are currently in agreement; and 1
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- (b) if there are agreed issues under paragraph (a), and all the consultation and negotiation parties consent—the tribunal, in making its native title issues decision— 4
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- (i) must take the agreed issues into account; and 7
- (ii) need not take into account the matters mentioned in subsection (1), and need not consider the matters mentioned in subsection (2), to the extent the matters are the subject of the agreed issues. 8
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- ‘Deferred matters** 12
- ‘643.(1)** As well as making the native title issues decision, the tribunal may make a decision about matters (the **“deferred matters”**) that— 13
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- (a) were the subject of consultation and negotiation in the consultation and negotiation period for the proposed mining lease; and 15
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- (b) under an agreement that includes all the consultation and negotiation parties, are to be the subject of further consultation and negotiation, or are to be decided in a way stated in the decision under this section; and 17
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- (c) are not reasonably capable of being decided when the native title issues decision is made; and 21
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- (d) are not directly relevant to the native title issues decision. 23
- ‘(2)** The tribunal must give a copy of its decision under this section to— 24
- (a) the consultation and negotiation parties; and 25
- (b) if the State is not a consultation and negotiation party, the mining registrar. 26
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- ‘(3)** The tribunal’s decision under this section about the deferred matters is binding on all the consultation and negotiation parties. 28
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‘(4) If the decision under this section is that the deferred matters are to be decided by arbitration, and after the decision is made, the consultation and negotiation parties can not agree on the way the arbitration is to take place, the tribunal, on the application of a consultation and negotiation party, has jurisdiction to decide the deferred matters. 1
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‘General time requirement for making native title issues decision 6

‘644.(1) The tribunal must take all reasonable steps to make sure that the native title issues decision is made within 4 months after the proposed mining lease is referred to the tribunal for the decision. 7
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‘(2) If the native title issues decision is not made within the 4 months, the tribunal must, as soon as practicable after the 4 months ends, give a written notice to the Minister— 10
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- (a) advising why the native title issues decision has not yet been made; and 13
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- (b) giving an estimate of when the decision is likely to be made. 15

‘Effect of native title issues decision 16

‘645.(1) The native title issues decision must be complied with by the Minister, including in any recommendation of the Minister to the Governor in Council under section 271,¹²⁵ unless the Minister overrules the native title issues decision under subdivision 6. 17
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‘(2) If the native title issues decision is that the proposed mining lease should not be granted, the tribunal may nevertheless recommend under section 269¹²⁶ that the application for the proposed mining lease should be granted. 21
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¹²⁵ Section 271 (Minister to consider recommendations made in respect of application for grant of mining lease)

¹²⁶ Section 269 (Tribunal’s recommendation on hearing)

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‘(3) However if subsection (2) applies, the Minister must not recommend to the Governor in Council under section 271 that the proposed mining lease be granted unless the Minister overrules the native title issues decision under section 646.

‘Subdivision 6—Overruling of native title issues decision

‘Minister may overrule native title issues decision

‘646.(1) The Minister may overrule the native title issues decision, but only if—

- (a) the Minister principally responsible for indigenous affairs has been given a copy of the native title issues decision and is consulted about—
 - (i) the native title issues decision; and
 - (ii) the Minister’s proposed substituted decision under subsection (2); and
- (b) the consultation is taken into account; and
- (c) it is in the interests of Queensland to overrule the native title issues decision; and
- (d) the Minister overrules the decision within 2 months after the native titles issues decision is made.

‘(2) If the Minister overrules the native title issues decision, the Minister must make a substituted decision.

‘(3) The substituted decision—

- (a) must comply with the requirements of section 640(1) and (3) for a native title issues decision; and
- (b) when made, takes the place of the native title issues decision.

‘(4) The substituted decision can not overrule a compensation decision or compensation trust decision, for the granting of the proposed mining lease, already made by the tribunal under part 18.

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- ‘(5) If the substituted decision is that the proposed mining lease may be granted with or without conditions, the Minister must refer the matter to the tribunal for—
- (a) if a compensation decision or compensation trust decision has already been made under part 18 for the granting of the proposed mining lease—a new compensation decision or compensation trust decision; or
 - (b) otherwise—a compensation decision or compensation trust decision under part 18 for the granting of the proposed mining lease.
- ‘(6) The Minister must give a copy of the substituted decision to the tribunal and the consultation and negotiation parties.
- ‘(7) In this section—
- “in the interests of Queensland”** includes—
- (a) for the social or economic benefit of Queensland (including of Aboriginal peoples and Torres Strait Islanders); and
 - (b) in the interests of the relevant region or locality in Queensland.
- ‘Effect of overruling**
- ‘647.(1) This section applies if the Minister makes a substituted decision under section 646.
- ‘(2) If the substituted decision is that the proposed mining lease may be granted, but subject to conditions to be included in the mining lease, any recommendation of the Minister to the Governor in Council under section 271¹²⁷ that the proposed mining lease be granted, must include a recommendation that the proposed mining lease be granted subject to the conditions.
- ‘(3) If the substituted decision is that the proposed mining lease should not be granted, the Minister must not recommend to the Governor in Council under section 271 that the proposed mining lease be granted.

¹²⁷ Section 271 (Minister to consider recommendation made in respect of application for grant of mining lease)

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<i>‘Subdivision 7—Miscellaneous matters about grant</i>	1
‘Contract conditions	2
‘648.(1) If the Governor in Council grants the proposed mining lease, a contract condition has effect, in addition to any effect that it may have other than under this subsection, as if it were included in the terms of a contract between the consultation and negotiation parties.	3 4 5 6
‘(2) If a consultation and negotiation party is a registered native title claimant, any individual included in the native title claim group concerned is a party to the contract.	7 8 9
‘Notice of grant to registered native title parties	10
‘649.(1) If the Governor in Council grants the proposed mining lease, the holder of the mining lease must, within 28 days after the holder receives notice of the grant, give a written notice complying with subsection (2) to each registered native title party.	11 12 13 14
Maximum penalty—100 penalty units.	15
‘(2) The written notice must—	16
(a) advise the granting of the mining lease; and	17
(b) state—	18
(i) any contract conditions; and	19
(ii) the conditions of the mining lease.	20
<i>‘Division 4—Other mining leases not on alternative provision areas</i>	21
<i>‘Subdivision 1—Preliminary</i>	22
‘Application of div 4	23
‘650.(1) This division applies to the granting of a proposed mining lease if—	24 25

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(a) the mining lease is other than a surface alluvium (gold or tin) mining lease; and	1 2
(b) the granting of the mining lease is an act—	3
(i) that affects native title rights and interests; and	4
(ii) to which the right to negotiate provisions would have otherwise applied; and	5 6
(c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination.	7 8 9
‘(2) However, this division applies to the granting of the proposed mining lease—	10 11
(a) only to the extent that the mining lease relates to a place that is on the landward side of the mean high-water mark of the sea; and	12 13
(b) only to the extent that the land is non-exclusive land other than an alternative provision area.	14 15
‘(3) The requirements of this division are additional to the requirements of part 7.	16 17
‘(4) Despite subsections (1) to (3), this division also applies to the granting of the proposed mining lease to the extent that the land is non-exclusive land that is an alternative provision area, if the applicant elects under division 3 that the additional requirements stated in this division apply instead of the additional requirements stated in division 3.	18 19 20 21 22
‘Definitions for div 4	23
‘651. In this division—	24
“applicant” means the applicant for the proposed mining lease.	25
“closing day (native title issues)” , for the proposed mining lease, see section 653(3).	26 27
“combined hearing” , for the proposed mining lease, see section 671.	28
“consultation and negotiation parties” , for the proposed mining lease, see section 658(1).	29 30

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“ contract conditions ” see section 675(1).	1
“ land ” means the land the subject of the proposed mining lease.	2
“ Minister’s decision ” see section 684.	3
“ native title issues decision ” see section 669(1).	4
“ negotiated agreement ”, for the proposed mining lease, see section 659(1).	5 6
“ notification day (native title issues) ”, for the proposed mining lease, see section 653(2).	7 8
“ registered native title party ” see section 655.	9
“ urgency notice ” see section 683.	10

<i>‘Subdivision 2—Notification and registration requirements</i>	11
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‘Requirement to notify	12
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‘ 652.(1) The applicant must give a written notice about the proposed mining lease to—	13 14
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(a) all native title notification parties for the land; and	15
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(b) the Native Title Registrar	16
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‘ (2) The applicant must also make sure that a public notice, containing the information contained in the written notice mentioned in subsection (1), is published in—	17 18 19
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(a) a newspaper circulating generally in the area of the land; and	20
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(b) a relevant special interest publication.	21
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‘ (3) The written notice must be given under subsection (1), and the public notice must be published under subsection (2)—	22 23
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(a) not earlier than 3 months before the application for the proposed mining lease is lodged; and	24 25
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(b) not later than—	26
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- (i) the end of the period of 28 days after the certificate of application for the proposed mining lease is endorsed by the mining registrar under section 252(2) or reissued under section 253;¹²⁸ or 1
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 - (ii) if the mining registrar decides a longer period under section 252(7)—the end of the longer period; or 5
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 - (iii) if, under section 654, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction. 7
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- ‘(4) The written notice may be about more than 1 proposed mining lease. 11
- ‘Content of written notice 12**
- ‘653.(1) The written notice must state the following— 13
- (a) the following days for the proposed mining lease— 14
 - (i) the notification day (native title issues); 15
 - (ii) the closing day (native title issues); 16
 - (b) how a person may become a registered native title party; 17
 - (c) that registered native title parties have a right— 18
 - (i) to be consulted about the proposed mining lease;¹²⁹ and 19
 - (ii) to object to the granting of the proposed mining lease¹³⁰; and 20
 - (iii) to negotiate with a view to reaching agreement about the granting of the proposed mining lease;¹³¹ 21
22
 - (d) a clear description of the land, and its location; 23

¹²⁸ Section 252 (Certificate of application etc.), section 253 (Reissue of certificate of application)

¹²⁹ See sections 658 (Parties to consultation and negotiation) and 659 (Requirement for consultation and for negotiation in good faith)

¹³⁰ See section 668 (Objections)

¹³¹ See section 659 (Requirement for consultation and negotiation in good faith)

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- (e) a description of the nature of the proposed mining lease; 1
- (f) whether an election has been made to apply this division to an alternative provision area; 2
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- (g) that the proposed mining lease, if granted, will be granted by the Governor in Council; 4
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- (h) how further information about the proposed mining lease, and about the matters mentioned in paragraph (c), can be obtained from the applicant and from the mining registrar. 6
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- ‘(2) The “notification day (native title issues)”** must be a day that may reasonably be assumed to be a day by which— 9
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- (a) the written notice will have been received by each person to whom it is to be given, and 11
12
- (b) the public notice will have come to the attention of each person to whom the public notice is directed. 13
14
- ‘(3) The “closing day (native title issues)”** must be a day at least 3 months after the notification day (native title issues). 15
16
- ‘Notification of mining registrar** 17
- ‘654.(1)** Within 2 days after the applicant has complied, or purportedly complied, with the requirements of sections 652 and 653, the applicant must give the mining registrar information in the approved form about the applicant’s compliance with sections 652 and 653. 18
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- ‘(2)** The following must be attached to the approved form— 22
- (a) a copy of the written notice given under section 652 and 653(1); 23
- (b) the page, or a copy of the page, of the newspaper mentioned in section 652(2)(a) that contained the public notice mentioned in section 652(2); 24
25
26
- (c) the page, or a copy of the page, of the relevant special interest publication mentioned in section 652(2)(b) that contained the public notice mentioned in section 652(2). 27
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‘(3) The mining registrar must give the applicant a written direction to give a new written notice, and publish a new public notice, under sections 652 and 653 if the mining registrar is satisfied that 1 or more of the following applies—

- (a) the giving of the written notice was not in accordance with the requirements of section 652(1) and (3);
- (b) the content of the written notice was not in accordance with the requirements of section 653;
- (c) the publication of the public notice was not in accordance with the requirements of section 652(2) and (3).

‘(4) The written direction must nominate a period within which the direction must be complied with.

‘(5) The new written notice, when given, and the new public notice, when published, must—

- (a) state that it is a replacement notice; and
- (b) identify the previous notice.

‘Registered native title parties

‘**655.(1)** An entity is a “**registered native title party**” depending on when the issue has to be considered.

‘(2) On the closing day (native title issues), and at any time before it, each of the following entities is a “registered native title party”—

- (a) a registered native title body corporate in relation to the land;
- (b) a registered native title claimant in relation to the land.

‘(3) At any time in the 1 month immediately following the closing day (native title issues), each of the following entities is a “registered native title party”—

- (a) a registered native title body corporate in relation to the land, if the body corporate was a registered native title body corporate in relation to the land on or before the closing day (native title issues);

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- (b) a registered native title body corporate in relation to the land, if the body corporate became a registered native title body corporate in relation to the land—
- (i) after the closing day (native title issues); and
- (ii) as a result of a native title determination application containing a claim that was entered on the register of native title claims as at the closing day (native title issues);
- (c) an entity that filed a native title determination application in the Federal Court in relation to the land on or before the closing day (native title issues).
- ‘(4) At any time after the 1 month immediately following the closing day (native title issues), each of the following entities is a “registered native title party”—
- (a) a registered native title body corporate in relation to the land, if the body corporate was a registered native title body corporate in relation to the land on or before the closing day (native title issues);
- (b) a registered native title body corporate in relation to the land, if the body corporate became a registered native title body corporate in relation to the land as a result of a native title determination application containing a claim that was entered on the register of native title claims as at the closing day (native title issues);
- (c) an entity that is a registered native title claimant in relation to the land, if the entity—
- (i) filed a native title determination application in the Federal Court on or before the closing day (native title issues); and
- (ii) was a registered native title claimant in relation to the land as at 1 month after the closing day (native title issues).
- ‘(5) If a person (the “**first person**”) becomes a registered native title claimant because the first person replaces another person as the applicant in relation to a claimant application, and the other person is a registered native title party, the first person also replaces the other person as the registered native title party.

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‘Advice to mining registrar

‘656.(1) As soon as practicable after the closing day (native title issues) for the proposed mining lease, the applicant must give the mining registrar a list, in the approved form, of the names and addresses of—

- (a) all registered native title parties as at the closing day (native title issues); and
- (b) all entities that may become registered native title parties.

‘(2) As soon as practicable after the end of 1 month after the closing day (native title issues) for the proposed mining lease, the applicant must give the mining registrar a list in the approved form of the names and addresses of all entities that have become registered native title parties in the month.

‘(3) Subsection (2) does not apply if at the closing day (native title issues), there were no entities that might have become registered native title parties.

‘Ending of additional requirements

‘657. The additional requirements provided for under this division stop applying for the proposed mining lease if, after 1 month after the closing day (native title issues)—

- (a) there are no registered native title parties; or
- (b) all registered native title parties certify in the approved form lodged with the mining registrar that they do not object to the grant of the proposed mining lease and do not wish to be consulted about it.

‘Subdivision 3—Consultation and negotiation

‘Parties to consultation and negotiation

‘658.(1) The parties to the consultation and negotiation required under this subdivision about the granting of the proposed mining lease are the following (the **“consultation and negotiation parties”** for the proposed mining lease)—

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- (a) the applicant; 1
- (b) the registered native title parties; 2
- (c) the State. 3

‘(2) However, the State stops being a consultation and negotiation party 4
for the proposed mining lease if the State and all the other consultation and 5
negotiation parties for the proposed mining lease at any time agree, in the 6
approved form lodged with the mining registrar, that the State is not to be a 7
consultation and negotiation party. 8

‘(3) Also, if all the consultation and negotiation parties at any time agree, 9
in the approved form lodged with the mining registrar, that the State is to 10
take a particular role in the consultation and negotiation, stated in the lodged 11
approved form, the State may adopt the stated role, even though it is no 12
longer a consultation and negotiation party. 13

‘(4) A registered native title party is taken to stop being a consultation and 14
negotiation party if the party lodges an approved form under section 657(b). 15

‘Requirement for consultation and negotiation in good faith 16

‘659.(1) The consultation and negotiation parties for the proposed mining 17
lease must consult and negotiate in good faith with a view to obtaining the 18
agreement of each of the registered native title parties (a “**negotiated 19
agreement**”) to— 20

- (a) the granting of the proposed mining lease; and 21
- (b) any conditions to be complied with by the consultation and 22
negotiation parties if the proposed mining lease is granted. 23

‘(2) Also, as part of the consultation and negotiation— 24

- (a) the applicant— 25
 - (i) must consult the registered native title parties about ways of 26
minimising the impact of the grant of the proposed mining 27
lease on their registered native title rights and interests in 28
relation to the land, including about— 29
 - (A) any access to the land; and 30

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(B) the way in which anything authorised by the proposed mining lease might be done; and	1 2
(ii) for the consultation, must have regard to the guidelines set out in this subdivision for applicant consultation; and	3 4
(b) the registered native title parties—	5
(i) must consult the other consultation and negotiation parties about the effect of the proposed mining lease on their registered native title rights and interests; and	6 7 8
(ii) for the consultation, must have regard to the guidelines set out in this subdivision for registered native title party consultation.	9 10 11
‘Content of negotiation in good faith	12
‘660.(1) Subsections (3) to (5) apply for the requirement under this subdivision to negotiate in good faith.	13 14
‘(2) However, subject to those subsections, this subdivision does not limit the requirements that apply for negotiation in good faith.	15 16
‘(3) A consultation and negotiation party must make every reasonable effort to reach agreement.	17 18
‘(4) To negotiate in good faith, a consultation and negotiation party is not required to negotiate about issues unrelated or unconnected to the proposed mining lease.	19 20 21
‘(5) A consultation and negotiation party is not required to negotiate about matters unrelated to the impact of the grant of the proposed mining lease on the registered native title rights and interests of registered native title parties.	22 23 24 25
‘Failure to negotiate	26
‘661. The failure of 1 consultation and negotiation party to negotiate in good faith can not be used to establish that another consultation and negotiation party has not negotiated in good faith.	27 28 29

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‘Request for mediation

‘662.(1) At any time before a negotiated agreement is reached or the proposed mining lease is referred to the tribunal, by action taken under section 669, for a native title issues decision, a consultation and negotiation party may ask for mediation to help in resolving issues relevant to the consultation and negotiation.

‘(2) If a consultation and negotiation party asks for mediation under subsection (1), mediation—

(a) must be conducted by—

(i) a mediator chosen by the consultation and negotiation parties; or

(ii) if the consultation and negotiation parties are not able to agree on a mediator and the party asks the tribunal to provide the mediation—the tribunal, or a mediator chosen by the tribunal; and

(b) does not extend the period that must elapse before the proposed mining lease may be referred to the tribunal, by action taken under section 669, for a native title issues decision; and

(c) may continue after the period mentioned in paragraph (b) has elapsed if the consultation and negotiation parties agree; and

(d) may end at any time—

(i) by decision of the mediator; or

(ii) by agreement of the consultation and negotiation parties.

‘Process for consultation and negotiation—applicant consultation

‘663.(1) This section states guidelines for applicant consultation under this subdivision.

‘(2) Within 4 months after the notification day (native title issues), the applicant should—

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- (a) give each registered native title party a true copy of the application for the proposed mining lease (but not the statement detailing the applicant’s financial and technical resources) and the endorsed certificate of application; and 1
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- (b) convene at least 1 meeting (“**consultation meeting**”) to provide a reasonable opportunity for all registered native title parties to be given a presentation about the proposed mining lease. 5
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- ‘(3) A consultation meeting may be— 8
- (a) in the town or city where the mining registrar is located; or 9
- (b) in a town or city in which there is an office of the representative Aboriginal/Torres Strait Islander body for the area that includes the land; or 10
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- (c) at another place agreed between the consultation and negotiation parties. 13
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- ‘(4) A consultation meeting should be convened at a time and place suitable for maximising attendance. 15
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- ‘(5) If the applicant has convened a consultation meeting under subsection (2)(b), the meeting is taken to have happened even though not all, or none, of the registered native title parties attended the meeting. 17
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- ‘(6) The presentation mentioned in subsection (2)(b) should be directed at providing registered native title parties with an understanding of the anticipated nature, extent and impact of the project authorised by the grant of the proposed mining lease. 20
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- ‘Process for consultation and negotiation—registered native title parties consultation 24
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- ‘664.(1) This section states the guidelines for registered native title party consultation under this subdivision. 26
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- ‘(2) The consultation should be carried out as soon as practicable after the applicant consultation has been completed. 28
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‘(3) Each registered native title party should advise the other consultation and negotiation parties about the impact the party considers the grant of the proposed mining lease will have on the party’s registered native title rights and interests. 1
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**‘Process for consultation and negotiation—taking account of existing rights, interests and use 5
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‘665. Without limiting the scope of consultation and negotiation under this subdivision, the nature and extent of the following may be taken into account— 7
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- (a) existing non-native title rights and interests in relation to the land; 10
- (b) existing use of the land by persons other than registered native title parties; 11
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- (c) the practical effect of the exercise of any existing non-native title rights and interests mentioned in paragraph (a), and of the existing use mentioned in paragraph (b), on the exercise of native title rights and interests in relation to the land. 13
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**‘Process for consultation and negotiation—negotiated agreement with or without conditions attached 17
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‘666.(1) This section applies if a negotiated agreement is reached, whether or not the negotiated agreement includes conditions to be complied with by the consultation and negotiation parties for the proposed mining lease if the proposed mining lease is granted. 19
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‘(2) The consultation and negotiation parties must— 23

- (a) lodge a certificate in the approved form with the mining registrar stating that a negotiated agreement has been reached for the proposed mining lease; and 24
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- (b) give a copy of the certificate to the tribunal. 27

‘(3) When the approved form has been lodged under subsection (2), the additional requirements provided for under this division, other than section 667, stop applying to the proposed mining lease. 28
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‘Process for consultation and negotiation—negotiated agreement with conditions attached

‘**667.(1)** This section applies if a negotiated agreement is reached, and the negotiated agreement includes conditions to be complied with by the consultation and negotiation parties for the proposed mining lease if the proposed mining lease is granted.

‘**(2)** The negotiated agreement has effect, if the proposed mining lease is granted, as if—

- (a) the conditions included in the agreement were the terms of a contract; and
- (b) all the consultation and negotiation parties were parties to the contract; and
- (c) if a registered native title party is a registered native title claimant—any individual included in the native title claim group concerned were a party to the contract.

‘**(3)** Subsection (2) has effect in addition to any other effect that the negotiated agreement may have apart from under subsection (2).

‘Objections

‘**668.(1)** At any time before a negotiated agreement is reached or the proposed mining lease is referred to the tribunal, by action taken under section 669, for a native title issues decision, a registered native title party may lodge an objection to the proposed mining lease.

‘**(2)** The objection—

- (a) must be made in writing in the approved form; and
- (b) must be lodged with the mining registrar; and
- (c) must state the facts and circumstances relied on by the registered native title party in support of the ground of objection.

‘**(3)** Anything about the amount or payment of compensation is not a ground for objection.

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- ‘(4) The registered native title party must also give a copy of the objection, and all material accompanying the objection, to the other consultation and negotiation parties and the tribunal as soon as practicable after the objection is lodged with the mining registrar. 1
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- ‘(5) At any time before a negotiated agreement is reached or the proposed mining lease is referred to the tribunal, by action taken under section 669, for a native title issues decision, the registered native title party may withdraw the objection by lodging with the mining registrar a written notice withdrawing the objection. 5
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- ‘(6) The registered native title party must also give a copy of the written notice withdrawing the objection to the other consultation and negotiation parties and the tribunal as soon as practicable after the withdrawal of the objection is lodged with the mining registrar. 10
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- ‘(7) The registered native title party must withdraw the objection under this section if at any time a negotiated agreement is reached. 14
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- ‘(8) The registered native title party may object about the effect of the grant of the proposed mining lease on its registered native title rights and interests under this section only, and may not object under section 260¹³² about the effect of the grant of the proposed mining lease on its registered native title rights and interests. 16
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- ‘(9) If at any time a person who has lodged an objection under this section stops being a registered native title party, the objection is taken to have been withdrawn. 21
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- ‘(10) However, an objection continues to have effect as an objection if the person who lodged the objection stops being a registered native title party because— 24
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- (a) the person is replaced by another person (the “**replacing person**”) under section 66B¹³³ of the Commonwealth Native Title Act; or 27
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¹³² Section 260 (Objection to application for grant of mining lease)

¹³³ Section 66B (Replacing the applicant) of the Commonwealth Native Title Act

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(b) an approved determination of native title that native title exists is made, and immediately before the determination is made, the person is a registered native title claimant. 1
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‘(11) If an objection continues to have effect as an objection because of subsection (10)(a), the objection it taken to have been lodged by the replacing person. 4
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‘(12) If an objection continues to have effect as an objection because of subsection (10)(b), the objection it taken to have been lodged by the relevant registered native title body corporate. 7
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‘(13) An objection lodged under this section, if it is not withdrawn, must be given to the tribunal and must be heard by the tribunal in a combined hearing under subdivision 4. 10
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‘(14) However, the tribunal must not hear an objection if the objection has not been made in substantial compliance with this section. 13
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‘Subdivision 4—Referral and native title issues decision’ 15

‘Referral of proposed mining lease to tribunal’ 16

‘669.(1) If the pre-referral period has ended, but a negotiated agreement has not been reached, a consultation and negotiation party for the proposed mining lease may refer the proposed mining lease to the tribunal for a decision under this division (a “**native title issues decision**”). 17
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‘(2) The referral must be— 21

(a) lodged with the mining registrar; and 22

(b) made in the approved form. 23

‘(3) A copy of the approved form lodged with the mining registrar must also be given to the other consultation and negotiation parties for the proposed mining lease. 24
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‘(4) If there has been no referral within 3 months after the end of the pre-referral period, the Minister may reject the application for the proposed mining lease. 27
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Amendment*

- ‘(5) If the pre-referral period has ended, and a registered native title party who lodged an objection under section 668 has not withdrawn the objection, the proposed mining lease is taken to have been referred to the tribunal under subsection (1).’ 1
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- ‘(6) In this section— 5
- “pre-referral period” means— 6
- (a) if an environmental impact statement is not required to be completed under part 7 for the proposed mining lease— 7
8
- (i) the period of 6 months starting on the notification day (native title issues); or 9
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- (ii) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under subparagraph (i), and advise the mining registrar in writing of the agreed later time—the period ending at the agreed later time; or 11
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- (b) otherwise—the period which, out of the following periods, ends latest— 16
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- (i) the period of 3 months starting on the day the mining registrar displays the notice about the environmental impact statement at the mining registrar’s office under section 264(3);¹³⁴ 18
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- (ii) if the registered native title parties for the non-exclusive land and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—the period ending at the agreed later time; 22
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- (iii) the period of 6 months starting on the notification day (native title issues). 27
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¹³⁴ Section 264 (What happens after environmental impact statement is prepared?)

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‘Continuing negotiation and mediation

‘**670.(1)** After the referral of the proposed mining lease to the tribunal, the consultation and negotiation parties for the proposed mining lease may continue to negotiate to reach a negotiated agreement before the native title issues decision is made.

‘**(2)** If a negotiated agreement is reached, all referrals of the proposed mining lease to the tribunal are taken to be withdrawn, and the tribunal must not make a native title issues decision.

‘Combined hearing

‘**671.(1)** The hearing under part 7 of the application for the grant of the proposed mining lease must include the following—

- (a) the hearing of the objections and other matters mentioned in section 268(1);¹³⁵
- (b) the hearing for a native title issues decision, including the hearing of any objections lodged under section 668.

‘**(2)** The hearing mentioned in subsection (1) is a “**combined hearing**”.

‘**(3)** The tribunal must not act under section 270¹³⁶ to dispense with a hearing, unless a negotiated agreement has been reached.

‘**(4)** All consultation and negotiation parties have the right to be heard at the combined hearing.

‘Fixing of date for combined hearing

‘**672.(1)** This section applies if the mining registrar is required to fix under section 265¹³⁷ a hearing date for the combined hearing, but there has not yet been a referral (other than a referral that has been withdrawn) of the mining lease for a native title issues decision.

¹³⁵ Section 268 (Hearing of application for grant of mining lease)

¹³⁶ Section 270 (Procedure where no objections lodged)

¹³⁷ Section 265 (Mining registrar to fix hearing date)

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Amendment*

‘(2) The mining registrar may, if the applicant agrees, fix a hearing date for the application for the proposed mining lease, and any objections to the application, under section 265 as if the hearing were not a combined hearing. 1
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‘(3) At the hearing, the tribunal may— 5

(a) proceed with the hearing of the application for the proposed mining lease, and any objections to the application, as if the hearing were not a combined hearing; and 6
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(b) at an appropriate time adjourn the hearing; and 9

‘(4) However, as soon as practicable after a negotiated agreement is reached or the proposed mining lease is referred to the tribunal for a native title issues decision, the tribunal must reconvene the combined hearing. 10
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‘(5) The mining registrar may defer fixing a date for the combined hearing until the proposed mining lease is referred to the tribunal for a native title issues decision. 13
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‘(6) If the proposed mining lease has been referred to the tribunal for a native title issues decision, but the mining registrar is not yet required under section 265 to fix a hearing date for the combined hearing, the mining registrar must fix a date for the combined hearing when the mining registrar is able to fix a date under section 265. 16
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Subdivision 5—Requirements for combined hearing 21

Directions about conduct of combined hearing 22

‘673. At any time after the referral of the proposed mining lease for a native title issues decision, the tribunal may give directions to the consultation and negotiation parties, including directions about the filing and serving of the following— 23
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(a) a statement by the applicant that includes a copy of the material provided to the registered native title parties under subdivision 3; 27
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- (b) a statement of impact by each registered native title party, setting out the effect the party considers the grant of the proposed mining lease will have on the party's registered native title rights and interests; 1
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- (c) submissions by any of the consultation and negotiation parties on the matters the tribunal will be required to take into account for making its native title issues decision. 5
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'Issue of negotiation in good faith' 8

'674.(1) If a consultation and negotiation party raises the issue of whether another consultation and negotiation party has complied with subdivision 3, including with the requirement for negotiation in good faith, the issue must be dealt with as a part of the combined hearing for the application for the grant of the proposed mining lease. 9
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'(2) If at the combined hearing the tribunal is not satisfied that the applicant or the State has complied with subdivision 3, including with the requirement for negotiation in good faith, it may adjourn the combined hearing to allow for the subdivision to be complied with by all the consultation and negotiation parties. 14
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'(3) An adjournment under subsection (2) may only be for a maximum period of 3 months. 19
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'(4) If the tribunal is satisfied that a registered native title party did not comply with subdivision 3, including with the requirement for negotiation in good faith, the tribunal may not adjourn the combined hearing on that ground alone. 21
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'(5) However, the tribunal may take the failure of a consultation and negotiation party to comply with subdivision 3 into account in making its native title issues decision. 25
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'(6) A consultation and negotiation party can not raise the issue of the State's compliance with subdivision 3, including the requirement for negotiation in good faith, on the ground that the State stopped being a consultation and negotiation party under section 658(2) or took a particular role under section 658(3). 28
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- ‘Nature of native title issues decision** 1
- ‘675.(1)** The native title issues decision must be 1 of the following— 2
- (a) that the proposed mining lease may be granted; 3
 - (b) that the proposed mining lease may be granted, but subject to 4
either or both of the following— 5
 - (i) that conditions, described or identified in the native title 6
issues decision, are to be included in the mining lease; 7
 - (ii) that conditions (“**contract conditions**”), described or 8
identified in the native title issues decision, are required to be 9
complied with by 1 or more of the consultation and 10
negotiation parties (even though the conditions are not 11
included in the mining lease); 12
 - (c) that the proposed mining lease should not be granted. 13
- ‘(2)** If, at the end of the combined hearing, the consultation and 14
negotiation parties have not reached an agreement about compensation, the 15
tribunal, whether or not an application has been made to the tribunal about 16
compensation, must also make any compensation decision or compensation 17
trust decision that is required to be made under part 18 before the mining 18
lease is granted. 19
- ‘(3)** The tribunal must not include a condition, whether or not a contract 20
condition, that has the effect that a registered native title party is entitled to 21
payments from the applicant worked out by reference to 1 or more of the 22
following— 23
- (a) the amount of profits to be made under the proposed mining 24
lease; 25
 - (b) the amount of any income to be derived under the proposed 26
mining lease; 27
 - (c) anything to be produced under the proposed mining lease. 28

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‘Timing of tribunal’s recommendation and native title issues decision	1
‘676. The tribunal must advise the Minister of its native title issues decision when the tribunal forwards its recommendation to the Minister under section 269(1). ¹³⁸	2 3 4
‘Tribunal’s native title issues decision	5
‘677.(1) In making its native title issues decision, the tribunal must take into account the following—	6 7
(a) the effect of the grant of the proposed mining lease on—	8
(i) the enjoyment by the registered native title parties of their registered native title rights and interests; and	9 10
(ii) the way of life, culture and traditions of any of the registered native title parties; and	11 12
(iii) the development of social, cultural and economic structures of any of the registered native title parties; and	13 14
(iv) the freedom of access by any of the registered native title parties to the land; and	15 16
(v) the freedom of any of the registered native title parties to carry out rites, ceremonies or other activities of cultural significance on the land in accordance with their traditions; and	17 18 19 20
(vi) any area or site on the land of particular significance to the registered native title parties in accordance with their traditions;	21 22 23
(b) the interests, proposals, opinions or wishes of the registered native title parties in relation to the management, use or control of land in relation to which there are registered native title rights and interests of the registered native title parties that will be affected by the grant of the proposed mining lease;	24 25 26 27 28

¹³⁸ Section 269 (Tribunal’s recommendation on hearing)

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- (c) the economic or other significance of the grant of the proposed mining lease to Australia, Queensland, the area in which the land is located and Aboriginal peoples and Torres Strait Islanders who live in the area; 1
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- (d) any public interest in the granting of the proposed mining lease; 5
- (e) any other matter the tribunal considers relevant. 6
- ‘(2) In deciding the effect of the grant of the proposed mining on the matters mentioned in subsection (1)(a), the tribunal must also take into account the nature and extent of— 7
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- (a) existing non-native title rights and interests in relation to the land; and 10
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- (b) existing use of the land or waters by persons other than registered native title parties. 12
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- ‘(3) In complying with subsections (1) and (2) the tribunal must take into account all objections lodged under this division to the granting of the proposed mining lease, and any other documents lodged or filed under this division. 14
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- ‘(4) Taking into account the effect of the grant of the proposed mining lease on an area or site mentioned in subsection (1)(a)(v) does not affect the operation of any law of the State for the preservation or protection of those areas or sites. 18
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- ‘(5) Before making the native title issues decision— 22
- (a) the tribunal must establish whether there are any issues relevant to its decision on which the consultation and negotiation parties are currently in agreement; and 23
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- (b) if there are agreed issues under paragraph (a), and all the consultation and negotiation parties consent—the tribunal, in making its native title issues decision— 26
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- (i) must take the agreed issues into account; and 29
- (ii) need not take into account the matters mentioned in subsection (1)(a) to (e) to the extent the matters are the subject of the agreed issues. 30
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‘Deferred matters

‘678.(1) As well as making the native title issues decision, the tribunal may make a decision about matters (the **“deferred matters”**) that—

- (a) were the subject of negotiation between the consultation and negotiation parties; and
- (b) under an agreement that includes all the consultation and negotiation parties, are to be the subject of further negotiation, or are to be decided in a way stated in the decision under this section; and
- (c) are not reasonably capable of being decided when the native title issues decision is made; and
- (d) are not directly relevant to the native title issues decision.

‘(2) The tribunal must give a copy of its decision under this section to—

- (a) the consultation and negotiation parties; and
- (b) if the State is not a consultation and negotiation party—the mining registrar.

‘(3) The tribunal’s decision under this section about the deferred matters is binding on all the consultation and negotiation parties.

‘(4) If the decision under this section is that the deferred matters are to be decided by arbitration, and, after the decision is made, the consultation and negotiation parties can not agree on the way the arbitration is to take place, the tribunal, on the application of a consultation and negotiation party, has jurisdiction to decide the deferred matters.

‘General time requirement for making native title issues decision

‘679.(1) The tribunal must take all reasonable steps to make sure that the native title issues decision is made within 6 months after the proposed mining lease is referred to the tribunal for the decision.

‘(2) If the native title issues decision is not made within the 6 months, the tribunal must, as soon as practicable after the 6 months ends, give a written notice to the Minister—

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| (a) advising why the native title issues decision has not yet been made; and | 1
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| (b) giving an estimate of when the decision is likely to be made. | 3 |

‘Effect of native title issues decision 4

‘**680.(1)** The native title issues decision must be complied with by the Minister, including in any recommendation of the Minister to the Governor in Council under section 271,¹³⁹ unless the Minister overrules the native title issues decision under subdivision 7. 5
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‘**(2)** If the native title issues decision is that the proposed mining lease should not be granted, the tribunal may nevertheless recommend under section 269¹⁴⁰ that the application for the proposed mining lease should be granted. 9
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‘**(3)** However if subsection (2) applies, the Minister must not recommend to the Governor in Council under section 271 that the proposed mining lease be granted unless the Minister overrules the native title issues decision under section 681. 13
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‘Subdivision 6—Overruling of native title issues decision 17

‘Minister may overrule native title issues decision 18

‘**681.(1)** The Minister may overrule the native title issues decision, but only if— 19
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| (a) it is in the interests of Queensland or in the national interest to overrule the native title issues decision; and | 21
22 |
| (b) the Minister overrules the decision within 2 months after the native titles issues decision is made. | 23
24 |

¹³⁹ Section 271 (Minister to consider recommendation made in respect of application for grant of mining lease)

¹⁴⁰ Section 269 (Tribunal’s recommendation on hearing)

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- ‘(2) If the Minister overrules the native title issues decision, the Minister must make a substituted decision. 1
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- ‘(3) The substituted decision— 3
- (a) must comply with the requirements of section 675(1) and (3) for a native title issues decision; and 4
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- (b) when made, takes the place of the native title issues decision. 6
- ‘(4) The substituted decision can not overrule a compensation decision or compensation trust decision, for the granting of the proposed mining lease, already made by the tribunal under part 18. 7
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- ‘(5) If the substituted decision is that the proposed mining lease may be granted with or without conditions, the Minister must refer the matter to the tribunal for— 10
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- (a) if a compensation decision or compensation trust decision has already been made under part 18 for the granting of the proposed mining lease—a new compensation decision or compensation trust decision; or 13
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- (b) otherwise—a compensation decision or compensation trust decision under part 18 for the granting of the proposed mining lease. 17
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- ‘(6) The Minister must give a copy of the substituted decision to the tribunal and the consultation and negotiation parties. 20
21
- ‘Effect of overruling 22**
- ‘682.(1) This section applies if the Minister makes a substituted decision under section 681. 23
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‘(2) If the substituted decision is that the proposed mining lease may be granted, but subject to conditions to be included in the mining lease, any recommendation of the Minister to the Governor in Council under section 271¹⁴¹ that the proposed mining lease be granted, must include a recommendation that the proposed mining lease be granted subject to the conditions. 1
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‘(3) If the substituted decision is that the proposed mining lease should not be granted, the Minister must not recommend to the Governor in Council under section 271 that the proposed mining lease be granted. 7
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‘Subdivision 7—Special provisions about completion of combined hearing and making of native titles issues decision’ 10
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‘Giving of urgency notice’ 12

‘683.(1) This section applies if the tribunal’s native titles issues decision has not been made, and a negotiated agreement has not been reached, 4 months after the proposed mining lease was referred to the tribunal for a native title issues decision, other than under a referral that was later withdrawn. 13
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‘(2) The Minister may give the tribunal a written notice (an “urgency notice”) asking the tribunal to complete its combined hearing and make its native title issues decision within the period stated in the written notice. 18
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‘(3) The period stated under subsection (2) must be a period ending after the end of the period of 6 months after the proposed mining lease was referred to the tribunal for a native title issues decision. 21
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‘Minister’s decision if tribunal recommendation delayed’ 24

‘684.(1) This section applies if— 25

- (a) the Minister has given the tribunal an urgency notice under section 683 in relation to the proposed mining lease; and 26
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¹⁴¹ Section 271 (Minister to consider recommendation made in respect of application for grant of mining lease)

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- (b) the period stated in the urgency notice for the tribunal to complete its combined hearing and make its native title issues decision has ended; and 1
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- (c) the tribunal has not made its native title issues decision; and 4
- (d) the consultation required under this subdivision (including under this section) for the making of a decision by the Minister has happened. 5
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- ‘(2) The Minister may make a decision (the “**Minister’s decision**”) under this section about the native title issues decision. 8
9
- ‘(3) The Minister may make a decision under this section that has the effect of a native title issues decision that the proposed mining lease may be granted, with or without conditions and whether or not contract conditions, only if the Minister has first consulted with the Commonwealth Minister about the making of the decision. 10
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- ‘(4) The Minister may make a decision under this section only if— 15
- (a) the making of the native title issues decision is unlikely to happen within a period that is reasonable, taking into account all the circumstances; and 16
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- (b) it is in the interests of Queensland to make the decision at the time it is made. 19
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- ‘(5) Subsection (4)(a) and (b) does not stop the Minister from taking into account other matters in deciding whether to make a decision under this section. 21
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- ‘Consultation before Minister’s decision** 24
- ‘**685.(1)** Before making the Minister’s decision, the Minister must give a written notice under subsections (2) and (3). 25
26
- ‘(2) The Minister must give written notice to the tribunal requiring it, by the end of the day stated in the notice, to give the Minister and each consultation and negotiation party a summary of the material presented to the tribunal in the course of the tribunal considering what the native title issues decision should be. 27
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- ‘(3) The Minister must give a written notice to each consultation and negotiation party stating the following—
- (a) that the Minister is considering making the decision;
 - (b) that each consultation and negotiation party—
 - (i) may, by the end of the day stated in the written notice, give the Minister any submission or other material that the consultation and negotiation party wants the Minister to take into account in deciding whether to make the decision and, if so, its terms; and
 - (ii) if the consultation and negotiation party gives the Minister a submission or other material, must also give each of the other consultation and negotiation parties a copy of the submission or other material; and
 - (iii) may, within 7 days after the day stated in the written notice, in response to any submission or other material given by any other consultation and negotiation party or the tribunal, give the Minister any further submission or other material that the consultation and negotiation party wants the Minister to take into account.
- ‘(4) The day stated in the written notices given under subsections (2) and (3) must be—
- (a) the same day in all of the written notices given under the subsections; and
 - (b) a day by which, in the Minister’s opinion, it is reasonable to assume that all of the written notices given will have been received by, or will otherwise have come to the attention of, the persons who must be notified under this section.
- ‘(5) If the Minister complies with subsection (1), there is no requirement for any person to be given any further hearing before the Minister makes the decision.
- ‘(6) In making the decision, the Minister—
- (a) must take into account—

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(i) any submission or material provided by a consultation and negotiation party under subsection (3), but only if the consultation and negotiation party has complied with the Minister’s written notice in the way mentioned in subsection (3)(b)(ii); and	1 2 3 4 5
(ii) any report provided by the tribunal; and	6
(iii) the Minister’s consultation with the Commonwealth Minister under this subdivision; and	7 8
(iv) any issues about which the consultation and negotiation parties have agreed in writing and advised to the Minister; and	9 10 11
(b) may, but need not, take into account any other matter or thing.	12
‘(7) The fact that no submission or other material of the kind mentioned in subsection (3) has been given to the Minister before the end of the day stated in the written notices does not stop the Minister from making the decision.	13 14 15 16
‘Minister’s decisions generally	17
‘686.(1) The Minister’s decision has effect as a native title issues decision.	18 19
‘(2) The Minister’s decision must, as for a native title issues decision for section 675, be 1 of the following—	20 21
(a) that the proposed mining lease may be granted;	22
(b) that the proposed mining lease may be granted, but subject to either or both of the following—	23 24
(i) that conditions, described or identified in the Minister’s decision, are to be included in the mining lease;	25 26
(ii) contract conditions;	27
(c) that the proposed mining lease should not be granted.	28
‘(3) If the Minister’s decision is a decision mentioned in subsection (2)(a) or (b), the Minister must refer the matter to the tribunal for a compensation decision or compensation trust decision under part 18.	29 30 31

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- ‘(4) The Minister does not have a duty to make a Minister’s decision, despite the following—
- (a) the giving of any notice by the Minister;
 - (b) the giving of any submission or other material to the Minister;
 - (c) any request by a consultation and negotiation party for the Minister to make the decision;
 - (d) any other circumstance.
- ‘(5) The Minister’s decision must be made by the Minister personally.
- ‘(6) The Minister must table in the Legislative Assembly a report containing the Minister’s decision, and the reasons for the decision, within 15 sitting days after making the decision.

‘Subdivision 8—Miscellaneous matters about grant

‘Contract conditions

‘687.(1) If the Governor in Council grants the proposed mining lease, a contract condition has effect, in addition to any effect that it may have other than under this subsection, as if it were included in the terms of a contract between the consultation and negotiation parties.

‘(2) If a consultation and negotiation party is a registered native title claimant, any individual included in the native title claim group concerned is a party to the contract.

‘Notice of grant to registered native title parties

‘688.(1) If the Governor in Council grants the proposed mining lease, the holder of the mining lease must, within 28 days after the holder receives notice of the grant, give a written notice complying with subsection (2) to each registered native title party.

Maximum penalty—100 penalty units.

‘(2) The written notice must—

- (a) advise the granting of the mining lease; and

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- | | | | |
|-----|--------|-------------------------------------|---|
| (b) | state— | | 1 |
| | (i) | any contract conditions; and | 2 |
| | (ii) | the conditions of the mining lease. | 3 |

Division 5—Renewals of mining leases 4

‘Application of div 5 5

‘689.(1) This division applies to the renewal of a mining lease if— 6

- | | | | |
|-----|--|--|----|
| (a) | the mining lease is a surface alluvium (gold or tin) mining lease; | | 7 |
| | and | | 8 |
| (b) | the renewal of the mining lease is an act— | | 9 |
| | (i) | that affects native title rights and interests; and | 10 |
| | (ii) | to which the right to negotiate provisions would have otherwise applied; and | 11 |
| | (iii) | that is an approved gold or tin mining act under a determination in force under section 26B(1) of the Commonwealth Native Title Act. | 12 |
| | | | 13 |
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‘(2) However, this division applies to the renewal of a mining lease mentioned in subsection (1) only to the extent that the land the subject of the mining lease is non-exclusive land, whether or not an alternative provision area. 16

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‘(3) This division also applies to the renewal of a mining lease if— 20

- | | | | |
|-----|---|--|----|
| (a) | the mining lease is other than a surface alluvium (gold or tin) mining lease; and | | 21 |
| | | | 22 |
| (b) | the renewal of the mining lease is an act— | | 23 |
| | (i) | that affects native title rights and interests; and | 24 |
| | (ii) | to which the right to negotiate provisions would have otherwise applied; and | 25 |
| | | | 26 |

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- (c) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 1
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- ‘(4) However, this division applies to the renewal of a mining lease mentioned in subsection (3) only to the extent that the land the subject of the mining lease is non-exclusive land that is an alternative provision area. 4
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- ‘(5) This division also applies to the renewal of a mining lease if— 7
- (a) the mining lease is other than a surface alluvium (gold or tin) mining lease; and 8
9
- (b) the renewal of the mining lease is an act— 10
- (i) that affects native title rights and interests; and 11
- (ii) to which the right to negotiate provisions would have otherwise applied; and 12
13
- (c) a determination is in force under section 43(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 14
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16
- ‘(6) However, this division applies to the renewal of a mining lease mentioned in subsection (5) only to the extent that the land the subject of the mining lease is non-exclusive land other than an alternative provision area. 17
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- ‘(7) This division applies to the renewal of a mining lease mentioned in subsection (1), (3) or (5) only to the extent that the mining lease relates to a place that is on the landward side of the mean high-water mark of the sea. 20
21
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- ‘(8) The requirements of this division are additional to the requirements of part 7. 23
24
- ‘(9) In this section— 25
- “renewal”, of a mining lease, includes— 26
- (a) the re-grant of the mining lease; and 27
- (b) the re-making of the mining lease; and 28
- (c) the extension of the term of the mining lease. 29

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- ‘Requirements for renewal—applying div 2** 1
- ‘**690.(1)** If this division applies to the renewal of a mining lease because 2
of section 689(1), the additional requirements applying under division 2¹⁴² 3
for the granting of a surface alluvium (gold or tin) mining lease also apply 4
for the renewal. 5
- ‘**(2)** The requirements apply with necessary changes. 6
- ‘Applying div 2 for renewal** 7
- ‘**691.(1)** This section— 8
- (a) applies for applying the provisions of division 2; and 9
- (b) does not limit section 690. 10
- ‘**(2)** For applying section 599(2), the following period is substituted for 11
the periods mentioned in section 599(2)(b)(i) and (ii), that is the end of the 12
period of 7 days after lodgement of the application for the renewal. 13
- ‘**(3)** Section 609(1) and (4) does not apply, but— 14
- (a) the mining registrar must within 14 days after the consultation 15
period ends, fix a day for the tribunal to hear the application for 16
the renewal; and 17
- (b) the tribunal must hear the application for the renewal as if the 18
application for renewal were the application for a grant of a 19
mining lease heard under section 268;¹⁴³ and 20
- (c) the tribunal must ask the Minister about the extent to which the 21
Minister is satisfied about the matters stated in section 286(3).¹⁴⁴ 22
- ‘**(4)** For applying section 610, the tribunal must also take into account 23
information received from the Minister under subsection (3)(c). 24

¹⁴² Division 2 (Surface alluvium (gold or tin) mining leases)

¹⁴³ Section 268 (Hearing of application for grant of mining lease)

¹⁴⁴ Section 286 (Renewal of mining lease)

*Native Title (Queensland) State Provisions
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- ‘Requirements for renewal—applying div 3** 1
- ‘692.(1) If this division applies to the renewal of a mining lease because 2
of section 689(3), the additional requirements applying under division 3¹⁴⁵ 3
for the granting of a mining lease other than a surface alluvium (gold or tin) 4
mining lease on an alternative provision area also apply for the renewal. 5
- ‘(2) The requirements apply with necessary changes. 6
- ‘Applying div 3 for renewal** 7
- ‘693.(1) This section— 8
- (a) applies for applying the provisions of division 3; and 9
- (b) does not limit section 692. 10
- ‘(2) For applying section 616(3), the following period is substituted for 11
the periods mentioned in section 616(3)(b)(i) and (ii), that is, the end of the 12
period of 28 days after lodgement of the application for the renewal. 13
- ‘(3) Section 623(1) and (3) does not apply, but the consultation and 14
negotiation period for the proposed renewal starts on the day immediately 15
after the closing day (native title issues) for the proposed renewal. 16
- ‘(4) For applying division 3, subdivisions 4 and 5,¹⁴⁶ if the proposed 17
renewal is referred to the tribunal for a native title issues decision, there is 18
not a combined hearing, but there is a hearing for a native title issues 19
decision, including the hearing of any objections lodged under 20
section 633.¹⁴⁷ 21
- ‘(5) Sections 636 and 637 do not apply, but— 22
- (a) the mining registrar must within 14 days after the consultation 23
and negotiation period ends, fix a day for the tribunal to hear the 24
application for the renewal; and 25

¹⁴⁵ Division 3 (Other mining leases on alternative provision areas)

¹⁴⁶ Division 3 (Other mining leases on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

¹⁴⁷ Section 633 (Objection during consultation and negotiation period)

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- (b) all consultation and negotiation parties have the right to be heard at the hearing; and 1
2
- (c) the tribunal must hear the application for the renewal and make a native title issues decision; and 3
4
- (d) before making its native title issues decision, the tribunal must ask the Minister about the extent to which the Minister is satisfied about the matters stated in section 286(3). 5
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- ‘(6) Section 641 does not apply, but the tribunal must advise the Minister of its native title issues decision. 8
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- ‘(7) For applying section 642, the tribunal must also take into account information received from the Minister under subsection (5)(d). 10
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- ‘Requirements for renewal—applying div 4 12**
- ‘694.(1) If this division applies to the renewal of a mining lease because of section 689(5), the additional requirements applying under division 4 for the granting of a mining lease other than a surface alluvium (gold or tin) mining lease on non-exclusive land other than an alternative provision area also apply for the renewal. 13
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- ‘(2) The requirements apply with necessary changes. 18
- ‘Applying div 4 for renewal 19**
- ‘695.(1) This section— 20
- (a) applies for applying the provisions of division 4; and 21
- (b) does not limit section 694. 22
- ‘(2) For applying section 652(3), the following period is substituted for the periods mentioned in section 652(3)(b)(i) and (ii), that is, the end of the period of 28 days after lodgement of the application for the renewal. 23
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- ‘(3) For applying section 669, the pre-referral period is— 26
- (a) the period of 6 months starting on the notification day (native title issues); or 27
28

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- (b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—the period ending at the agreed later time. 1
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- ‘(4) For applying division 4, subdivisions 4 and 5,¹⁴⁸ if the proposed renewal is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 668.¹⁴⁹ 6
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- ‘(5) Sections 671 and 672 do not apply, but— 11
- (a) the mining registrar must within 14 days after the pre-referral period ends, fix a day for the tribunal to hear the application for the renewal; and 12
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- (b) all consultation and negotiation parties have the right to be heard at the hearing; and 15
16
- (c) the tribunal must hear the application for the renewal and make a native title issues decision; and 17
18
- (d) before making its native title issues decision, the tribunal must ask the Minister about the extent to which the Minister is satisfied about the matters stated in section 286(3).¹⁵⁰ 19
20
21
- ‘(6) Section 676 does not apply, but the tribunal must advise the Minister of its native title issues decision. 22
23

¹⁴⁸ Division 4 (Other mining leases not on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

¹⁴⁹ Section 668 (Objections)

¹⁵⁰ Section 286 (Renewal of mining lease)

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‘(7) For applying section 677, the tribunal must also take into account information received from the Minister under subsection (4)(d). 1
2

‘(8) Division 4, subdivision 7¹⁵¹ does not apply. 3

‘Division 6—Requirements for subsidiary approvals 4

‘Meaning of “approval” in div 6 5

‘696. In this division— 6

“approval” means— 7

(a) the approval, under section 237,¹⁵² to conduct drilling and other activities on land not included in the surface area covered under a mining lease; or 8
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(b) the grant, on an application under section 275,¹⁵³ of an additional area of surface of land to be included in a mining lease; or 11
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(c) the approval, under section 298,¹⁵⁴ for the holder of a mining lease to mine specified minerals, or for the addition of another purpose to a mining lease. 13
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‘Application of div 6 16

‘697.(1) This division applies to an approval if— 17

(a) were the mining lease to which the approval relates to be granted again, the granting of the mining lease would be an act affecting native title rights and interests if the mining lease were to provide only for the mining of the specified minerals mentioned in section 696, definition “approval”, paragraph (c); and 18
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¹⁵¹ Division 4 (Other mining leases not on alternative provision areas), subdivision 7 (Special provisions about completion of combined hearing and making of native titles issues decision)

¹⁵² Section 237 (Drilling and other activities on land not included in surface area)

¹⁵³ Section 275 (Application for inclusion of surface of land in mining lease)

¹⁵⁴ Section 298 (Mining other minerals or use for other purposes)

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- (b) the approval is an act to which the right to negotiate provisions would have otherwise applied; and 1
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- (c) after the approval takes effect, the mining lease will be a surface alluvium (gold or tin) mining lease; and 3
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- (d) the approval is an approved gold or tin mining act under a determination in force under section 26B(1) of the Commonwealth Native Title Act. 5
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- ‘(2) However, this division applies to the approval mentioned in subsection (1) only to the extent that the approval relates to non-exclusive land, whether or not an alternative provision area. 8
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- ‘(3) This division also applies to the an approval if— 11
- (a) were the mining lease to which the approval relates to be granted again, the granting of the mining lease would be an act affecting native title rights and interests if the mining lease were to provide only for— 12
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- (i) the drilling and other activities mentioned in section 696, definition “approval”, paragraph (a); or 16
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- (ii) the additional area of surface mentioned in section 696, definition “approval”, paragraph (b); or 18
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- (iii) the mining of the specified minerals, or the added purpose, mentioned in section 696, definition “approval”, paragraph (c); and 20
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22
- (b) the approval is an act to which the right to negotiate provisions would have otherwise applied; and 23
24
- (c) the approval relates to an alternative provision area; and 25
- (d) a determination is in force under section 43A(1) of the Commonwealth Native Title Act and this division is included in the alternative provisions the subject of the determination. 26
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- ‘(4) However, this division applies to the approval mentioned in subsection (3) only to the extent that the approval relates to an alternative provision area. 29
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- ‘(5) This division also applies to an approval if— 1
- (a) were the mining lease to which the approval relates to be granted 2
again, the granting of the mining lease would be an act affecting 3
native title rights and interests if the mining lease were to provide 4
only for— 5
 - (i) the drilling and other activities mentioned in section 696, 6
definition “approval”, paragraph (a); or 7
 - (ii) the additional area of surface mentioned in section 696, 8
definition “approval”, paragraph (b); or 9
 - (iii) the mining of the specified minerals, or the added purpose, 10
mentioned in section 696, definition “approval”, 11
paragraph (c); and 12
 - (b) the approval is an act to which the right to negotiate provisions 13
would have otherwise applied; and 14
 - (c) the approval relates to non-exclusive land other than an alternative 15
provision area; and 16
 - (d) a determination is in force under section 43(1) of the 17
Commonwealth Native Title Act and this division is included in 18
the alternative provisions the subject of the determination. 19
- ‘(6) However, this division applies to the approval mentioned in 20
subsection (5) only to the extent that the approval relates to non-exclusive 21
land other than an alternative provision area. 22
- ‘(7) This division applies to an approval mentioned in subsection (1), (3) 23
or (5) only to the extent that the approval relates to a place that is on the 24
landward side of the mean high-water mark of the sea. 25
- ‘(8) The requirements of this division are additional to the requirements 26
of part 7. 27

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‘Requirements for approval (additional area)—applying div 3	1
<p>‘698.(1) If this division applies to an approval because of section 697(3), and the approval is the grant of an additional area of surface of land to be included in a mining lease, the additional requirements applying under division 3¹⁵⁵ for the granting of a mining lease other than a surface alluvium (gold or tin) mining lease on an alternative provision area also apply for the approval.</p> <p>‘(2) The requirements apply with necessary changes.</p>	2 3 4 5 6 7 8
‘Requirements for approval (additional area)—applying div 4	9
<p>‘699.(1) If this division applies to an approval because of section 697(5), and the approval is the grant of an additional area of surface of land to be included in a mining lease, the additional requirements applying under division 4¹⁵⁶ for the granting of a mining lease other than a surface alluvium (gold or tin) mining lease not on an alternative provision area also apply for the approval.</p> <p>‘(2) The requirements apply with necessary changes.</p>	10 11 12 13 14 15 16
‘Requirements for approval (other changes)—applying div 2	17
<p>‘700.(1) If this division applies to an approval because of section 697(1), the additional requirements applying under division 2¹⁵⁷ for the granting of a surface alluvium (gold or tin) mining lease also apply for the approval.</p> <p>‘(2) The requirements apply with necessary changes.</p>	18 19 20 21
‘Applying div 2 for approval	22
<p>‘701.(1) This section—</p> <p style="padding-left: 2em;">(a) applies for applying the provisions of division 2; and</p>	23 24

¹⁵⁵ Division 3 (Other mining leases on alternative provision areas)

¹⁵⁶ Division 4 (Other mining leases not on alternative provision areas)

¹⁵⁷ Division 2 (Surface alluvium (gold or tin) mining leases)

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(b) does not limit section 700. 1

‘(2) For applying section 599(2), the following period is substituted for the periods mentioned in section 599(2)(b)(i) and (ii), that is the end of the period of 7 days after lodgement of the application for the approval. 2
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‘(3) Section 609(1) and (4) does not apply, but— 5

(a) the mining registrar must within 14 days after the consultation period ends, fix a day for the tribunal to hear the application for the approval; and 6
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(b) the tribunal must hear the application for the approval as if the application for the approval were the application for a grant of a mining lease heard under section 268.¹⁵⁸ 9
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‘Requirements for approval (other changes)—applying div 3 12

‘702.(1) If this division applies to an approval because of section 697(3), and the approval is other than the grant of an additional area of surface land, the additional requirements applying under division 3 for the granting of a mining lease other than a surface alluvium (gold or tin) mining lease on an alternative provision area also apply for the approval. 13
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‘(2) The requirements apply with necessary changes. 18

‘Applying div 3 for approval 19

‘703.(1) This section— 20

(a) applies for applying the provisions of division 3; and 21

(b) does not limit section 702. 22

‘(2) For applying section 616(3), the following period is substituted for the periods mentioned in section 616(3)(b)(i) and (ii), that is, the end of the period of 28 days after lodgement of the application for the approval. 23
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‘(3) Section 623(1) and (3) does not apply, but the consultation and negotiation period for the proposed approval starts on the day immediately after the closing day (native title issues) for the proposed approval. 26
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¹⁵⁸ Section 268 (Hearing of application for grant of mining lease)

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‘(4) For applying division 3, subdivisions 4 and 5,¹⁵⁹ if the proposed approval is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 633.¹⁶⁰

‘(5) Sections 636 and 637 do not apply, but—

(a) the mining registrar must within 14 days after the consultation and negotiation period ends, fix a day for the tribunal to hear the application for the renewal; and

(b) all consultation and negotiation parties have the right to be heard at the hearing; and

(c) the tribunal must hear the application for the renewal and make a native title issues decision.

‘(6) Section 641 does not apply, but the tribunal must advise the Minister of its native title issues decision.

‘(7) Section 645 does not apply, but the native title issues decision must be complied with by the Minister unless the Minister overrules the native title issues decision under division 3, subdivision 6.

‘(8) Sections 647(2) and (3) does not apply.

‘(9) In sections 648 and 649, a reference to the Governor in Council is a reference to the Minister.

¹⁵⁹ Division 3 (Other mining leases on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

¹⁶⁰ Section 633 (Objection during consultation and negotiation period)

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‘Requirements for approval (other changes)—applying div 4

‘704.(1) If this division applies to an approval because of section 697(5), and the approval is other than the grant of an additional area of surface land, the additional requirements applying under division 4 for the granting of a mining lease other than a surface alluvium (gold or tin) mining lease not on an alternative provision area also apply for the approval.

‘(2) The requirements apply with necessary changes.

‘Applying div 4 for approval

‘705.(1) This section—

- (a) applies for applying the provisions of division 4; and
- (b) does not limit section 704.

‘(2) For applying section 652(3), the following period is substituted for the periods mentioned in section 652(3)(b)(i) and (ii), that is, the end of the period of 28 days after lodgement of the application for the approval.

‘(3) For applying section 669, the pre-referral period is—

- (a) the period of 6 months starting on the notification day (native title issues); or
- (b) if the registered native title parties and the applicant agree on a time, which must be later than the time that would otherwise apply under paragraph (a), and advise the mining registrar in writing of the agreed later time—the period ending at the agreed later time.

‘(4) For applying division 4, subdivisions 4 and 5,¹⁶¹ if the proposed approval is referred to the tribunal for a native title issues decision, there is not a combined hearing, but there is a hearing for a native title issues decision, including the hearing of any objections lodged under section 668.¹⁶²

¹⁶¹ Division 4 (Other mining leases not on alternative provision areas), subdivisions 4 (Referral and native title issues decision) and 5 (Requirements for combined hearing)

¹⁶² Section 668 (Objections)

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- ‘(5) Sections 671 and 672 do not apply, but— 1
- (a) the mining registrar must within 14 days after the pre-referral 2
period ends, fix a day for the tribunal to hear the application for 3
the approval; and 4
 - (b) all consultation and negotiation parties have the right to be heard at 5
the hearing; and 6
 - (c) the tribunal must hear the application for the approval and make a 7
native title issues decision. 8
- ‘(6) Section 676 does not apply, but the tribunal must advise the Minister 9
of its native title issues decision. 10
- ‘(7) Section 680 does not apply, but the native title issues decision must 11
be complied with by the Minister unless the Minister overrules the native 12
title issues decision under division 4, subdivision 6.¹⁶³ 13
- ‘(8) Sections 682(2) and (3) does not apply. 14
- ‘(9) Division 4, subdivision 7¹⁶⁴ does not apply. 15
- ‘(10) In sections 687 and 688, a reference to the Governor in Council is a 16
reference to the Minister. 17

¹⁶³ Division 4 (Other mining leases not on alternative provision areas), subdivision 6
(Overruling of native title issues decision)

¹⁶⁴ Division 4 (Other mining leases not on alternative provision areas), subdivision 7
(Special provisions about completion of combined hearing and making of native
titles issues decision)

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‘PART 18—COMPENSATION PROVISIONS

1

‘Division 1—Preliminary

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‘Definitions for pt 18

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‘706. In this part—

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“**compensation decision**”, for a relevant act, means a decision of the tribunal, other than a compensation trust decision, that provides for—

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(a) whether compensation is to be paid to a registered native title body corporate in relation to the relevant act; and

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(b) if compensation is to be paid—the amount of money to be paid.

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“**compensation trust decision**”, for a relevant act, means a decision of the tribunal about the payment of an amount to be held in trust for any entitlement to compensation for the doing of the relevant act.

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“**relevant act**” means the grant, renewal or variation of, or another act concerning, a mining tenement, if the act happens after the commencement of this section, and is an act—

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(a) to which—

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(i) part 13 applies; or

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(ii) part 14, 15, 16, or 17, division 2, 3, 4, 5 or 6 applies; or

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(b) to which part 13 would apply, or part 14, 15, 16, or 17, division 2, 3, 4, 5 or 6 would apply, were it not that—

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(i) the act relates to a mining tenement in an approved opal or gem mining area, and is excluded from the application of the right to negotiate provisions under section 26(2)(d) of the Commonwealth Native Title Act; or

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(ii) the mining tenement relates to a place that is on the seaward side of the mean high-water mark of the sea; or

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- (iii) the act relates to a mining lease for the sole purpose of the construction of an infrastructure facility associated with mining, and is an act mentioned in section 24MD(6B)(b) of the Commonwealth Native Title Act; or
- (c) that is a renewal to which part 14, 15, 16 or 17, division 5 would apply, were it not that the renewal is an act—
 - (i) to which the right to negotiate provisions do not apply because of section 26D(1) of the Commonwealth Native Title Act; and
 - (ii) in relation to which the earlier right to mine mentioned in section 26D(1)(a) is an earlier right mentioned in section 26D(1)(b)(ii); and
 - (iii) for which compensation has not previously been agreed.

‘Division 2—General principles

‘Native title compensation

‘707.(1) An entity is entitled to compensation for the effect of a relevant act on the entity’s native title rights and interests, including for activities carried out under the mining tenement the subject of the relevant act as a result of the relevant act.

‘(2) However, the entity may receive compensation only in a way provided for in this part.

‘(3) Nothing in subsections (1) and (2) stops—

- (a) compensation from being agreed to before a relevant act is done, based on the expected effect of the relevant act on an entity’s native title rights and interests; or
- (b) a compensation decision or compensation trust decision being made, in accordance with the requirements of the native title provisions, including this part, before a relevant act is done, having regard to the expected effect of the relevant act on an entity’s native title rights and interests.

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‘(4) Subject to the provisions of this part requiring the State to pay an amount of compensation in relation to a relevant act, only the applicant for, or the holder of, the mining tenement the subject of a relevant act may be ordered to pay an amount under a compensation decision or a compensation trust decision. 1
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‘(5) There is no entitlement to be compensated more than once for the effect on native title rights and interests of an act if compensation has already been provided under this part for what is essentially the same effect of the same act. 6
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‘Agreement for compensation 10

‘708.(1) The applicant for the doing of a relevant act, or the holder of a mining tenement the subject of a relevant act, may enter into an agreement with an entity for compensation to be paid to the entity for the effect of the relevant act on— 11
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(a) the entity’s native title rights and interests; or 15

(b) if the entity is a registered native title body corporate mentioned in section 57(3) of the Commonwealth Native Title Act, the native title rights and interests of the body corporate’s common law holders; or 16
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(c) if the entity is a registered native title claimant, the native title rights and interests of the native title claim group. 20
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‘(2) An agreement about compensation is not effective as an agreement under this part unless the agreement— 22
23

(a) is in writing, and signed by or on behalf of the parties to it; and 24

(b) has been filed in the office of the mining registrar. 25

‘(3) If a registered native title body corporate mentioned in section 57(3) of the Commonwealth Native Title Act is a party to an agreement about compensation, each individual included in the body corporate’s common law holders is a party to the agreement. 26
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‘(4) If a registered native title claimant is a party to an agreement about compensation, each individual included in the native title claim group concerned is a party to the agreement. 30
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32

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‘Application for compensation

‘709. An entity may apply to the tribunal for a compensation decision or a compensation trust decision for a relevant act if the entity is—

- (a) an entity that is not a party to an agreement about compensation for the relevant act, but is 1 of the following—
 - (i) an entity claiming an entitlement to be paid compensation for the effect of the relevant act on the entity’s native title rights and interests;
 - (ii) a registered native title body corporate mentioned in section 57(3) of the Commonwealth Native Title Act claiming an entitlement to be paid compensation for the effect of the relevant act on the native title rights and interests of the body corporate’s common law holders;
 - (iii) a registered native title claimant claiming an entitlement to be paid compensation for the effect of the relevant act on the native title rights and interests of the native title claim group; or
- (b) the applicant for the doing of the relevant act, or the holder of the mining tenement the subject of the relevant act.

‘Compensation provided in non-monetary form

‘710.(1) This section applies if the tribunal makes a compensation decision for a relevant act and the decision is that compensation is payable.

‘(2) If the registered native title body corporate asks the tribunal to make a recommendation that the whole or part of the amount of the compensation should instead take the form of non-monetary compensation, the tribunal—

- (a) must consider the request; and
- (b) may recommend that the person required under the compensation decision to pay the compensation should, within the period specified in the tribunal’s recommendation, provide non-monetary compensation in accordance with the recommendation.

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‘(3) If the tribunal makes the recommendation, the person required to pay the compensation under the compensation decision may provide non-monetary compensation in accordance with the recommendation. 1
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‘(4) If the person does provide non-monetary compensation in accordance with the recommendation, the non-monetary compensation is full compensation for the relevant act to the extent of the compensation that was the subject of the recommendation. 4
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‘(5) If the non-monetary compensation is not provided in the way recommended by the tribunal, the registered native title body corporate entitled to receive compensation under the compensation decision may ask the tribunal to vary the compensation decision. 8
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‘(6) The variation of the compensation decision may take into account the extent to which non-monetary compensation has been provided under the recommendation. 12
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‘(7) In this section— 15
“non-monetary compensation” includes the following— 16
 (a) the transfer of land or other property; 17
 (b) the provision of goods or services; 18
 (c) the creation of employment opportunities. 19

‘Conditions of agreement or compensation decision 20

‘711.(1) If there is an agreement about compensation under this part, or a compensation decision, for a relevant act relating to a mining claim or mining lease, it is a condition of the mining claim or mining lease that the holder of the claim or lease must comply with the terms of the agreement or decision. 21
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‘(2) In this section— 26
“compensation decision” does not include a compensation decision under which the State is required to pay an amount of compensation. 27
28

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‘Compensation trust decisions

712.(1) If the tribunal makes a compensation trust decision for a relevant act, any amount required to be paid into trust under the decision—

- (a) must be paid to the tribunal; and
- (b) must be held in the way prescribed under a regulation until it is paid to an entity in a way provided for in this part.

(2) The applicant for, or holder of, a mining tenement the subject of a relevant act can not be required to pay an amount under a compensation decision for the relevant act to the extent that the land the subject of the relevant act is the subject of a compensation trust decision for the relevant act.

‘State’s right to be heard

713. The State has the right to be heard at any proceeding before the tribunal under this part.

‘Division 3—Payment of compensation in particular circumstances

‘Compensation before relevant act relating to mining claim or mining lease if registered native title body corporate

714.(1) This section applies to a relevant act relating to a mining claim or mining lease if there is a registered native title body corporate in relation to any part (the **“identified part”**) of the land the subject of the relevant act.

(2) The relevant act may be done only if—

- (a) for the identified part, compensation has been decided by—
 - (i) agreement between the applicant for the doing of the relevant act and the registered native title body corporate; or
 - (ii) a compensation decision; and
- (b) the conditions of the agreement or decision, required under the agreement or decision to be complied with by the applicant before the relevant act is done, have been complied with by the applicant.

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- ‘(3) If the relevant act can not be done because of the operation of subsection (2)(a), the mining registrar must ask the tribunal to make a compensation decision for the relevant act if—
- (a) either of the following applies—
- (i) an agreement for the doing of the act has been made, but the agreement did not include agreement about compensation, and 3 months have passed since the agreement was entered into;
- (ii) the tribunal has decided in favour of the doing of the relevant act, and 3 months have passed since the making of the tribunal’s decision; and
- (b) neither the applicant for the doing of the relevant act nor the registered native title body corporate has applied to the tribunal for a compensation decision for the relevant act.
- ‘Compensation before relevant act relating to mining claim or mining lease if registered native title claimant**
- ‘715.(1)** This section applies to a relevant act relating to a mining claim or mining lease if there is a registered native title claimant in relation to any part (the “**identified part**”) of the land the subject of the relevant act.
- ‘(2) The relevant act may be done only if—
- (a) for the identified part, either of the following applies—
- (i) an agreement about compensation has been reached between the applicant for the doing of the relevant act and the registered native title claimant;
- (ii) the tribunal has made a compensation trust decision for the relevant act; and
- (b) either of the following applies—
- (i) if paragraph (a)(i) applies—the conditions of the agreement, required under the agreement to be complied with by the applicant before the relevant act is done, have been complied with by the applicant;

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- (ii) if paragraph (a)(ii) applies—the amount ordered by the tribunal under the compensation trust decision to be paid to the tribunal to be held in trust has been paid to the tribunal. 1
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- ‘(3) If the relevant act can not be done because of the operation of subsection (2)(a), the mining registrar must ask the tribunal to make a compensation trust decision for the relevant act if— 4
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6
- (a) either of the following applies— 7
- (i) an agreement for the doing of the act has been made, but the agreement did not include agreement about compensation, and 3 months have passed since the agreement was entered into; 8
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11
- (ii) the tribunal has decided in favour of the doing of the relevant act, and 3 months have passed since the making of the tribunal’s decision; and 12
13
14
- (b) neither the applicant for the doing of the relevant act nor the registered native title claimant has applied to the tribunal for a compensation trust decision for the relevant act. 15
16
17
- ‘Compensation after relevant act relating to mining claim or mining lease 18
19**
- ‘716.(1) This section applies if— 20**
- (a) when a relevant act relating to a mining lease is done, there is no registered native title body corporate or registered native title claimant in relation to land the subject of the relevant act; and 21
22
23
- (b) after the doing of the relevant act an entity becomes a registered native title body corporate or registered native title claimant in relation to the land. 24
25
26
- ‘(2) If the entity becomes a registered native title body corporate, the entity may, at any time after the relevant act is done— 27
28
- (a) recover compensation under an agreement about compensation between the holder of the mining claim or mining lease and the registered native title body corporate; or 29
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31

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- (b) apply to the tribunal for a compensation decision for the relevant act. 1
2
- ‘(3) If the entity becomes a registered native title claimant, the entity may at any time after the relevant act is done— 3
4
- (a) recover compensation for the relevant act under an agreement about compensation between the holder of the mining claim or mining lease and the registered native title claimant; or 5
6
7
- (b) apply to the tribunal for a compensation trust decision for the relevant act. 8
9
- ‘Compensation after relevant act relating to other mining tenement if registered native title body corporate 10
11**
- ‘717.(1) This section applies to a relevant act relating to a prospecting permit, exploration permit or mineral development licence if there is a registered native title body corporate in relation to land the subject of the relevant act. 12
13
14
15
- ‘(2) Without limiting section 707, the registered native title body corporate may, at any time after the relevant act is done— 16
17
- (a) recover compensation under an agreement about compensation between the holder of the prospecting permit, exploration permit or mineral development licence and the registered native title body corporate; or 18
19
20
21
- (b) apply to the tribunal for a compensation decision for the relevant act. 22
23
- ‘Compensation after relevant act relating to other mining tenement if registered native title claimant 24
25**
- ‘718.(1) This section applies to a relevant act relating to a prospecting permit, exploration permit or mineral development licence if there is a registered native title claimant in relation to land the subject of the relevant act. 26
27
28
29
- ‘(2) Without limiting section 707, a registered native title claimant may at any time after the relevant act is done— 30
31

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(a) recover compensation for the relevant act under an agreement about compensation between the holder of the prospecting permit, exploration permit or mineral development licence and the registered native title claimant; or	1 2 3 4
(b) apply to the tribunal for a compensation trust decision for the relevant act.	5 6
‘Compensation found to be payable after agreement for compensation concluded	7 8
‘719.(1) This section applies if, in relation to any part of the land the subject of a relevant act—	9 10
(a) there is an agreement under this part for the payment of compensation for the doing of the relevant act; and	11 12
(b) an entity obtains an approved determination of native title to the effect that native title exists; and	13 14
(c) the entity was not a party to the agreement for the payment of compensation; and	15 16
(d) the agreement does not provide that any compensation payable under the agreement must be paid to the entity or successor of the entity, including for example a registered native title body corporate holding the native title rights and interests claimed by the entity.	17 18 19 20 21
‘(2) The relevant registered native title body corporate may apply for a compensation decision.	22 23
‘(3) The State must pay any compensation decided by the tribunal under the compensation decision.	24 25
<i>‘Division 4—Amounts held in trust</i>	26
‘Repayment of amount held in trust for compensation	27
‘720.(1) This section applies if—	28

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(a) an amount is held in trust under a compensation trust decision for a relevant act; and	1 2
(b) either of the following happens—	3
(i) the application for the doing of the relevant act is not granted and is no longer a current application;	4 5
(ii) the relevant act is done, but an approved determination of native title is made that native title does not exist in relation to land the subject of the relevant act.	6 7 8
‘(2) A person who claims to have an entitlement to the amount paid into trust, or the State, may apply to the tribunal for an order about the payment of the amount.	9 10 11
‘(3) The tribunal may—	12
(a) order the payment of some or all of the amount to the person who paid the amount; or	13 14
(b) if the person no longer exists, make an appropriate order about the payment of some or all of the amount.	15 16
‘(4) If subsection (1)(b)(ii) applies, the tribunal, in making its order under subsection (3), must have regard to the extent to which the approved determination relates to the land the subject of the relevant act.	17 18 19
‘Dealing with amount held in trust for compensation—determination of native title	20 21
‘721.(1) This section applies if—	22
(a) an amount is held in trust under a compensation trust decision for a relevant act; and	23 24
(b) the relevant act is done; and	25
(c) an approved determination of native title is made that native title exists in relation to land the subject of the relevant act.	26 27
‘(2) The relevant registered native title body corporate may apply to the tribunal for, and the tribunal must make, a compensation decision.	28 29

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‘(3) As well as making the compensation decision, the tribunal must also, having regard to the extent to which the approved determination relates to the land the subject of the relevant act, decide how much (the “**trust amount**”) of the amount held in trust under the compensation trust decision should be paid to the registered native title body corporate. 1
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‘(4) If the amount payable under the compensation decision is more than the trust amount, the difference must be paid by the State to the registered native title body corporate. 6
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8

**‘Dealing with amount held in trust for compensation—no applicable provision 9
10**

‘722.(1) This section applies if— 11

- (a) an amount is held in trust under a compensation trust decision for a relevant act; and 12
13
- (b) no other provision of this part provides for the disposal of the amount; and 14
15
- (c) the tribunal decides, on an application by a person, that it would be just and equitable in all the circumstances to pay some or all of the amount held in trust to a person. 16
17
18

‘(2) The tribunal must order the payment of some or all of the amount held in trust in the way the tribunal considers appropriate.’. 19
20

‘Replacement of pt 12 hdg 21

‘10. Part 12, heading— 22

omit, insert— 23

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‘PART 19—TRANSITIONAL PROVISIONS	1
<i>‘Division 1—Transitional provisions for Act No. 27 of 1998’.</i>	2
‘Renumbering of ss 419 and 420	3
‘11. Sections 419 and 420—	4
<i>renumber</i> as sections 723 and 724.	5
‘Insertion of new pt 19, div 2	6
‘12. After section 724 as renumbered—	7
<i>insert—</i>	8
<i>‘Division 2—Transitional provisions for Act No. 38 of 1998</i>	9
‘Application of div 2	10
‘725.(1) This division applies to an application if—	11
(a) it is an application for—	12
(i) the granting of a mining tenement; or	13
(ii) an approval relating to a mining lease; and	14
(b) the application was lodged before the commencement of this section; and	15
(c) the application is still current; and	17
(d) immediately before the commencement of this section—	18
(i) if paragraph (a)(i) applies—the granting of the mining tenement would have been an act to which the right to negotiate provisions applied; or	19
	20
	21
(ii) if paragraph (a)(ii) applies—the approval would have been an act to which the right to negotiate provisions applied.	22
	23

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‘(2) However, this division does not apply to an application relating to a mining tenement if a notice under section 29¹⁶⁵ of the Commonwealth Native Title Act in relation to the act the subject of the application, required to be given as part of complying with the right to negotiate provisions, was given before the commencement of this section.

‘Definitions for div 2

‘726. In this division—

“**approval**” has the meaning given in section 696.¹⁶⁶

“**notification commencement day**”, for an application, means the notification commencement day advised for the application under section 727.

‘Giving advice of notification commencement day

‘727.(1) The mining registrar must give a notice to—

- (a) the applicant under each application for the granting of a mining claim or mining lease, advising the applicant of the notification commencement day for the application; and
- (b) the applicant under each application for an approval relating to a mining lease, advising the applicant of the notification commencement day for the application.

‘(2) The chief executive must give a notice to the applicant under each application for the granting of an exploration permit or mineral development licence, advising the applicant of the notification commencement day for the application.

‘Existing prospecting permit applications

‘728.(1) This section applies to an application if—

¹⁶⁵ Section 29 (Notification of parties affected) of the Commonwealth Native Title Act

¹⁶⁶ Section 696 (Meaning of “approval” in div 6)

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- (a) the application is for the granting of a prospecting permit; and 1
- (b) the granting of the prospecting permit is an act to which part 13 2
applies. 3
- ‘(2) Subsection (3) applies to the giving of the application notice under 4
section 431, instead of section 431(2). 5
- ‘(3) The notice must be given no later than— 6
- (a) 2 months after the commencement of this section; or 7
- (b) if, under section 432, the mining registrar has given a direction for 8
the giving of a new written notice—the end of the period 9
nominated in the direction. 10
- ‘Existing mining claim applications 11**
- ‘729.(1) This section applies to an application for the granting of a 12
mining claim. 13
- ‘(2) The mining registrar must ask the applicant to nominate which of the 14
following the applicant now seeks to be granted— 15
- (a) a surface alluvium (gold or tin) mining claim under part 14; 16
- (b) a mining claim other than a surface alluvium (gold or tin) mining 17
lease under part 14. 18
- ‘(3) If the applicant nominates a surface alluvium (gold or tin) mining 19
claim, subsection (4) applies to the giving of the written notice under 20
section 444, instead of 444(2). 21
- ‘(4) The notice must be given no earlier than the notification 22
commencement day for the application, and no later than— 23
- (a) four months after the notification commencement day for the 24
application; or 25
- (b) if, under section 445, the mining registrar has given a direction for 26
the giving of a new written notice—the end of the period 27
nominated in the direction. 28

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‘(5) If the applicant nominates a mining claim other than a surface alluvium (gold or tin) mining claim, and part 17, division 3 is to be applied to the granting of the mining claim, subsection (6) applies to the giving and publication of notice under section 616, instead of section 616(3).

‘(6) The written notice must be given under section 616(1), and the public notice must be published under section 616(2), no earlier than the notification commencement day for the application, and no later than—

- (a) four months after the notification commencement day for the application; or
- (b) if, under section 618, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.

‘(7) If the applicant nominates of a mining claim other than a surface alluvium (gold or tin) mining claim, and part 17, division 4 is to be applied to the granting of the mining claim, subsection (8) applies to the giving and publication of notice under section 652, instead of section 652(3).

‘(8) The written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day for the application, and no later than—

- (a) four months after the notification commencement day for the application; or
- (b) if, under section 654, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.

‘Existing exploration permit applications

‘730.(1) This section applies to an application for the granting of an exploration permit.

‘(2) The chief executive must ask the applicant to nominate which of the following the applicant now seeks to be granted—

- (a) a low impact exploration permit under part 15;
- (b) a high impact exploration permit under part 15, for the granting of which part 15, division 3 applies;

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- (c) a high impact exploration permit under part 15, for the granting of which part 15, division 4 applies. 1
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- ‘(3) If the applicant nominates a low impact exploration permit, subsection (4) applies to the giving of the application notice under section 486, instead of 486(2). 3
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- ‘(4) The notice must be given no earlier than the notification commencement day for the application, and no later than— 6
7
- (a) two months after the notification commencement day for the application; or 8
9
- (b) if, under section 487, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction. 10
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- ‘(5) If the applicant nominates a high impact exploration permit, and part 15, division 3 is to be applied to the granting of the permit, subsection (6) applies to the giving of the application notice under section 497, instead of section 497(2). 13
14
15
16
- ‘(6) The notice must be given no earlier than the notification commencement day for the application, and no later than— 17
18
- (a) four months after the notification commencement day for the application; or 19
20
- (b) if, under section 499, the mining registrar has given a direction for the giving of a new written notice—before the end of the period nominated in the direction. 21
22
23
- ‘(7) If the applicant nominates a high impact exploration permit, and part 17, division 4 is to be applied to the granting of the permit, subsection (8) applies, instead of section 524(2). 24
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- ‘(8) For applying section 652, the written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day, and the following period is substituted for the periods mentioned in section 652(3)(b)(i) and (ii), that is, the period of 4 months after the notification commencement day. 27
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‘Existing mineral development licence applications

‘**731.(1)** This section applies to an application for the granting of a mineral development licence.

‘**(2)** the chief executive must ask the applicant to nominate which of the following the applicant now seeks to be granted—

- (a) a low impact mineral development licence under part 16;
- (b) a high impact mineral development licence under part 16 for the granting of which part 16, division 3 applies;
- (c) a high impact mineral development licence under part 16 for the granting of which part 16, division 4 applies.

‘**(3)** If the applicant nominates a low impact mineral development licence, subsection (4) applies to the giving of the application notice under section 542, instead of 542(2).

‘**(4)** The notice must be given no earlier than the notification commencement day for the application, and no later than—

- (a) two months after the notification commencement day for the application; or
- (b) if, under section 543, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction.

‘**(5)** If the applicant nominates a high impact mineral development licence, and part 16, division 3 is to be applied to the granting of the licence, subsection (6) applies to the giving of the application notice under section 553, instead of section 553(2).

‘**(6)** The notice must be given no earlier than the notification commencement day for the application, and no later than—

- (a) four months after the notification commencement day for the application; or
- (b) if, under section 555, the mining registrar has given a direction for the giving of a new written notice—before the end of the period nominated in the direction.

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‘(7) If the applicant nominates a high impact mineral development licence, and part 17, division 4 is to be applied to the granting of the licence, subsection (8) applies, instead of section 581(3). 1
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3

‘(8) For applying section 652, the written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day, and the following period is substituted for the periods mentioned in section 652(3)(b)(i) and (ii), that is, the period of 4 months after the notification commencement day. 4
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‘Existing mining lease applications 10

‘732.(1) This section applies to an application for the granting of a mining lease. 11
12

‘(2) the mining registrar must ask the applicant to nominate which of the following the applicant now seeks to be granted— 13
14

(a) a surface alluvium (gold or tin) mining lease under part 17; 15

(b) a mining lease other than a surface alluvium (gold or tin) mining lease under part 17. 16
17

‘(3) If the applicant nominates a surface alluvium (gold or tin) mining lease, subsection (4) applies to the giving of the written notice under section 599, instead of 599(2). 18
19
20

‘(4) The notice must be given no earlier than the notification commencement day for the application, and no later than— 21
22

(a) four months after the notification commencement day for the application; or 23
24

(b) if, under section 600, the mining registrar has given a direction for the giving of a new written notice—the end of the period nominated in the direction. 25
26
27

‘(5) If the applicant nominates a mining lease other than a surface alluvium (gold or tin) mining lease, and part 17, division 3 is to be applied to the granting of the mining lease, subsection (6) applies to the giving and publication of notice under section 616, instead of section 616(3). 28
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- ‘(6) The written notice must be given under section 616(1), and the public notice must be published under section 616(2), no earlier than the notification commencement day for the application, and no later than—
- (a) four months after the notification commencement day for the application; or
 - (b) if, under section 618, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.
- ‘(7) If the applicant nominates a mining lease other than a surface alluvium (gold or tin) mining lease, and part 17, division 4 is to be applied to the granting of the mining lease, subsection (8) applies to the giving and publication of notice under section 652, instead of section 652(3).
- ‘(8) The written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day for the application, and no later than—
- (a) four months after the notification commencement day for the application; or
 - (d) if, under section 654, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction.
- ‘Existing applications for certain approvals**
- ‘733.(1) This section applies to an application for an approval relating to a mining lease.
- ‘(2) If part 17, division 3 is to be applied to the approval, subsection (3) applies to the giving and publication of notice under section 616 instead of section 616(3).
- ‘(3) The written notice must be given under section 616(1), and the public notice must be published under section 616(2), no earlier than the notification commencement day for the application, and no later than—
- (a) four months after the notification commencement day for the application; or

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- (b) if, under section 618, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction. 1
2
3
- ‘(4) If part 17, division 4 is to be applied to the approval, subsection (5) applies to the giving and publication of notice under section 652 instead of section 652(3). 4
5
6
- ‘(5) The written notice must be given under section 652(1), and the public notice must be published under section 652(2), no earlier than the notification commencement day for the application, and no later than— 7
8
9
- (a) four months after the notification commencement day for the application; or 10
11
- (b) if, under section 654, the mining registrar has given a direction for the giving of a new written notice and the publication of a new public notice—the end of the period nominated in the direction. 12
13
14
- ‘Separate hearings’** 15
- ‘734.(1) This section applies if, for an application for the granting of a mining claim or mining lease— 16
17
- (a) the provisions of this Act, other than the native title provisions, have been complied with, wholly or partly; and 18
19
- (b) part 14, division 2 or part 17, division 2, 3 or 4 is to be applied to the granting. 20
21
- ‘(2) If a hearing has already been held under part 4 or 7 for the granting of the mining claim or mining lease, the hearing under part 14, division 2, or part 17, division 2, 3 or 4 is not a combined hearing.’ 22
23
24