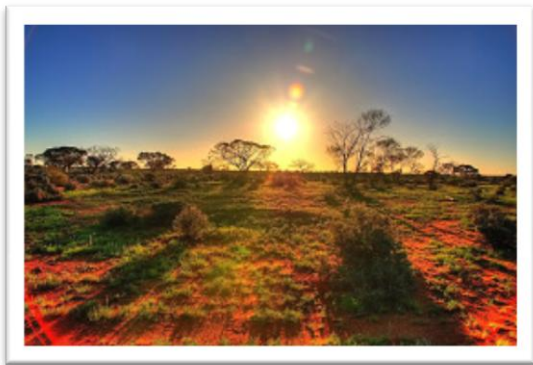


The registration process for Area Agreements

Fact sheet 6: A guide to assist parties to understand the Native Title Registrar's processes



What are the first steps when a registration application for an Area Agreement is made?

- a case manager is appointed to manage the application and to be your point of contact;
- a delegate of the Native Title Registrar (Registrar) is appointed;
- a geospatial assessment of the map and description of the area is undertaken;
- a preliminary assessment of the registration application, the agreement and the accompanying documents is undertaken by the delegate to identify whether there are any problems; and
- a draft notice for notification of the Area Agreement is prepared by the delegate for the applicant's consideration.

What does a preliminary assessment involve?

The delegate will check that the:

- registration application includes all statements and documents;
- map and description of the agreement area are correct; and
- agreement meets the requirement for it being an Area Agreement, including that the agreement is about native title, that it has all the necessary parties and that it does not contravene any law.

The Registrar can provide pre-lodgement comments and assistance to parties on their draft registration application and/or draft agreement. See our website for more information on pre-lodgement assistance or call the Tribunal office in your region.

This factsheet is provided for general information only and on the understanding that neither the Native Title Registrar nor the Commonwealth of Australia is providing legal or any other professional advice. Appropriate professional advice relevant to your circumstances should be sought.

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What will happen if there are problems with the registration application and agreement?

The applicant will be informed of any problems so that they can be addressed before notification occurs.

Common problems include where:

- the application is not accompanied by the required documents or statements; and/or
- the map and description of the agreement area are not accurate and need amending. The Tribunal's Geospatial Services are able to assist with correcting any errors.

To avoid these problems, when preparing your application for registration, you should use our template application form for Area Agreements, which contains a checklist of all the statements and documents that must accompany your application. The form can be downloaded from the Tribunal's website.

Also, you can seek assistance from the Tribunal's Geospatial Services to prepare your map and description of the agreement area.

Generally, the applicant will be given a short period of time to deal with problems that the delegate identifies.



If problems are identified, will the registration application be notified?

The delegate's decision in relation to notification will depend on the type of problems identified. For instance, if the problem identified is with the map and description, it is unlikely that the agreement can be notified until these are corrected. That is because the Registrar would not be able to notify the area covered by the agreement.

Who is notified?

The Registrar must give personal written notice to certain persons who are not parties to the agreement. These could include:

- the Commonwealth Attorney General;
- the relevant State or Territory Minister;
- all representative bodies for the agreement area;
- all local government bodies for the agreement area; and
- any other person whom the Registrar considers appropriate.

The Registrar must also give notice to the public in the form of a newspaper advertisement.



What information is in the notice?

The notice:

- contains information that identifies the parties, the agreement area and relevant statements/terms of the agreement;
- must state the notice period; and
- provides an explanation of how any person claiming to hold native title in the area can respond to the notice, depending on whether the ILUA is certified or not-certified.

Did you know?

The Native Title Act (the Act) sets out certain statements that have to be notified to particular persons and the public. These statements are about the consent to future acts, the right to negotiate, surrender of native title that is intended to extinguish native title rights and interests and the validation of future acts already done invalidly.

When and where will the notice be published?

The notice will generally be published within 5 to 6 weeks of the Registrar receiving the application for registration.

The notice must be published in the Koori Mail and in a newspaper in the agreement area.



What may happen during the notice period?

During the notice period, the following may occur in response to the notice:

- if the application is certified, an objection to registration can be made by any person claiming to hold native title in the agreement area.
- if the application is not certified, a native title determination application may be made over the area by any person claiming to hold native title in the agreement area.

For more information about the above and the registration conditions, see our **Fact sheet No 12** *The conditions for registration of Area Agreements*.

Preparation of the notice *Generally, the draft notice will be prepared by the delegate within 2-4 weeks of receiving the registration application.*

When the delegate prepares the draft notice, a copy will be sent to the applicant for consideration and comment. The applicant will also be informed of when and where the notice will be published.

How is the notice date decided?

The delegate decides the start date of the notice period (the notice date). Generally, this will be one week after the notice is published. This is to make sure that there is enough time for people to see the public notice before the notification period begins.

The length of notice for an Area Agreement is three (3) months.

What happens if an objection to your certified registration application is received during the notice period?

If an objection is made during the notice period:

- the delegate will decide if the objection is valid;
- the case manager will write to the person objecting and inform them if their objection is valid or ask them for more information about their objection; and
- the case manager will inform the applicant that an objection has been received.

More detailed information about what happens when an objection to registration is received is contained in our **Fact sheet No 7 *Objections to your certified Area Agreement***. If an objection to your ILUA is made, you will receive a copy of this fact sheet.

What happens if a native title determination application is made during the notice period for your registration application?

A native title determination application may be made in response to the notice for an ILUA that is not-certified.

If a native title determination application covering all or part of the agreement area is made during the notice period and that application is accepted for registration, the ILUA cannot be accepted for registration unless that registered native title claimant is also a party to it.

If a native title determination application is made during the notice period for your ILUA, you will be informed of this.

What happens if, before registration, the Registrar receives information from a person about your registration application?

This will depend on whether your application is certified or not certified and the particular conditions of registration. If information from a person is received about the registration of your agreement, you will be provided with an opportunity to see this information and comment on it.

What are the conditions for registration of Area Agreements? These differ depending on whether your application for registration is certified or not-certified.

More detailed information about this can be found in our **Fact sheet No 12 *The conditions for registration of Area Agreements***.

How long before a registration decision is made once the notice period has ended?

If the notice period has ended and no objection or information has been received, then a registration decision should be made within two (2) business days after the end of notification.

Did you know?

Generally, a registration decision for an Area Agreement is made within five (5) months from the lodgement date.

This timeframe does not apply where an objection is received or where a native title determination application is made over the agreement area during the notice period.

What is the Register of Indigenous Land Use Agreements?

The Registrar maintains a number of registers, including the Register of ILUAs. Once an agreement is registered, details of the agreement are included on this Register.

You can access a copy of the Register Extract (but not the agreement itself) via the Tribunal's website. The Register Extract is the document that contains the details of the agreement on the Register of ILUAs.

What details of the agreement does this Register contain?

Upon registration of the agreement, the Register of ILUAs will record the following:

- name of the agreement;
- name and contact details of the parties to the agreement;
- map and description of the area covered by the agreement;
- time period (if any) of the agreement; and
- relevant statements/terms of the agreement. These are about the consent to future acts or the validation of previous acts done invalidly, the right to negotiate and the surrender of native title rights and interests intended to extinguish native title, if covered in your agreement.

Will you get a draft copy of the Register Extract?

The applicant will be provided with a draft copy of information to be included on the Register of ILUAs (this is referred to as the draft Register Extract). You may have feedback that you wish to provide about the draft Register extract.

A copy of the Registrar Extract from the Register of ILUAs for your agreement will also be provided to you at registration.

Will this Register contain confidential details?

The Register of ILUAs will only contain information required by law. This includes terms of the agreement that are relevant statements. You should identify any information that is confidential in your registration application.

What effect does registration of an Area Agreement have?

Once entered on the Register of ILUAs:

- an ILUA binds not only the parties, but all persons holding native title in the area covered who are not already parties;
- any future acts consented to in the agreement can be validly done;
- any validation of future acts agreed to takes effect; and
- any surrender consented to extinguishes native title rights and interests.

You can contact the Tribunal office in your region for any further information about the matters discussed in this factsheet:

**National Native Title Tribunal,
GPO Box 9973** in your region. The National Native Title Tribunal has offices in Brisbane, Cairns, Melbourne, Perth and Sydney.

Freecall 1800 640 501.

Information also available at www.nntt.gov.au

*Published by the National Native Title Tribunal
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*All references to the Act are to the Native Title Act 1993 (Cth).
References to the regulations are to either the Native Title
(Indigenous Land Use Agreements) Regulations 1999 (Cth) or
Native Title (Prescribed Body Corporate) Regulations 1999
(Cth).*