

<p>To be inserted by Court</p> <p>Case Number:</p> <p>Date Filed:</p> <p>FDN:</p>
<p>Hearing Date and Time:</p> <p>Hearing Location:</p>

ORIGINATING APPLICATION – NATIVE TITLE DECLARATION CLAIMANT APPLICATION

[SUPREME/ENVIRONMENT, RESOURCES AND DEVELOPMENT] COURT OF SOUTH AUSTRALIA
 CIVIL JURISDICTION
 [NAME OF LIST] LIST If applicable

Please specify the Full Name including capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable) for each party. Each party should include a party number if more than one party of the same type.

First Applicant

First Respondent

First Interested Party

Applicant	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Name of law firm / solicitor <small>If any</small>	Law Firm	Solicitor	
Address for service	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		

Duplicate panel if multiple Applicants

Respondent	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		
Service	<input type="checkbox"/> Sheriff service requested for this Respondent If requested mark with an 'x'		

Duplicate panel if multiple Respondents

Interested Party	Full Name (including Also Known as, capacity (eg Administrator, Liquidator, Trustee) and Litigation Guardian Name (if applicable))		
Address	Street Address (including unit or level number and name of property if required)		
	City/town/suburb	State	Postcode
	Country		
	Email address		
Phone Details	Type - Number		
Service	<input type="checkbox"/> Sheriff service requested for this Interested Party If requested mark with an 'x'		

Duplicate panel if multiple Interested Parties

Application Details

Matter Type:

This Application is for a native title declaration.

This Application is made under section 18 of the Native Title (South Australia) Act 1994.

The Applicant is entitled to make this application as a member of an Aboriginal group claiming native title in the land who is authorised by the Aboriginal group to make the application and to deal with matters arising in relation to the application on behalf of the group.

The factual basis on which this is asserted is as follows:

Set out the relevant facts below

The Applicant seeks the following orders:

See Schedule J.

This Application is made on the grounds set out in the accompanying statutory declaration made by [Full Name] on the day of 20 .

Mark with an 'x' if applicable

The Aboriginal Group for which the native title declaration is sought does not seek registration of the claim made in the application.

The Schedules to this application contain the following information:

Schedule A – A description of the persons comprising the Aboriginal group claiming native title.

The description must set out the names of the persons comprising the group or otherwise define the group sufficiently clearly so that it can be ascertained whether any particular person is a member of the group.

Schedule B – A definition of the land to which the application relates.

The land must be defined with sufficient particularity to enable the boundaries of the area covered by the application and any areas within those boundaries that are not covered by the application to be readily identified.

Schedule C – A map showing the boundaries of the area covered by the application.

Schedule D – Details and results of all searches carried out to determine the existence of any non-native title rights and interests in relation to the land.

Schedule E – A statement of the nature of the rights conferred by the native title claimed and the nature of activities that may be carried out pursuant to those rights.

Schedule F – A statement of the factual basis on which native title is asserted and, in particular, the factual basis on which it is asserted that –

- the Aboriginal group has, and its predecessors had, an association with the area; and
- there exist traditional laws acknowledged by, and traditional customs observed by, the Aboriginal group that give rise to the native title; and
- the Aboriginal group has continued to hold the native title in accordance with those traditional laws and customs.

Schedule G – Details of any activities currently carried on in relation to the land by the Aboriginal group.

Schedule H – Details of any other application, of which the applicant is aware, for a judicial determination of native title in the land or a determination of compensation in relation to native title in the land.

Schedule I – Details of notices, of which the applicant is aware, about matters that may be the subject of negotiation with the applicant if the claim is registered.

Examples –

- A notice under section 29 of the Commonwealth Act.
- A notice of the initiation of negotiations under Part 9B of the *Mining Act 1971* or Part 7 of the *Opal Mining Act 1995*.
- A notice of the intention to acquire land under the *Land Acquisition Act 1969* in a case to which Part 4 Division 1 of that Act applies.

Schedule J – A draft of the order sought if the application is unopposed.

Schedule K – The name of each representative Aboriginal body for the area covered by the application.

Schedule L – For the area covered by the application – details of –

- any area for which a pastoral lease is held by or on behalf of the members of the Aboriginal group;
- any area leased, held or reserved for the benefit of Aboriginal peoples that is occupied by or on behalf of the members of the Aboriginal group;
- any vacant Crown land occupied by the members of the Aboriginal group;
- any area mentioned in this Schedule over which the extinguishment of native title is required to be disregarded by section 47, 47A or 47B of the *Native Title Act 1993* (Cth).

The following Schedules are not required, but will be relevant when the Registrar considers the claim for registration:

Schedule M – Details of any traditional physical connection with any of the land covered by the application by any member of the Aboriginal group.

Schedule N – Details of circumstances in which access to the area by a member or a parent of a member of the Aboriginal group has been prevented.

Schedule O – Details of the membership of the applicant or any other member of the Aboriginal group in another Aboriginal group –

- registered as claimants to native title in the whole or part of the area covered by this application; or
- on whose behalf an application for a native title declaration has been made in relation to native title in the whole or part of the area covered by this application.

Schedule P – Details of any claim by the Aboriginal group of exclusive possession of all or part of an offshore place (within the meaning of the Native Title Act 1993 (Cth)).

Schedule Q – Details of any claim by the Aboriginal group of ownership of minerals, petroleum or gas wholly owned by the Crown.

Schedule R – If the application is accompanied by a certificate of the representative Aboriginal body for the area covered by the application (or, if the body is not the representative body for the whole of the area, certificates of representative Aboriginal bodies that together are representative bodies for the whole of the area) certifying that the applicant is a member of the Aboriginal group and is authorised by the group to make the application and to deal with matters arising in relation to the application on behalf of the group, the certificate or certificates should be included in this Schedule.

Schedule S – If the application is an amended application, details of the difference between this application and the original application.

Schedule T – Any other relevant information that the applicant wants to provide.

Section 18A(2)(k) of the Act requires the application to be accompanied by a statutory declaration verifying –

- (i) the information contained in the application; and
- (ii) that the applicant is authorised by the Aboriginal group to make the application and to deal with matters arising in relation to the application on behalf of the group; and
- (iii) that the applicant believes that the native title claimed has not been extinguished and that none of the area covered by the application is the subject of a native title declaration.

To the other parties: WARNING

This Application will be considered at the hearing at the date and time set out at the top of this document.

If you wish to oppose the Application or make submissions about it:

- you **must attend the hearing** and
- you **must file and serve on all parties a Response within 14 days after service** of the Application and
- if you wish to rely on any facts in addition to or contrary to those relied on by the party seeking the orders you **must file and serve on all parties an Affidavit within 14 days after service** of the Application.

If you do not do so, the Court may proceed in your absence and orders may be made **finally determining** this proceeding (including as to costs) without further warning.

For instructions on how to file a response to an application and how to obtain access to the file, visit <https://courtsa.courts.sa.gov.au/?g=node/482>.

Service

The party filing this document is required to serve it on all other parties in accordance with the Rules of Court.

Accompanying Documents

Mark appropriate sections below with an 'x'

Accompanying this Application is a:

- Multilingual Notice (mandatory) (not filed)
 - Statutory declaration (mandatory)
 - Notice to Respondent Served Interstate (mandatory if address of the respondent or interested party to be served is interstate) (not filed)
 - Notice to Respondent Served in New Zealand (mandatory if address of the party to be served is in New Zealand) (not filed)
 - Notice to Respondent Served outside Australia (mandatory if address of the party to be served is outside Australia but not in New Zealand) (not filed)
 - Schedule A (mandatory)
 - Schedule B (mandatory)
 - Schedule C (mandatory)
 - Schedule D (mandatory)
 - Schedule E (mandatory)
 - Schedule F (mandatory)
 - Schedule G (mandatory)
 - Schedule H (mandatory)
 - Schedule I (mandatory)
 - Schedule J (mandatory)
 - Schedule K (mandatory)
 - Schedule L (mandatory)
 - Schedule M
 - Schedule N
 - Schedule O
 - Schedule P
 - Schedule Q
 - Schedule R
 - Schedule S
 - Schedule T
- If other additional document(s) please list them below:

Certification by Applicant/Applicant's solicitor [names]

.....
Signature of

.....
Name printed

.....
Date