

National Native Title Tribunal

Indigenous land use agreements (ILUAs) application information

Alternative procedure agreements

May 2000

A practical guide to getting your alternative procedure agreement registered and downloadable application form.

- Notes to assist applicants;
- Application form; and
- Information to accompany application.

ALTERNATIVE PROCEDURE AGREEMENT – NOTES TO ASSIST APPLICANTS

<p>Completion of an application for registration of an alternative procedure agreement</p>	<p>Section 24DH of the <i>Native Title Act 1993</i> (Cth) (the Act) sets out the requirements for an application for registration of an alternative procedure agreement.</p> <p>Regulation 8 of the Native Title (Indigenous Land Use Agreements) Regulations 1999 (the Regulations) sets out the information and the documents which must accompany an application for registration.</p> <p>The National Native Title Tribunal (the Tribunal) has developed these forms to assist applicants in applying for registration of their alternative procedure agreement.</p> <ul style="list-style-type: none"> • The first part is the application form. • This is followed by a form in which to provide the information that is required to accompany the application. <p>Finally, there is a list of documents which must be attached to the application.</p>
<p>How your application should be set out</p>	<p>Please provide the information and answer the questions on the forms provided.</p> <p>If you need to use attachments, give each page of the attachment a heading which includes the paragraph letter relevant to the attachment, what the attachment is about, a page number and the total number of pages in the attachment (eg. ‘Attachment E’, Consent to future acts, page 3 of 5’).</p>
<p>Short name of agreement</p>	<p>Please give the agreement a short name (no more than 15 words) to aid future reference.</p> <p>Such a name might include the name of a party (or parties) to the agreement and a geographical name identifying the area covered.</p>
<p>Application for registration</p>	<p>Any party to the agreement can apply but all parties must have agreed to the application being made. S.24DH & r.8(2)(b)</p> <p>Print the full name, contact address and telephone and facsimile numbers of the applicant.</p> <p>The application must be signed by the applicant or by the applicant’s solicitor.</p>
<p>Filing and service</p>	<p>If the applicant is represented, please provide details of the representative filing the application.</p> <p>If the applicant is unrepresented, please provide details of the party making the application.</p>

<p>Applicant and parties</p>	<p>Part A</p> <p><i>Names of all parties to the agreement r.8(3)(a)</i></p> <p>Print the full name, contact address and telephone and facsimile numbers for each of the parties to the agreement (including the applicant).</p> <p>Note: this information will appear in the public notice of the intention to register this agreement.</p>
	<p><i>Native title group and relevant governments s.24DE</i></p> <p>There must be at least one registered native title body corporate or representative body for the area. s.24DD(2)</p> <p>However, an alternative procedure agreement must not be made if there is a registered native title body (or bodies) corporate in relation to all of the land and waters in the area covered by the agreement (s.24DD(1)). If there is, a body corporate agreement may be made under Subdivision B of the Act.</p> <p>Mandatory parties</p> <p>All persons (people and organisations) in the native title group in relation to the area and all relevant governments must be parties to the agreement. s.24DE(1).</p> <p>The native title group (s.24DE(2)) consists of:</p> <ul style="list-style-type: none"> • all registered native title bodies corporate in relation to land or waters in the area; and • all representative Aboriginal/Torres Strait Islander bodies (representative bodies) for the area. <p>Each of the following is a relevant government (s.24DE(3)):</p> <ul style="list-style-type: none"> • the Commonwealth, if any of the area covered by the agreement is a place outside the jurisdictional limits of the states and territories; • a State or Territory government, if any of the area covered by the agreement is within the jurisdictional limits of the State or Territory. <p>Optional Parties</p> <ul style="list-style-type: none"> • Any registered native title claimant in relation to land or waters in the area; • any other person who claims to hold native title in relation to land or waters; • in the area; and/or; • any other person. <p>may be parties to the agreement. s.24DE(4)</p> <p>Please answer the questions under subparts (I), (ii) and (iii) by marking ‘yes’ or ‘no’ on the appropriate box on the form.</p>

<p>Representative Aboriginal/Torres Strait Islander body parties</p>	<p>Part B</p> <p><i>Representative body parties r.8(3)(b)</i></p> <p>Identify each party that is a representative body.</p>
<p>Government parties</p>	<p>Part C</p> <p><i>Government parties s.24DE(3) r.8(3)©</i></p> <p>State whether the Commonwealth, State or Territory governments or Commonwealth, State or Territory authorities are parties to the agreement by marking ‘yes’ or ‘no’ on the appropriate boxes on the form.</p>
<p>Timeframe</p>	<p>Part D</p> <p><i>Period of operation of the agreement r.8(3)(d)</i></p> <p>If applicable, specify the period during which the agreement will operate.</p> <p>It is not necessary to specify a beginning and end date unless this is provided for in the agreement.</p>
<p>Consent to future acts</p>	<p>Part E</p> <p><i>Consent to future acts s.24EB(1)(b) & r.8(4)(a)</i></p> <p>Does the agreement contain a statement to the effect that the parties consent to the doing of a future act or class of future acts?</p> <p>Mark ‘yes’ or ‘no’ on the appropriate box on the form.</p> <p>If ‘yes’, give the location in the agreement of each statement relating to consent by the parties to the doing of a future act or class of acts.</p> <p>[Each statement will be published in the notice of intention to register the agreement and so, should meaningfully stand alone without reference to other clauses.]</p>
<p>Acts excluded from right to negotiate</p>	<p>Part F</p> <p><i>Acts excluded from right to negotiate s.24EB(1)© & r.8(4)(b)</i></p> <p>Does the agreement contain a statement to the effect that the right to negotiate provisions of the Native Title Act do not apply?</p> <p>Mark ‘yes’ or ‘no’ on the appropriate box on the form.</p> <p>If ‘yes’, give the location in the agreement of each statement that provides for this.</p> <p>[Each statement will be published in the notice of intention to register the agreement and so, should meaningfully stand alone without reference to other clauses.]</p>

<p>Validation of future acts</p>	<p>Part G</p> <p><i>Note: this part applies only to future acts that are not intermediate period acts.</i></p> <p><i>Does the agreement provide for the validating of a future act or class of acts that have already been done? S.24EBA(1)(a)(I) & r.8(4)(c)</i></p> <p>Mark ‘yes’ or ‘no’ on the appropriate box on the form.</p> <p>If ‘yes’, give the location in the agreement of each statement that provides for this.</p> <p><i>Does the agreement provide for the validating, subject to conditions, of a future act or class of acts that have already been done? S.24EBA(1)(a)(ii) & r.8(4)(d)</i></p> <p>Mark ‘yes’ or ‘no’ on the appropriate box on the form.</p> <p>If ‘yes’, give the location in the agreement of each statement that provides for this.</p> <p>[Each statement will be published in the notice of intention to register the agreement and so, should meaningfully stand alone without reference to other clauses.]</p>
<p>Intermediate period acts affected</p>	<p>Part H</p> <p><i>Does the agreement provide for changing the effects on native title of an intermediate period act or class or acts? S.24EB(1)(a)(iii) & r.8(4)(e)</i></p> <p>Mark ‘yes’ or ‘no’ on the appropriate box on the form.</p> <p>If ‘yes’, give the location in the agreement of each statement that provides for this.</p> <p>[Each statement will be published in the notice of intention to register the agreement and so, should meaningfully stand alone without reference to other clauses.]</p>
<p>Attachments</p>	<p>Ensure that <u>a copy of the agreement</u> and all other relevant documents are attached.</p>
<p>Lodgement</p>	<p>The form and attachments should be lodged at the</p> <p style="text-align: center;">National Native Title Tribunal GPO Box 9973 in your capital city</p> <p>The Tribunal has offices in Adelaide, Brisbane, Cairns, Darwin, Kalgoorlie, Melbourne, Perth and Sydney.</p>

The Commonwealth, the National Native Title Tribunal, its staff and officers accept no liability for reliance placed upon this document.

Applicants are responsible for ensuring that their applications fulfil the statutory criteria by carefully examining their agreements in the context of the Act and regulations.

Applicants should obtain independent legal advice.

**Application for registration of an
indigenous land use agreement (ILUA)**

Alternative procedure agreement

Application form and information to accompany application

This form may be used to apply for the registration of an alternative procedure agreement.

Application for registration of an alternative procedure agreement pursuant to ss.24DA to 24DL of the *Native Title Act 1993* (Cth) (the Act), r.8 of the Native Title (Indigenous Land Use Agreements) Regulations 1999 (the Regulations) and r.9(2) of the Native Title (Prescribed Bodies Corporate) Regulations 1999 (the PBC Regulations).

SHORT NAME OF AGREEMENT

APPLICATION FOR REGISTRATION

The name of the party applying for registration is:

Name:

Contact address:

Suburb/Town:

State:

Postcode:

Telephone:

()

Fax:

()

E-mail:

Signature of party applying for registration or party's solicitor

Date

FILING AND SERVICE

IF THE APPLICANT IS REPRESENTED

APPLICANT'S
REPRESENTATIVE

This application is filed by:

ADDRESS FOR
SERVICE

Suburb/Town

State/Territory

Postcode

Telephone
(during the day)

Fax
(if any)

This application is
filed on behalf of:

Applicant's address

Suburb/Town

State/Territory

Postcode

IF THE APPLICANT IS UNREPRESENTED

NAME

ADDRESS FOR
SERVICE

Suburb/Town

State/Territory

Postcode

E-mail address

Telephone
(during the day)

Fax
(if any)

PART A

NAMES OF PARTIES TO THE AGREEMENT

Note: This information will be included in public notification of the agreement.

Name:

Contact Address:

Suburb/Town: State: Postcode:

Telephone: Fax:

Name:

Contact Address:

Suburb/Town: State: Postcode:

Telephone: Fax:

Name:

Contact Address:

Suburb/Town: State: Postcode:

Telephone: Fax:

Name:

Contact Address:

Suburb/Town: State: Postcode:

Telephone: Fax:

Name:

Contact Address:

Suburb/Town: State: Postcode:

Telephone: Fax:

Name:

Contact Address:

Suburb/Town: State: Postcode:

Telephone: Fax:

PART A
(continued)

NATIVE TITLE GROUP AND RELEVANT GOVERNMENTS

Please answer subparts (i), (ii) and (iii)

(i) Native title group

- (a) If there are any registered native title bodies corporate in relation to land or waters in the area, are **all** such registered native title bodies corporate parties to the agreement?

Yes No

- (b) If there are any representative bodies for the area, are **all** such bodies parties to the agreement?

Yes No

(ii) Relevant government

- (a) If any of the area covered by the agreement is a place **outside** the jurisdictional limits of the States and Territories, is the Commonwealth a party to the agreement?

Yes No

- (b) If any of the area covered by the agreement is **within** the jurisdictional limits of a State or Territory, is such a State or Territory a party to the agreement?

Yes No

(iii) Other parties

State whether any of the following are parties to the agreement:

- (a) any registered native title claimant in relation to land or waters in the area?

Yes No

- (b) any other person who claims to hold native title in relation to land or waters in the area?

Yes No

- (c) any other person?

Yes No

PART B

REPRESENTATIVE ABORIGINAL/TORRES STRAIT ISLANDER BODIES FOR THE AREA

State which of the parties, if any, are representative bodies.

PART C

GOVERNMENT PARTIES

Are any of the following parties to the agreement?

Commonwealth Government Yes No

State Government Yes No

Territory Government Yes No

Which **government(s)** is/are party to the agreement?

Are any of the following parties to the agreement?

Commonwealth Government authority Yes No

State Government authority Yes No

Territory Government authority Yes No

Local Government authority Yes No

Which **authority(s)** is/are party to the agreement?

PART D

TIMEFRAME

Does the agreement specify a period during which it will operate?

Yes No

If yes, please specify that period:

PART E

CONSENT TO FUTURE ACTS

Does the agreement cover consent to the doing of a particular future act or class of acts?

Yes No

If yes, give the location in the agreement of each statement that provides for this.

PART F

ACTS EXCLUDED FROM RIGHT TO NEGOTIATE

Is it intended that the right to negotiate provisions of the Native Title Act not apply to any of the future acts included in the agreement?

Yes No

If yes, give the location in the agreement of each statement that provides for this.

PART G

VALIDATION OF FUTURE ACTS

Does the agreement provide for the validating of a future act or class of acts that have already been done?

Yes No

If yes, give the location in the agreement of each statement that provides for this.

Does the agreement provide for the validating, **subject to conditions**, of a particular future act or class of acts that have already been done?

Yes No

If yes, give the location in the agreement of each statement that provides for this.

PART H

INTERMEDIATE PERIOD ACTS AFFECTED

Does the agreement provide for changing the effects on native title of an intermediate period act or class of acts?

Yes No

If yes, give the location in the agreement of each statement that provides for this.

Privacy Notice

We will use the information you provide to process your application for registration of an alternative procedure agreement. Section 24 DH of the Native Title Act authorises the National Native Title Tribunal to collect information for applications for registration of an alternative procedure agreement. We will disclose some of the information you give us in a public notice and to other parties specified by the Native Title Act. The details of a successful application will be entered on the Register of Indigenous Land Use Agreements and will be available for public inspection. If there is a challenge to a decision by the Registrar or a request under another law of the Commonwealth, we may need to disclose your information to a court or to another Commonwealth agency or other persons as required or authorised by law.

The application must be accompanied by the following documents

Documents to be attached pursuant to the Act, r.7(2) of the Regulations and r.9(2) of the PBC Regulations.

s.24DH(2)

- a copy of the agreement;

r.8(2)(a)

- a copy of **each** determination of native title, for the area covered by the agreement, for each party to the agreement that is a registered native title body corporate;

r.8(2)(b)

- a statement by **each** party to the agreement, signed by or for the party, that the party agrees to the application being made;

r.8(2)(c)

- a copy of an extract from the Register of Native Title Claims giving details of each party to the agreement that is a registered native title claimant;

**r.8(2)(d)
& r.5**

- **a complete description of the area, ie:**
a written description of the area that enables identification of the internal and external boundaries of the area;
and
a map of the area showing geographic coordinates;

**r.8(2)(e)
r.9(2) of the PBC
Regulations**

- if:
 - (i) a registered native title body corporate is a party to the agreement;
and
 - (ii) the agreement gives effect to a native title decision (ie. a decision to surrender native title rights and interests in relation to the land or waters; or to do or agree to do any other act that would affect the native title rights or interests of common law native title holders);
and
 - (iii) for any part of the affected area, there is a representative body that is not a party to the agreement, or no representative body for the area;

a document as mentioned in r.9(2) of the PBC Regulations that relates to the decision. This document must certify that the common law native title holders have been consulted about, and have consented to, the proposed native title decision.