

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
NATIONAL NATIVE TITLE TRIBUNAL

Question No. 67

Senator Barnett asked the following question at the hearing on 27 May 2008:

Please advise of the agreements that have been negotiated across Australia for a range of purposes under Native Title legislation and provide a description or nature of those agreements.

The answer to the honourable senator's question is as follows:

The *Native Title Act 1993* provides for Indigenous land use agreements (ILUAs) which are specific forms of agreements that can be negotiated, registered and given particular legal effect by the Act. ILUAs can be negotiated over areas where native title has been shown to exist or might exist.

They can be:

- used in conjunction with determinations of native title, or
- 'stand alone' agreements negotiated before, and independently of, any determination of native title.

ILUAs have been used to cover a range of land uses including the creation and management of national parks, community living areas, mineral exploration and mining, petroleum activity, marina development, defence facilities, pipelines, and the use of and access to pastoral leases.

At 19 June 2008 there were 335 ILUAs registered on the Register of Indigenous Land Use Agreements maintained by the Native Title Registrar.

The Act also provides for agreements under the 'right to negotiate' procedure which applies to certain acts affecting native title, primarily the conferral of mining rights. Agreements can be made about the doing of the act with or without conditions to be complied with by any of the parties. The Tribunal's Annual Report for 2006-07 records that, in that period, there were 114 agreements mediated by the Tribunal which fully resolved future act applications. Since 1 July 2005, the Tribunal has recorded 2421 agreements (as at 26 June 2008). There would probably be a significant number of other commercial agreements which are not recorded by the Tribunal. The Tribunal has been asked to make consent determinations in relation to many future acts. The Tribunal's Annual Report for 2006-07 records that, in that period, the Tribunal made 174 consent determinations (by tenements) that future acts could be done.

Most native title claimant applications have been determined by the Federal Court in, or consistent with, terms agreed by the parties. These 'consent determinations' can provide that native title exists or does not exist in all or part of a claim. A total of 64 consent determinations have been made as at 19 June 2008.