

## PURPOSE AND SCOPE

The purpose of this document is to describe how to identify and manage the impacts of proposed works within the Ergon Energy distribution network on Native Title.

It is necessary to follow the correct procedural provisions of the Native Title Act 1993 (Cth) to enable Ergon Energy to validly construct, operate, maintain, repair, replace or upgrade Electrical works on land where Native Title may continue to exist.

## RESPONSIBILITIES

Group Manager Works Enablement is the Process Owner responsible for approving this Reference document.

Property Acquisition Manager is responsible for maintaining this Reference document.

Property Services Team Leader is the Subject Matter Expert (SME) for the content this Reference document.

## ABBREVIATIONS AND ACRONYMS

**DNR&W:** Department of Natural Resources & Water

**PSTL:** Property Services Team Leader

**Cth:** Commonwealth

## REFERENCES

[PW000801F106](#) Native Title Notification Request Form

Native Title (Commonwealth) Act 1993

In addition to compliance with all relevant Acts, Regulations, and By-Laws, the requirements of any Government Department, owner or lessee of property through which the line route passes or adjoins must also be considered.

## 1. INTRODUCTION

The Native Title Act 1993 is the primary legislation that governs Ergon Energy's responsibilities in relation to all works on lands and waters where Native Title may continue to exist. It is important to understand parts of the Native Title Act that reflect on our works to avoid creating an invalid future act such as constructing a distribution line over lands or waters subject to Native Title without undertaking the appropriate notification process.

The impact that Ergon Energy's activities have on Native Title varies depending on the type of infrastructure that is proposed as part of a project.

Where works are proposed to maintain, repair, replace or upgrade an existing asset within their existing developed footprint, on land where Native Title may continue to exist, then 'NO' Native Title Notification is necessary. However if additional disturbance is required on land not part of the existing developed infrastructure footprint, Native Title may be effected, in this circumstance, an assessment of the tenure should be undertaken.

All new works require a tenure assessment to be undertaken.

Native Title Rights and Interests may be suppressed until the infrastructure is no longer required (for example poles and wires) or extinguished where freehold tenure is required for a substation or permanent building.

Native Title Holders and Claimants have a statutory right to notification and consultation in terms of what impact a proposed project may have over their Native Title rights and interests. As is the case for ordinary title holders, Native Title Holders hold the right to claim compensation for the extent to which their Native Title rights and interests are impacted or extinguished by our works.

## 2. IDENTIFY TENURE IMPACTED BY PROPOSED WORKS

A native title assessment is required to ascertain if native title may continue to exist over the Land and Waters that are impacted by Ergon Energy new capital works or existing works where additional disturbance is required on land not part of the existing developed infrastructure footprint. The tenures of all the parcels of land impacted by the proposed works must be identified to determine if Native Title may be impacted by the work.

The information provided in Smallworld is not always sufficient to make a proper assessment. In these instances further searching of title information is required.

The following list contains several avenues where accurate tenure information can be obtained:

- Rates notices
- Department of Natural Resources & Water
- Local Authorities
- Property Owners (Title Deeds)
- CITEC Database

## 3. DETERMINE IF NATIVE TITLE IS EXTINGUISHED

Once the tenure information is obtained it is then assessed against the Tenure Schedule below to determine whether or not a Native Title Notification is necessary.

### TENURES EXTINGUISHING NATIVE TITLE

*Exclusive possession tenure extinguishing Native Title*

- Freehold
- Grazing Homestead Freeholding Leases
- Perpetual Lease Selections
- Agricultural Farm Lease
- Purchase Leases
- Special Lease Purchase Freehold
- Auction Purchase Freehold
- Auction Perpetual Lease
- Special Lease for residential, industrial purposes etc.
- Term Lease for residential, industrial purposes etc.
- Perpetual Town & Suburban Leases
- Grazing Homestead Perpetual Lease
- Mining Homestead Perpetual Leases (not Mining Leases)
- Mining Homestead Lease (not Mining Lease)
- Perpetual Country Leases
- Other Railway Corridors
- Road Reserves (less than 60 metres wide)

### TENURES NOT EXTINGUISHING NATIVE TITLE (CO-EXISTENCE)

- Preferential Pastoral Holding
- Pastoral Holding
- Pastoral Development Holdings
- Stud Holdings
- Development Lease
- Special Leases
- Term Leases (Grazing or Pastoral Purposes)
- Occupational Licences
- Permits to Occupy
- Road Reserves/Stock Routes in excess of 60 metres wide
- Boundary Water Courses (Creeks or River that do not form part of a property)
- Stock Grazing Permits
- Unallocated State Land
- Mining Lease
- Reserves
- National Parks
- State Forests

If the results of the tenure search determine that Native Title may be impacted by the proposed works, Section 1 of a "NATIVE TITLE NOTIFICATION REQUEST FORM" must be completed and forwarded to the Property Services Team Leader to initiate the notification process.

## 4. STEPS TO ENABLE WORKS WHICH MAY IMPACT ON NATIVE TITLE TO PROCEED

Once the tenure information is obtained it must then be assessed against the Tenure Schedule to determine whether or not a Native Title Notification is necessary.

A "NATIVE TITLE NOTIFICATION REQUEST FORM" must be completed and forwarded to the Property Services Team Leader to initiate the notification process.



## Identify Native Title Impacts on Works Reference

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Property Services Team Leader (PSTL) will carry out the notification process to enable the works which may impact on Native Title to proceed. This process will generally take 6 to 8 weeks however this may be longer in some cases to coordinate Cultural Heritage requirements.

The Property Services Team Leader will advise the Designer when the Native Title notification processes have been completed and the works can proceed. It is important to note that any changes made to the original scope of works be reported to the PSTL to reassess the impacts on Native Title.