

National Native Title Tribunal

Indigenous land use agreements (ILUAs) application information

Body corporate agreements

May 2000

A practical guide to getting your body corporate agreement registered and downloadable application form.

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

BODY CORPORATE AGREEMENT – NOTES TO ASSIST APPLICANTS

<p>Completion of an application for registration of a body corporate agreement</p>	<p>Section 24BG of the <i>Native Title Act 1993</i> (Cth) (the Act) sets out the requirements for an application for registration of a body corporate agreement.</p> <p>Regulation 6 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 body corporate.</p> <ul style="list-style-type: none"> • The first part is the application form. <ol style="list-style-type: none"> 1. This is followed by a form in which to provide the information that is required to accompany the application. 2. Finally, there is a list of documents which must be attached to the application.
<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 6 of 20’).</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.24BG & r.6(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.6(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 application to register this agreement.</p>
<p>Registered bodies corporate</p>	<p>Part A (continued)</p> <p><i>Registered bodies corporate s.24BC</i></p> <p>The agreement must not be made unless there is a registered native title body corporate (or bodies corporate) in relation to all of the area.</p>
<p>Representative Aboriginal/Torres Strait Islander body parties</p>	<p>Part B</p> <p><i>Representative body parties r.6(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.24BD(2) & r.6(3)(c)</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>If the agreement makes provision for the extinguishment of native title rights and interests by surrendering them to the Commonwealth, State or Territory then the relevant government(s) must be a party to the agreement.</p> <p>If the agreement does not make provision for the extinguishment of native title rights and interests, then the Commonwealth, State or Territory governments may be a party to the agreement.</p> <p>The effect of s.24EBA(1)-(3) is that the State or Territory may need to be a party if the agreement provides for the validating of future acts that have already been done (see Part H, <i>Validation of future acts</i>). It is not, however, a requirement for registration.</p>
<p>Timeframe</p>	<p>Part D</p> <p><i>Period of operation of the agreement r.6(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.6(5)(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 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)(c) & r.6(5)(b)</i></p> <p>Does the agreement contain a statement to the effect that the parties intend 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>Areas over which native title is surrendered</p>	<p>Part G</p> <p><i>Surrender of native title s.24EB(1)(d) & r.6(5)(c)</i></p> <p>Does the agreement contain a statement to the effect that the surrender of native title is intended to extinguish native title rights and interests?</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>Surrender of native title s.24EBA(4)(b) & r.6(5)(g)</i></p> <p>Does the agreement contain a statement to the effect that the surrender of native title is intended to have extinguished native title rights and interests?</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 H</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 particular future act or class of acts that have already been done? s.24EBA(1)(a)(i) & r.6(5)(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><i>Does the agreement provide for the validating, subject to conditions, of a particular future act or class of future acts that have already been done? s.24EBA(1)(a)(ii) & r.6(5)(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>Intermediate period acts affected</p>	<p>Part I</p> <p><i>Does the agreement provide for changing the effects on native title of an intermediate period act or class or acts? s.24EBA(1)(a)(iii) & r.6(5)(f)</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>Representative Aboriginal / Torres Strait Islander bodies</p>	<p>Part J</p> <p><i>Is there a representative body (or bodies) for any of the area covered by the agreement, but none is a party? Was one such body informed of the intention to enter into the agreement? s.24BD(4) & r.6(4)</i></p> <p>Mark ‘yes’ or ‘no’ on the appropriate box on the form.</p> <p>If there is such a representative body (or bodies) and none is a party to the agreement, attach a statement from a party who is a registered native title body corporate as to whether any party who is a registered native title body corporate has informed one such representative body of its intention to enter into the agreement.</p>

Attachments	Ensure that <u>a copy of the agreement</u> and all other relevant documents are attached.
Lodgement	The form and attachments should be lodged at the National Native Title Tribunal GPO Box 9973 in your capital city The Tribunal has offices in Adelaide, Brisbane, Cairns, Darwin, Kalgoorlie, Melbourne, Perth and Sydney.

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)**

Body corporate agreement

Application form and information to accompany application

This form may be used to apply for the registration of a body corporate agreement.

Application for registration of a body corporate agreement pursuant to ss.24BA to 24BI of the *Native Title Act 1993* (Cth) (the Act), r.6 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:

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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

This application is filed by:

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)

REGISTERED NATIVE TITLE BODY CORPORATE

State the registered native title body (or bodies) corporate for the area.

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 <input type="checkbox"/>	No <input type="checkbox"/>
State Government	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Territory Government	Yes <input type="checkbox"/>	No <input type="checkbox"/>

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

Are any of the following parties to the agreement?

Commonwealth Government authority	Yes <input type="checkbox"/>	No <input type="checkbox"/>
State Government authority	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Territory Government authority	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Local Government authority	Yes <input type="checkbox"/>	No <input type="checkbox"/>

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

AREAS OVER WHICH NATIVE TITLE IS SURRENDERED

Does the agreement provide that surrender of native title to government is intended **to extinguish** native title rights and interests?

Yes No

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

Does the agreement provide that surrender of native title to government is intended **to have extinguished** native title rights and interests?

Yes No

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

PART H

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 I

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.

PART J

REPRESENTATIVE ABORIGINAL/TORRES STRAIT ISLANDER BODIES

Are there any representative bodies for **any** of the area covered by the agreement?

Yes No

If yes, is any representative body for any of the area a **party** to the agreement?

Yes No

If there is a representative body (or bodies) and none is party to the agreement, attach a statement (labelled 'Attachment J') from a party that is a registered native title body corporate setting out the following information:

- Which representative body (or bodies) was/were informed?
- When were they informed?
- Which native title body corporate informed the representative body (or bodies)?

If the notice was in writing, please include a copy of the notice.

Privacy Notice

We will use the information you provide to process your application for registration of a body corporate agreement. Section 24BG of the Native Title Act authorises the National Native Title Tribunal to collect information for applications for registration of a body corporate 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.6(2) of the Regulations and r.9(2) of the PBC Regulations.

s.24BG(2)

- a copy of the agreement;

r.6(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.6(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.6(2)(c)
& 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.6(2)(d)
& r.5

- a complete description (ie. a written description and a map showing geographic coordinates) of any areas where the **surrender of native title** is intended to extinguish native title rights and interests;

r.6(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.