# Native Title Act 1993

If you are undertaking a project, you must consider the rights and interests held by First Nations people over their traditional lands and waters according to their traditional laws and customs recognised and protected under this Act.

## 1. What approvals do I need?

Native title is the recognition under Australian common law that some First Nations people continue to hold rights to their land and waters, derived from their traditional laws and customs.

In accordance with the [*Native Title Act 1993*](https://www.legislation.gov.au/C2004A04665/latest/text) (the NTA), if you wish to undertake a project in an area where a registered native title determination application exists, native title has been determined to exist, or native title has not been extinguished, your project may attract obligations and responsibilities under the ‘future acts’ regime of the NTA.

To determine whether an area is subject to a registered native title claim or a native title determination, use the National Native Title Tribunal’s (the NNTT) [Native Title Vision tool](http://www.nntt.gov.au/assistance/Geospatial/Pages/NTV.aspx).

## 2. Who provides approval?

The Attorney-General’s Department and the National Indigenous Australians Agency administer the NTA.

## 3. What are the relevant processes?

Native title parties (NTP) may be registered native title claimants (prior to determination of a claim over the relevant area), who are usually assisted by a Native Title Representative Body (NTRB) or a service provider carrying out NTRB functions. They may also be native title holders (after a determination that native title exists in the area and is held by that group) represented by one or more registered native title bodies corporate (RNTBCs).

Native title parties have procedural rights in relation to project proposals which may affect their native title (‘future acts’), including the:

* right to be notified and consulted
* rights of an ordinary title holder
* right to have an objection heard
* right to negotiate.

These procedural rights may differ according to the class of future act proposed.

If the ‘right to negotiate' applies, you must negotiate ‘in good faith’ with the NTPs and the government with a view to obtaining an agreement about the proposed future act. If agreement cannot be reached and 6 months have passed since the notification date, any party can ask the NNTT to determine whether the future act can be done, and, if so, on what conditions.

The NTA establishes the NNTT as an independent body responsible for helping parties to reach agreement on proposed future acts, registering agreements, and, where parties cannot agree, determining whether a future act may be done.

You may enter into a voluntary ‘Indigenous Land Use Agreement’ (ILUA), which is a formal agreement between the NTP and other parties, such as project proponents, about the use and management of land and/or waters. An ILUA may outline specific conditions and obligations for parties pursuant to the agreement, and may settle the liability to pay compensation for effects of a project on native title rights and interests. ILUAs must be registered with the NNTT to take effect.

There are 3 different types of ILUA:

* area agreements (where there is no RNTBC for the entire agreement area)
* body corporate agreements (where there is one or more RNTBC for the entire agreement area, except for any part of the area where native title has been determined not to exist)
* alternative procedure agreements (where there is at least one NTRB for the area or at least one RNTBC in the area, but not where there are RNTBCs in relation to all of the area).

The type of ILUA will determine the persons or bodies that must be a party to an ILUA. Further information about the types of ILUAs and who must be a party to an ILUA is available on the [ILUA webpage](https://www.nntt.gov.au/ILUAs/Pages/default.aspx) of the NNTT's website.

## 4. More information

### National Native Title Tribunal

Further information about native title is available on the NNTT [website](http://www.nntt.gov.au/Pages/Home-Page.aspx).

The NNTT can be contacted by email at enquiries@nntt.gov.au.

### Major Projects Facilitation Agency

If you would like assistance to identify potential Australian Government regulatory approvals required for your project, please refer to the [Major projects help tool](https://business.gov.au/expertise-and-advice/major-projects-facilitation-agency/help-tool) self-assessment.

The MPFA team can be contacted by email at MPFA@industry.gov.au.