

Native Title (Indigenous Land Use Agreements) Regulations 1999 1999 No. 335

EXPLANATORY STATEMENT

STATUTORY RULES 1999 No. 335

Issued by the Authority of the Attorney-General

Native Title Act 1993

Native Title (Indigenous Land Use Agreements) Regulations 1999

The Native Title (Indigenous Land Use Agreements) Regulations 1998 (the 1998 Regulations) prescribed the documents and information required to accompany an application for registration of the each of the different types of indigenous land use agreements (ILUAs) under the *Native Title Act 1993* (the Act): that is, a body corporate agreement (section 24BA), an area agreement (section 24CA) or an alternative procedure agreement (section 24DA).

The Regulations repealed the 1998 Regulations and remade them with drafting changes and amendments to:

- * require the description of an area covered by an ILUA, and of an area in which the surrender of native title under the ILUA is intended to extinguish native title rights and interests, that are required to accompany the application, to meet a particular standard;
- * require maps of these areas to accompany the application;
- * require evidence of consultation with common law native title holders to accompany an application to register an ILUA relating to an area for which there is no representative body or to which a representative body is not a party;
- * include, in the information that must accompany an application to register an ILUA that is an alternative procedure agreement providing for changing the effects of a validated intermediate period act or a class of such acts, the location of the statement in the agreement so providing; and

- * remove the requirement for parties to set out in a statement accompanying the application the grounds on which they believe the particular ILUA is one to which relevant provisions of the Act apply.

The documents and information accompanying an application to register an ILUA ensure that there is sufficient information for the Registrar to decide whether the ILUA should be included on the Register of Indigenous Land Use Agreements and thus attract the statutory protection of the Act. They are also used by the Registrar to prepare material for the public notification process that occurs before an ILUA is registered.

The Regulations enable the Registrar to more readily identify the area covered by an ILUA for that public notification process. They also buttress the obligation imposed upon a prescribed body corporate under the Native Title (Prescribed Bodies Corporate) Regulations 1999 (Statutory Rule 1999 No. 151) to consult common law native title holders on decisions affecting native title.

The details of the Regulations are described in Attachment A.

The Regulations commenced on gazettal.

Attachment A

Repeal (Regulation 3)

Regulation 3 repealed *the Native Title (Indigenous Land Use Agreements) Regulations 1998* (the repealed Regulations).

Transitional (Regulation 4)

Regulation 4 continued the application of the repealed Regulations in relation to an application for registration of an indigenous land use agreement (ILUA) made before the commencement of the Regulations.

Definitions (Regulation 5)

Regulation 5 contains definitions of words and terms used in the Regulations.

Registration of body corporate agreement (Regulation 6)

Prescribed Documents -

- * a copy of each determination of native title in relation to each registered native title body corporate party;
- * a statement from each party to the ILUA that it agrees to the application for registration being made;

* a written description of the area covered by the agreement, identifying its boundaries and any areas within its boundaries not included in the agreement area, and a map of the area agreement showing geographic coordinates;

* a written description of any area covered by the agreement, identifying its boundaries and any areas within its boundaries not included in that part of the agreement area, in which the surrender of native title under the agreement is intended to extinguish native title rights and interests, and a map of that area showing geographic coordinates; and if the agreement:

- gives effect to a decision that affects the native title rights and interests of common law native title holders in an area; and

- for any part of that area, there is a representative body that is not a party to the agreement, or no representative body;

a document under subregulation 9(2) of the Native Title (Prescribed Bodies Corporate) Regulations 1999 relating to consultation with common law native title holders about the decision.

Prescribed Information -

* the name of each party to the agreement and the address at which each can be contacted, and information identifying the government party and any representative body party;

* if the agreement is for a specified period, that period;

* whether any representative body was informed before entry into the agreement as required by subsection 24BD(4); and

* if the agreement contains a statement about the doing of a future act or a class of future acts, or the application of the right to negotiate, or the surrender of native title, or the validation of a future act that is not an intermediate period act, or the validation of a class of such future acts, or changing the effects of a validated intermediate period act or a class of such acts on native title - information giving the location in the agreement of the statement.

Registration of area agreements (Regulation 7)

Prescribed Documents

* a copy of each determination of native title in relation to any registered native title body corporate party;

* a statement from each party to the ILUA that it agrees to the application for registration being made;

* a copy of an extract from the Register of Native Title Claims in relation to any registered native title claimant party;

* a written description of the area covered by the agreement, identifying its boundaries and any areas within its boundaries not included in the agreement area, and a map of the area agreement showing geographic coordinates;

* a written description of any area covered by the agreement, identifying its boundaries and any areas within its boundaries not included in that part of the agreement area, in which the surrender of native title under the agreement is intended to extinguish native title rights and interests, and a map of that area showing geographic coordinates;

* a copy of any certification by a representative body of the application for registration; and

* if the agreement:

- is one to which a registered prescribed body corporate is a party; and

- gives effect to a decision that affects the native title rights and interests of common law native title holders in an area; and

- for any part of that area, there is a representative body that is not a party to the agreement, or no representative body;

a document under subregulation 9(2) of the Native Title (Prescribed Bodies Corporate) Regulations 1999 relating to consultation with common law native title holders about the decision.

Prescribed Information

* the name of each party to the agreement and the address at which each can be contacted, and information identifying the government party and any representative body party;

* if the agreement is for a specified period, that period;

* whether any representative body was informed before entry into the agreement as required by subsection 24CD(7); and

* if the agreement contains a statement about the doing of a future act or class of future acts, or the application of the right to negotiate, or the surrender of native

title, or the validation of a future act that is not an intermediate period act, or the validation of a class of such future acts, or changing the effects of a validated intermediate period act or a class of such acts on native title - information giving the location in the agreement of the statement.

Registration of alternative procedure agreements (Regulation 8)

Prescribed Documents

- * a copy of each determination of native title in relation to any registered native title body corporate party;
- * a statement from each party to the ILUA that it agrees to the application for registration being made;
- * a copy of an extract from the Register of Native Title Claims in relation to any registered native title claimant party;
- * a written description of the area covered by the agreement, identifying its boundaries and any areas within its boundaries not included in the agreement area, and a map of the area agreement showing geographic coordinates; and
- * if the agreement:
 - is one to which a registered prescribed body corporate is a party; and
 - gives effect to a decision that affects the native title rights and interests of common law native title holders in an area; and
 - for any part of that area, there is no representative body;

a document under subregulation 9(2) of the Native Title (Prescribed Bodies Corporate) Regulations 1999 relating to consultation with common law native title holders about the decision.

Prescribed Information

- * the name of each party to agreement and the address at which each can be contacted, and information identifying all government parties and all representative body parties;
- * if the agreement is for a specified period, that period; and
- * if the agreement contains a statement about the doing of a future act or a class of future acts, or the application of the right to negotiate, or the validation of a future act that is not an intermediate period act, or the validation of a class of such future acts, or changing the effects of a validated intermediate period act or a class of such acts on native title - information giving the location in the agreement of the statement.