

When is a document certifying to consultation and consent needed?

When there is a representative body for the area but they are not a party to the agreement or when there is no representative body for the area a document certifying to consultation and consent must accompany the registration application. This is because at least one RNTBC is always a party to a Body Corporate Agreement.

This document is referred to as a Regulation Certificate. It must contain a statement that the common law holders have been consulted about, and have consented to, the proposed decision to make the Body Corporate Agreement. It must be signed in accordance with the relevant regulations. A template of this document is included in the application form for Body Corporate Agreements, which can be downloaded from the Tribunal's website.

The common law holders are the persons who have had a determination of native title made in their favour, that recognises them as the native title holders for the area covered by a determination.

Why is consultation and consent necessary?

The law says that for a decision to enter into an ILUA the RNTBC(s) for the agreement area must consult with, and obtain the consent of the common law holders.

How must the RNTBC consult with the common law holders?

The consultation process requires the relevant RNTBC(s) to ensure that the common law holders understand the purpose and the nature of the proposed decision to enter into the ILUA. This is to be done by consulting and considering the views of a representative body for the area, and if the RNTBC considers it appropriate and practical giving notice of those views to the common law holders.

How is consent given?

The consent of the common law holders must be given either:

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What does the Registrar consider? The Registrar or the delegate will only consider whether the registration application is accompanied by a document certifying to these matters and signed in accordance with the regulations. The Regulation Certificate is taken to be evidence of the consultation and consent.

You can contact the NNTT 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 NNTT.
a office in Brisbane Cairns Melbourne
Perth Adelaide .

Freecall 1800 640 501.

Information also available at www.nntt.gov.au

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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).