



National
Native Title
Tribunal



Old friendships: Newly recognised native title holders Reggie Uluru and Molly Cullinan celebrate with Douglas Lillecrapp, one of the seven pastoralists involved in the pastoral agreements.

Spirit of negotiation points to harmonious future

Pastoralists and Indigenous Australians in South Australia have shown how persistence and a negotiating spirit can produce positive results in native title negotiations.

The Yankunytjatjara/Antakirinja people and the seven pastoral lease holders affected by the native title claim came together and devised indigenous land use agreements (ILUAs) for the area. At times the negotiations were challenging for all parties.

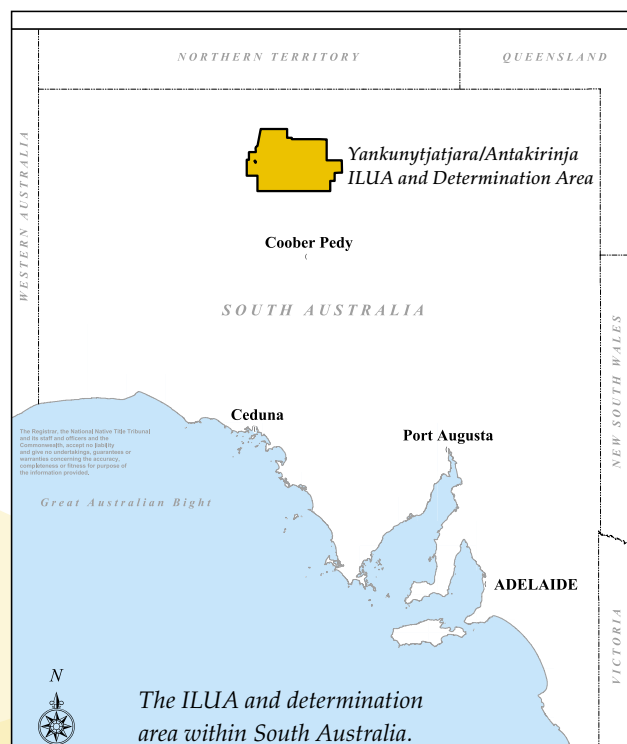
The signing of those agreements coincided with the Yankunytjatjara/Antakirinja native title consent determination which was officially recognised by the Federal Court under a marquee in the remote town of Marla, 1000 kilometres north of Adelaide, at the end of August 2006.

Attending the on-country sitting were representatives from the seven pastoral stations, the South Australian Government and about 300 newly recognised native title holders led by applicants Mr Cullinan, Sadie Singer and Lallie Lennon.

Justice John Mansfield, who made the determination on behalf of the Federal Court, said the agreements would guide

the conduct of future generations in their ongoing cooperative relationships and dealings with the land.

Speeches delivered on the day talked about stronger relationships, certainty and hope for the future.



Resolution of native title issues over land and waters.

Yankunytjatjara/Antakirinja indigenous land use agreements

What is an indigenous land use agreement (ILUA)?

An ILUA is a voluntary agreement between a native title group and others about the use and management of land and waters. ILUAs can be made separately from the formal native title process but can also be part of a native title determination.

The Yankunytjatjara/Antakirinja ILUAs:

There are six ILUAs over seven pastoral leases that deal with the use of land and waters in the lease areas. The Lambina, Welbourn Hill, Todmorden, Wintinna, Evelyn Downs and Allandale stations have separate ILUAs and the Arckaringa and Coorikiana stations are captured within one.

The parties to the ILUAs:

- The Yankunytjatjara/Antakirinja peoples (represented by the Aboriginal Legal Rights Movement)
- The State of South Australia
- The Pastoralists for Lambina, Welbourn Hill, Todmorden, Wintinna, Evelyn Downs, Arckaringa, Allandale and Coorikiana stations.

The ILUA negotiations:

These ILUAs are a practical example of how native title issues can be resolved by agreement. Negotiations provided a forum to resolve issues, build strong relationships, and develop an understanding of how different interests such as native title and running a pastoral lease could coexist.

What are the ILUAs about?

The agreements recognise the importance of a good cooperative relationship, enhancing the ability of the pastoralist to continue their work and the native title holders to carry on their traditions with confidence.

There is recognition of the respective rights, interests and responsibilities that each party has in relation to the ILUA area.

They provide all the parties with clear and agreed processes for dealing with issues such as access, heritage and the ongoing business of the pastoralists.

The importance of heritage is identified and its protection and management assured through a comprehensive protocol, including production of a heritage handbook, while at the same time minimising disruption to pastoral activities.

The State has provided assistance with liability issues and has also established a pastoral remediation fund.

Message from Tribunal member Bardy McFarlane

The Yankunytjatjara/Antakirinja ILUAs show what can be achieved when there is a genuine attempt to find common ground in native title negotiations.

So often, the 'talk' around native title is about negotiated agreements – these ILUAs are a practical example of how to get to those agreements.

Pastoralists and Indigenous Australians have shared the open spaces of much of Australia's cattle country for generations. There is recognition and acknowledgement of the significant role Aboriginal stockmen contributed to the pastoral industry.

The process of reaching agreement over these seven pastoral properties, in one of the most remote corners of South Australia, to some extent called on relationships forged generations before.

The process has highlighted striking similarities between the Yankunytjatjara/Antakirinja peoples and the pastoralists operating these properties - they both care for their families, they both care for their futures and they share a common love of the country.

From here the groups will continue to go about their lives and their businesses with a greater understanding of where the other is coming from.



Tribunal member Bardy McFarlane presents a copy of the Tribunal's Register extract to native title holder Hughie Cullinan.

What the parties said

“The arrangements just formalise the relationships that already existed. Together this country is big enough we can coexist together.”
– Todmorden pastoralist Douglas Lillecrapp

South Australian Attorney-General, Michael Atkinson:

Mr Atkinson said the determination was an historic moment for native title in South Australia. The process saved money for taxpayers and delivered quicker results to claimants.

“Aboriginal people have their heritage protected, pastoralists have obtained certainty and clarity in land management and access issues and the State now has a blueprint for further claim settlements,” he said.

Native title holder, Syd Waye:

Mr Waye said the Yankunytjatjara/Antakirinja people were already experiencing great benefits from the determination.

“We had negotiations for a long while, about 10 years, but finally we got there,” he said.

“Hopefully there will be economic opportunities, opportunities to educate our children, to protect our heritage and to negotiate with companies fairly and reasonably for our people.”

Aboriginal Legal Rights Movement Senior legal officer, Tim Wooley:

A strong sense of self-belief was one of the most important aspects to getting a good result, according to Mr Wooley the lawyer for the Yankunytjatjara/Antakirinja.

“Seeking a consent determination meant we could maintain a reasonable relationship with the other parties, in particular the pastoralists,” he said.

“We have also avoided a drawn out and stressful trial.”

Todmorden pastoralist, Douglas Lillecrapp:

“We were always of the view that a negotiated outcome was going to be a lot better than a litigated outcome,” Mr Lillecrapp said.

The Lillecrapp family were the first to establish a pastoral access indigenous land use agreement

(ILUA) in 2004. Five more ILUAs, for other properties in the claim area, were signed on the day of the determination “It’s always hard to be the first but we had good support and had a strong desire and will to negotiate an outcome,” Mr Lillecrapp said.

Evelyn Downs pastoralist, Tim Lockyer:

“We have been able to determine a settlement of native title which has given us, as pastoralists, the security and future advancement desired. In return we have been able to share with the claimants our desire to protect and respect their culture and the significant areas that are part of their culture,” Mr Lockyer said.

“So the milestone is that by goodwill and discussion much can be achieved. Most of the claimants lived and worked on the stations involved. We lived together, worked together and had great respect for one another.”

“We have been able to practise tribal customs and young traditional owners have been involved in training.”
– Native title holder Syd Waye



Spirit of negotiation: Sadie Singer and Lallie Lennon (left to right), representing the Yankunytjatjara/Antakirinja peoples, reached South Australia’s first consent determination with a group of seven pastoralists, including Douglas Lillecrapp and Alan Fennell.

Yankunytjatjara/ Antakirinja consent determination

How to say the claim name:

YAN-KOON-JAJA-RA / UN-TI-KI-RIN-YA

Area of the claim:

18,665sq km of land and waters approximately 1000km north-west of Adelaide and 80km south of the Northern Territory border.

What is a consent determination?

The recognition in Australian law that native title rights and interests exist or do not exist, where the result has been agreed by all parties. A consent determination is ratified by the Federal Court and must comply with all aspects of the Native Title Act (1993).

Rights and interests recognised:

Non-exclusive rights to use and enjoy the land and waters and the right to access, maintain and protect places of importance under traditional laws and customs. These rights coexist with the rights of the pastoralists.

What does it mean for rights to coexist?

While both sets of rights are recognised over the leased area, native title rights cannot interfere with the pastoralist going about their lawful business.



The seven pastoralists involved in the agreement read through the determination documents following the court hearing at Marla.

Negotiation timeline

November 1997	Native Title application lodged with the National Native Title Tribunal.
August 2002	Negotiations for an indigenous land use agreement (ILUA) over the Todmorden pastoral lease commence in the Statewide ILUA negotiation process.
October 2003	Early mediation meetings for the balance of the claim area begin.
March 2004	Todmorden pastoral access ILUA signed.
December 2004	Agreement signed between the South Australian Opal Miners Association and the native title claimants. Opal miners withdraw as a party.
December 2005	Pastoralists and claimants confirm a clear willingness to reach agreement.
August 2006	Pastoral ILUAs concluded and draft consent determination finalised and presented to the court.
28 August 2006	On-country determination held at Marla and pastoral ILUAs signed.



Native title holders held a traditional celebration of song and dance following the court proceeding.

Do you need more information?

National Native Title Tribunal
GPO Box 9973 in your capital city
or Freecall 1800 640 501
Website: www.nntt.gov.au

For a copy of the determination:
Federal Court of Australia
Website: www.fedcourt.gov.au
Search under 'Judgments'

SA ILUA Statewide Negotiations
Website: www.iluasa.com

The South Australian Consent Determination Guidelines are available at www.iluasa.com/dl/Consent_Determinations_in_South_Australia.pdf

South Australian Farmers' Federation
Website: www.saff.com.au

Aboriginal Legal Rights Movement
Website: www.alrm.org.au



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