



National
Native Title
Tribunal



What is an indigenous land use agreement?

Indigenous land use agreements are agreements between native title groups and others.

Facilitating timely and effective outcomes.

Indigenous land use agreements

An indigenous land use agreement (ILUA) is an agreement about the use and management of land and waters made between people who hold, or may hold, native title in the area, and other people, organisations or governments. To be an ILUA an agreement must meet with the requirements of the *Native Title Act 1993* (Cwlth).

An ILUA can be a practical way to resolve native title issues. It allows people to make agreements about how land or waters are used without necessarily entering into the native title process.

An ILUA can be negotiated over areas where native title has, or has not yet, been determined to exist. It can be part of a native title determination, or settled separately from a native title claim.

An ILUA may also suit the parties better than a determination of native title. ILUAs may be negotiated over issues including access to an area, how native title rights coexist with the rights of other people, and native title holders agreeing to future developments, such as mining or residential developments.



An ILUA created the Arakwal National Park, Byron Bay, NSW, which in turn created traineeships and employment for Arakwal man Sean Kay.

The advantage of an ILUA is its flexibility - it can be tailored to suit the needs of the people involved and their particular land use issues.

By making these kinds of agreements, indigenous people may gain benefits such as employment, compensation and recognition of their native title rights and interests (as part of a determination of native title).

Other parties to the agreement may obtain the use of land or waters for development or other purposes. An ILUA allows developments on land to happen independently of any application for a determination of native title or before a determination of native title is reached.

How to make an indigenous land use agreement

ILUAs are negotiated between the parties, sometimes with the assistance of a mediator.

ILUA negotiations have no set timeframes. The time it takes to negotiate depends on the parties and what the ILUA is about. Parties can negotiate matters in their own time frame.

Once the need for an agreement is identified, a meeting can be arranged between all potential parties to try to frame an agreement that meets everyone's needs. The type of ILUA chosen will depend on the area involved and the nature of the agreement. It is important that the right kind of ILUA is selected.

Under the Act, there are three different types of ILUAs: body corporate agreements, area agreements and alternative procedure agreements.

The National Native Title Tribunal may provide assistance if requested at any point prior to, or during, the negotiations of an indigenous land use agreement by:

- providing information
- facilitating negotiations
- providing comments on draft agreements
- providing assistance with making applications for registration
- providing assistance to negotiate the withdrawal of an objection to the registration of an area agreement where the application has been certified.



Senior Yawuru man Pat Dodson signs an ILUA with WA Attorney General Christian Porter, providing the Yawuru People with the chance to preserve their culture and heritage, and financial security. Image: Office of Native Title

ILUAs are practical and flexible agreements which can be made between native title groups and others to suit their specific land and water use issues. They are voluntary, legally-binding agreements about the use and management of land and water.

Registration

Once the agreement is finalised, parties to an ILUA can apply to the Registrar of the National Native Title Tribunal to have it registered on the Register of Indigenous Land Use Agreements. The Registrar, or their delegate, can provide assistance with making an application for registration of an ILUA.

If the ILUA satisfies the conditions set out in the Act, the Registrar is required to notify the public (in the case of area and alternative procedure agreements) and specified persons that the parties have applied for the agreement to be registered.

During the notice period it is possible that certain obstacles to registration might arise, such as an objection to the registration of the agreement or the withdrawal of one of the parties. An ILUA can only be registered when there are no obstacles to registration or when those obstacles have been removed.

Notification is important because a registered ILUA binds all native title holders in the area covered by the agreement, even if they were not involved in making the agreement. It enables development to take place on the land and generally limits compensation payable to the native title group to that provided in the agreement.

The ILUA will then remain registered unless it expires, parties advise the Registrar that they wish to terminate the agreement, or other specific circumstances occur.

Cover image: Western Yalanji man Des Brickey surveys his country at dusk, north-west of Cairns, Far North Queensland.



For more information about native title and services of the Tribunal please contact the National Native Title Tribunal, GPO Box 9973 in your capital city or **Freecall 1800 640 501**. Information is also available at **www.nntt.gov.au** .

The National Native Title Tribunal has offices in Adelaide, Brisbane, Cairns, Melbourne, Perth and Sydney.

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