

# Talking Queensland



National  
Native Title  
Tribunal



NATIONAL NATIVE TITLE TRIBUNAL STATE E-NEWS

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## Making indigenous land use agreements (ILUAs)

### The value of preliminary assessment – how to get the most out of them

*What is a preliminary assessment?*

Parties have the opportunity to provide a draft agreement to the Tribunal before officially lodging their ILUA so the Tribunal can check that it complies with the requirements of the Native Title Act and identify potential barriers to registration. The Tribunal checks that the ILUA meets the requirements about subject matter and mandatory parties, and that all the relevant information has been provided. The Tribunal can also provide comments about the proposed process for authorising the agreement to ensure that all Indigenous peoples with rights in the agreement area have had the opportunity to be involved. Once the preliminary assessment has been conducted the parties then have the opportunity to make any necessary changes.

*What information is required?*

Parties are asked to provide their draft agreement and certain additional information so that the Tribunal can assess the material against all of the registration conditions. This includes a draft application for registration, a map and description of the agreement area and any materials that they will rely on to show that the agreement has been properly authorised.

*How long does it take?*

The Tribunal takes three weeks on average to assess the draft agreement.

*How does it assist you?*

Requirements for registration can be complex, even for those parties with much experience in developing ILUAs, so it is beneficial to seek a preliminary assessment. It gives the parties the best possible chance of registration.

### Tribunal assistance on agreement making and ILUAs – what we can do for you

The Tribunal can provide assistance on request to all people involved in negotiating ILUAs and preparing applications for ILUA registration. The Tribunal does not give legal advice but we may be able to help at any stage before or during ILUA negotiations by:

- providing information about the process
- presenting options for negotiations
- facilitating meetings

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Authorisation revisited

Key contacts in Queensland



- providing land tenure information and conducting tenure searches
- delivering mapping services
- providing feedback on draft agreements and applications for registration.



*The Jagera, Yuggera and Ugarapul People and the Toowoomba City Council signed an ILUA on 27 February 2008 that established how their native title rights and interests and local government interests would co-exist. The agreement was a significant step towards the recognition of the groups' native title rights. (Left to Right) Eddie Ruska of the Yuggera People, Dianne Thorley – former Mayor of the Toowoomba City Council and Neville MacPherson, Tribunal Member.*



*Kuuku Ya'u native title holders, Lorraine Clarmont, Ivy Hobson, Donald Hobson, Deborah Hobson, Lucy Hobson and Lloyd Hollingsworth with Justice Andrew Greenwood (centre) following the consent determination hearing at Portland Roads, Far North Queensland, on 25 June 2009. The Kuuku Ya'u People negotiated three ILUAs with parties to their claim to establish how their rights and interests would be carried out in the determination area.*

The Tribunal promotes native title outcomes through capacity-building to help parties participate more effectively in the native title process. This may include, for example, training about compliance with regulations or help with developing strategic planning skills.

## **Authorisation re-visited**

*What is authorisation?*

The agreement must be approved by everyone who can be identified as holding, or possibly holding, native title. It is important this is done properly as registered ILUAs bind all native title holders in the agreement area.

*Who must authorise an area agreement?*

Under the Native Title Act parties are required to make all reasonable efforts to identify all persons who hold or may hold native title in the agreement area. All of the identified people must then authorise the making of the agreement.

*How is authorisation decided?*

If the native title party has a traditionally mandated process for making decisions about land matters then that process must be followed for deciding whether or not to authorise the agreement. If not, then a process that the group agrees to adopt must be followed. This process could include both traditional and non-traditional steps. For example, it might be an agreed decision-making process that still emphasises the role of Elders in decision-making.

*What evidence of authorisation is needed?*

An application to register the agreement must either:

- include a statement that the authorisation requirements have been met and provide information in support of that statement; or
- include a document from all native title representative bodies for the agreement area certifying that the authorisation requirements have been met.

*How is authorisation checked?*

If the application has been certified, the relevant native title representative body for the area is responsible for checking that the requirements have been met. If the application has not been certified, the Registrar is responsible for checking that the requirements have been met.

## Links

- [Authorisation of Area Agreements](#)
- [Steps to an ILUA publication](#)

## Key contacts in the Cairns Regional Office

Name	Position	Areas
Gary Lui	Regional Manager	Far North Queensland and Torres Strait
Louise Doyle	Senior Case Manager	Cape York and North Queensland
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