

Fact Sheet #4 Indigenous Land Use Agreements (ILUA)

What is an Indigenous Land Use Agreement (ILUA)?

An indigenous land agreement (ILUA) is an agreement made under the Native Title Act 1993 between people who claim to hold or do hold native title over an area of land, and other people who use such land. An ILUA can be used to establish an agreement on a multitude of areas, including:

- Access to an area
- Compensation for the impairment or loss of native title rights
- Providing social and economic benefits for first nations people and communities
- Establishing protocol to deal with cultural heritage matters to do with first nations people
- How native title can coexist with the rights of other users of the land
- Agreements to future development between native title holders.

ILUAs may include relevant government authorities that use the land which an ILUA has mandate over. An example may be a council using an area for the quarrying of materials used in the building of roads on native title land.

An ILUA is a key tool, used to establish cooperation within a community to reduce costs and delays relating to any future land use. It is a key preventer of future conflict, litigation, and potential misunderstandings over the use of land.

What is the process involved in the making of an ILUA?

ILUAs can be established after a native title has been established, or before a claim has officially been granted by the federal court.

The process of creating an ILUA is not dictated by the Federal Court. Instead, ILUAs exist within communities and are formed between parties that exist on country. Through this process, ILUAs are flexible in meeting the needs of the parties involved. Through the creation of an ILUA, first nations people may benefit from the recognition of their native title rights and interests, potential compensation for the use of their land and potential investments into economic and social opportunities for traditional owners.

Once an agreement is reached and an ILUA is agreed to, a formal process of registering such ILUA with the Native Title Registrar is to be undertaken.

Registration is completed to log the ILUA on the Register of Indigenous Land Use Agreements and check the ILUA meets the requirements laid out in the Native Title Act and Regulations (further information can be found [here](#)). In this process, the registrar also considers any objections to the agreement, making an assessment whether it can proceed.

Agreements without objection or barriers to registration typically take five months to register. This may also change if native title is granted over the ILUA's registration period. Additionally, within six weeks of the application for registration being received, the proposed ILUA must be published in local newspapers for the community and the Koori mail, an indigenous publication.

What happens once an ILUA is registered?

Once registered, an ILUA is a legally binding document. This means that all parties are legally bound to the agreements codified in the ILUA.

If an ILUA is registered prior to native title being granted, all native title holders are party to the agreement upon the granting of native title regardless of whether they were parties to the agreement or not.

ILUAs remain registered and enforceable unless one of the following occurs:

- There is a new determination of native title that overrides a previous declaration which declares a new

group of individuals equal claimants to native title.

- There is a new determination of native title that overrides a previous declaration which means that previous traditional owner parties to the ILUA are no longer holders of native title
- A court order that the ILUA is to be removed
- All parties to the ILUA advise the registrar that they wish to terminate the agreement.

For local government and further assistance

ALGA has a longer form guide (2011) to the developing of indigenous land use agreements that was produced alongside the National Native Title Tribunal to provide further guidance to local government nation-wide. This document can be found at:

[Developing indigenous land use agreements - a guide for local government.pdf \(nntt.gov.au\)](#)

Nativetitle.org.au also has a guide to the registration process for indigenous land use agreements. This guide can be found at:

[Fact sheet about Indigenous Land Use Agreements \(nativetitle.org.au\)](#)

For further information and guidance in the negotiation and registration process for an ILUA, the Queensland Government's Department of Natural Resources, Mines and Energy has a guide. This guide can be found at:

[Indigenous Land Use Agreement - Guide for negotiation and registration \(resources.qld.gov.au\)](https://resources.qld.gov.au/indigenous-land-use-agreement-guide-for-negotiation-and-registration)

The National Native Title tribunal also has a factsheet on ILUAs. We recommend contacting them for specific assistance pertaining to ILUAs.

[ILUA factsheet.pdf \(nntt.gov.au\)](https://www.nntt.gov.au/factsheet)

SBS provides a good overview of ILUAs for indigenous communities. This can be found at:

[Indigenous Land Use Agreements: What are they and how can we use them? | SBS NITV](https://www.sbs.com.au/nitv/indigenous-land-use-agreements-what-are-they-and-how-can-we-use-them)

Examples of ILUAs that may be of use:

Torres Strait Critical Infrastructure and Housing Agreement with the Torres Strait Regional Council

[ILUARegisterExtract \(nntt.gov.au\)](https://www.nntt.gov.au/register/extract)

[Agreement — Agreements, Treaties and Negotiated Settlements \(squarespace.com\)](https://www.squarespace.com/agreements-treaties-and-negotiated-settlements)

Burke Shire Council and Gangalidda and Garawa Native Title Aboriginal Corporation on the upgrading of recreational community facilities

[ILUARegisterExtract \(nntt.gov.au\)](https://www.nntt.gov.au/register/extract)

Agreement between the Northern Territory Government and the Patta Aboriginal Corporation over the building of Tennant Creek Correctional Facility

[ILUARegisterExtract \(nntt.gov.au\)](https://www.nntt.gov.au/register/extract)

Expansion of Dunolly Vineyard

[ILUARegisterExtract \(nntt.gov.au\)](https://www.nntt.gov.au/register/extract)

Eastern Marr Native Title claim and the approval of Southeastern Gas Pipeline under the Eastern Marr group's ILUA.

[Eastern Maar traditional owners' land rights formally recognised at Warrnambool - ABC News](https://www.abc.net.au/news/2017-07-11/eastern-marr-land-rights-recognised-at-warrnambool/8744442)

[ILUARegisterExtract \(nntt.gov.au\)](https://www.nntt.gov.au/register/extract)