

Objecting to a certified Area Agreement

Fact sheet 9: A guide to assist objectors to understand the process for making an objection to an ILUA



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.

Shared country | shared future

When can an objection to registration of an Area Agreement be made?

Objections can only be made to a registration application for an Area Agreement that has been certified by the representative body/ies for the agreement area.

Objections must be made in the notice period, which is set out in the published notice. The public are notified of all Area Agreements. This is done by the Native Title Registrar (Registrar) at the Tribunal, who places a notice of the Area Agreement in the *Koori Mail* and in one other newspaper for the agreement area (this is called the published notice).

The published notice in the relevant newspaper will state whether the registration application has been certified.

Who can object to the registration of an Area Agreement?

Persons who claim to hold native title in the agreement area can object. But, only if they believe that the application was not properly certified.

The agreement area will be shown in the published notice. The case manager will also be able to assist you to understand the location of the agreement area.

How must an objection be made?

Objections can be made by writing to the Registrar during the notice period. The objection can be sent to the relevant Tribunal office in your region. The contact details are set out in the published notice.

How long is the notice period for an Area Agreement?

The notice period is three (3) months. The published notice will state the date that the notice period ends.

What is a valid objection? A

valid objection is one that is made:

- in writing;
- within the notice period;
- by a person who claims to hold native title in the agreement area; and
- on the grounds that the application for registration was not properly certified by the representative body.

What must the grounds for a valid objection be?

The grounds for a valid objection must be that the application for registration was not properly certified. A person can only object if they believe that the application was not properly certified.

The objection must focus on why the person says it was not properly certified. This may be that:

- all reasonable efforts were not made to ensure that all persons who hold or may hold native title in the agreement area were identified—and why you say this is the case; and/or
- all the persons so identified did not authorise the making of the agreement—and why you say this is the case.

What if the objection is not valid?

A delegate of the Registrar will assess the objection. If it is the delegate's view that the objection is not valid, the case manager will write to the person wanting to object and explain why the delegate is of this view.

If the notice period has not ended, that person will be able to make another objection to the Registrar.

Shared country | shared future

What information should be provided about the grounds of an objection?

If you are a person who makes an objection, you should provide any information or documents that support the grounds of your objection.

This may include any information that you have about the identification of persons who hold or may hold native title in the area and the authorisation of the making of the agreement.

Remember that the only valid grounds for your objection must be that the registration application was not properly certified by the representative body.

Can a copy of the certification be provided to help prepare the objection?

Yes. A copy of the certification (commonly called the certificate) can be provided to help a person prepare their objection. It may help that person to understand the representative body's reasons for certifying the application.

What is the certification?

The certification or certificate is the document that includes statements of the opinion of the representative body about the making of reasonable efforts to identify all persons who hold or may hold native title and authorisation of the making of the agreement. It also contains the representative body's reasons for the opinions.

What information may be relevant to the objection?

The following information may be relevant to an objection on the grounds that the registration application was not properly certified:

- What efforts were made to identify persons who hold or may hold native title in the agreement area? Were all reasonable efforts made?
- Who was identified as persons who hold or may hold native title in the agreement area? Were you identified as a person who holds or may hold native title?
- How was the agreement authorised?
- If the agreement was authorised at a meeting, how were persons told about this meeting?
- Did you attend this meeting? If not, why?
- Do you know who attended the authorisation meeting?
- If you attended the authorisation meeting, who was allowed to participate in the decision to authorise the making of the agreement?
- If you or others were not allowed to participate in authorising the agreement, do you know why?
- Was a particular decision-making process outlined at the meeting and was it followed to authorise the making of the agreement?

Can you withdraw your objection after you make it?

Yes. You can withdraw your objection at any time before the registration decision is made. You can do this by writing to the Registrar.

The parties to the agreement can also ask the Tribunal to assist with negotiating with you about withdrawing your objection. This is optional for you—you cannot be forced to negotiate the withdrawal of your objection. The case manager will contact you if the parties have requested this type of assistance.

What assistance can be provided?

The case manager or other staff assisting the Registrar can generally help you to understand the process for making an objection to the registration of an Area Agreement. However, the case manager or other staff cannot give you legal advice.



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
Copyright Commonwealth of Australia 2014.*

*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).*