

Indigenous Land Use Agreement Local Government Template

- Sets out an alternative, but simplified Future Act Scheme
- The scheme is triggered by the “Notifiable Act” process
- Notifiable acts are future acts proposed over “sensitive Land” namely:-
 - (a) earthworks which cause major disturbance to land or to the bed or subsoil under waters (including works covered by S24KA of the Native Title Act and any sewerage treatment facilities);
 - (b) the division of any allotment into four or more sub-allotments;
 - (c) the grant of any fee simple or leasehold interest in land including any easement

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- Sensitive Land - This is to be negotiated by parties to ILUA but typically would include:-
 - (a) land identified as sensitive by Claim Group;
 - (b) all Crown land (as defined in the Crown Lands Act) within the ILUA area
 - (c) all dedicated land declared to be under the care, control and management of any Council in the ILUA area.

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- The Notifiable Act process requires a notice to be given to the claim group by a council not less than sixty days before the Council proposes to do a Notifiable Act.
- The planning protocol obliges a Council to give the Claim Group copies of the relevant decision notification forms which arise as a result of development authorisations for notifiable acts on sensitive land.
- In addition, a Council must give a heritage notice to a person who is given a development authorisation for any Notifiable Act in the ILUA area.

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- The template provides for validation by the claim group of all future acts done invalidly within the ILUA area before the registration date
- The claim group also consents to all future acts being done during the term of the ILUA
- The Claim Group also agrees to surrender their native title rights and interests (thereby extinguishing them) over so much of the ILUA area as may be agreed, and in respect of which a Council has done or does any validated future act, where that future act is any facility for services to the public (section 24KA), any public work or any grant of a freehold or leasehold estate.
- In all other cases the non-extinguishment principle applies the validated future act.

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- Benefits or payment under the ILUA are in full and final satisfaction of any compensation rights under the Native Title Act

NOTICE OF DEVELOPMENT

To: [The Claim Group through its notifiable body]

[The Council]

Hereby serves notice in accordance with clause 3.1 of the Indigenous Land Use Agreement template (*ILUA*), made with the Narungga Nation Aboriginal Corporation on 3 December 2004 that:

1. [The Council] proposes to:

.....
.....

Insert brief description of development including type, location and size. If required, attach more detailed description including map.

2. the above proposal may affect either:

(a) both native title rights and Aboriginal heritage interests;

(b) native title rights; or

(c) Aboriginal heritage interests;

3. You are requested to respond within 30 days of the date of this notice;

4. If a meeting is required, we nominate the following date/alternative dates, being at least 45 days from the date of this notice for our respective representatives to meet and discuss the proposed development.

.....

5. *Insert Date(s)*

Please note that if we have not received your response within 30 days of the date of this notice, then you will be deemed to have given consent to the carrying out of the development.

For further information please contact:

.....

Insert name of Responsible Officer

and contact details

.....

Insert Date of Notice

ABORIGINAL HERITAGE NOTICE

Please note that the land over which you have been granted development approval is within the area of an indigenous land use agreement (ILUA) negotiated between the [Claim Group}, the State of South Australia and the [Council].

The purpose of this notice is to inform you of your obligations under the *Aboriginal Heritage Act 1988* (SA) (the AHA).

Under the *Aboriginal Heritage Act* it is an offence to damage, disturb or interfere with any Aboriginal site, object or remains without the authority of the Minister for Aboriginal Affairs and Reconciliation.

The Narungga Nation Aboriginal Corporation has been recognised under the ILUA as being responsible for arranging Aboriginal heritage surveys over the area of your development application approval. While the conduct of a survey is not a recognised procedure under the Aboriginal Heritage Act, it is a useful process to minimise your risk of damaging, disturbing or interfering with Aboriginal sites, objects or remains.

The [Claim Group] can be contacted:-

There are also formal procedures under the Aboriginal Heritage Act that you can follow if you are concerned that your proposed development may damage, disturb or interfere with an Aboriginal site, object or remains. If you would like more information about the Aboriginal Heritage Act, you can contact the Department for Aboriginal Affairs and Reconciliation:

Level 1, 22 Pulteney Street
ADELAIDE SA 5000

Tel: (08) 8226 8837

Fax: (08) 8226 8999