

Short guide to registration

1. Determine whether an ILUA is the best way to achieve what you want to achieve (in the time frames you want to achieve it).

2. If using an ILUA, select the right type of ILUA to suit your situation.

Among other things, if you select the wrong type of ILUA for your circumstances, your ILUA may not be registered.

Body corporate agreements can only be made where there is at least one registered native title body corporate for the entire agreement area. This means that there must be at least one determination of native title in place in relation to the entire agreement area.

Area agreements can only be made where there is no registered native title body corporate for the entire agreement area.

Alternative procedure agreements can only be made where there is no registered native title body for the entire agreement area. However, there must be at least one registered native title body corporate for part of the area or at least one representative Aboriginal/Torres Strait Islander body ('representative body') for the agreement area.

3. Your ILUA must be about at least one of the required subjects.

The Native Title Act sets out a list of subject matters for each type of ILUA. An ILUA cannot be registered unless it is about at least one of these subject matters. Most of the subject matters are common to all 3 types of ILUAs but some are not. For example it is only possible to agree about the extinguishment of native title by surrender to government in a body corporate or area agreement.

4. The right people or organisations must be parties to your ILUA.

The Act sets out who must and who may be a party to each type of ILUA. An ILUA cannot be registered unless the right people or organisations are parties.

5. Your application for registration must be accompanied by all required information and documents.

Regulations made under the Native Title Act 1993 (Cwlth) set out what information and documents must accompany the application for each type of ILUA. Without the required information and documents, the ILUA cannot be registered. A copy of the agreement is also required.

The Tribunal has produced a special form to help ensure that your application meets all the requirements. [Forms are available online](#) and from any Tribunal registry.

6. You must address any compliance issues identified by the Registrar.

The Registrar will check that you have met the above requirements in an initial compliance check of your application and agreement. If there are any problems, the Registrar will contact you and advise you of the problems.

7. The Registrar notifies all people and organisations that must be notified of your intention to register an ILUA.

When satisfied that the application meets the above requirements, the Registrar will notify certain specified persons and organisations, and in the case of area and alternative procedure agreements, will give the public notice of your application to register the ILUA. The notice will state a notification period of between 1 and 3 months, depending on the type of ILUA, during which time certain people can object or express concerns in relation to the registration of the agreement.

8. Any obstacles to registration must be overcome.

For example, in the case of some body corporate agreements, a representative body for the agreement area may advise the Registrar that it was not informed by a body corporate for the area of its intention to enter into the agreement.

In the case of some area agreements, any person claiming to hold native title may file a fresh native title determination application. Generally speaking if that application gets registered the registered native title claimant for that application must also become a party to the ILUA.

In the case of alternative procedure agreements any person claiming to hold native title may object on the grounds that it is not fair and reasonable to register the agreement.

The Registrar will notify you of any such objections or obstacles and you will have an opportunity to respond. Parties may request the assistance of the Tribunal in negotiating the withdrawal of objections to the registration of area and alternative procedure agreements.

Your ILUA can only be registered where there are no proven objections or obstacles to registration, or where any objections or obstacles have been either withdrawn or resolved.

9. The Registrar registers your ILUA.

When your application and agreement complies with all the conditions for registration the Registrar will register your ILUA on the Register of Indigenous Land Use Agreements and write to all the parties and those previously notified to inform them of the registration.

The ILUA will remain registered unless:

- there is a new determination of native title over the area and people determined to be the native title holders are not the people previously determined to hold native title in relation to the area
- there is a new determination of native title over the area and the native title holders who authorised the agreement are not the recognised native title holders in the determination
- the parties notify the Registrar that the agreement has expired and the Registrar believes, on reasonable ground, that this is the case
- the Federal Court orders that it be removed
- all the parties advise the Registrar in writing that they wish to terminate the agreement.

Nine steps to ILUA registration

1. Decide whether an ILUA is the best way to achieve your goal in the required time frame
2. Select the right ILUA for your particular circumstances
3. Make sure that your ILUA is about at least one of the required subject matters
4. Make sure that the right persons are parties to your ILUA
5. Include all the required information in your written application and attach all the required documents
6. Address any problems with your ILUA or application raised by the Registrar in the initial compliance check
7. Wait while the Registrar notifies all relevant persons and organisations of the ILUA
8. Engage, as appropriate, in the resolution of any objections or obstacles to registration, that may have arisen
9. If satisfied that your application and ILUA comply with the conditions, the Registrar registers the ILUA and writes to the parties to advise them of the registration

Further assistance from the Tribunal

The Tribunal can provide assistance in relation to ILUAs, including:

- providing negotiation options;
- chairing and facilitating meetings between the parties;
- assisting parties prepare their application and accompanying material;
- assisting parties in the resolution of objections made to the registration of area and alternative procedure agreements.

This guide is for general information only. The Commonwealth, the National Native Title Tribunal, its staff and officers accept no liability for any use of this guide or reliance placed upon it.