

Section 19 Land Use Agreements in the Northern Territory

In the Northern Territory, certain development activities on Indigenous land are regulated under Section 19 of the *Aboriginal Land Rights (Northern Territory) Act 1976 (Commonwealth)* (Land Rights Act). This fact sheet provides an overview of when Section 19 of the Land Rights Act applies, what types of land use agreements can be concluded under Section 19, and what key steps need to be followed to reach Section 19 land use agreements.

When does Section 19 of the *Land Rights Act* apply?

Section 19 of the *Land Rights Act* applies when (1) non-mining development activities (2) are conducted on Indigenous land (3) in the Northern Territory.

1. Non-mining development activities

Section 19 of the *Land Rights Act* only applies to non-mining development activities. So far, more than 700 Section 19 land use agreements have been concluded in the Northern Territory covering the following purposes:

- Barge Landings and Airstrips
- Environmental Services
- Extractive Minerals and Renewable Energy
- Fisheries and Aquaculture
- Horticulture, Forestry and Irrigated Agriculture
- Housing and Property Development
- Manufacturing and Processing
- Pastoral, Grazing and Mustering
- Pet Meat and Wildlife Harvesting
- Residential Housing/Home Ownership/ Indigenous Public Housing
- Retail, Community and Commercial Services
- Telecommunication infrastructure
- Tourism, Sports Fishing and Safari Hunting
- Transpose and Construction

2. Indigenous land

Section 19 of the *Land Rights Act* only applies to the land that has been granted the status of Indigenous ('Aboriginal') land under the *Land Rights Act*.

3. Northern Territory

Section 19 only applies to the Northern Territory.

What types of land use agreements can be concluded under Section 19?

Under Section 19, two types of land use agreements can be concluded: lease or licence.

- A lease-based land use agreement guarantees the right to use the land for a specified term of years and to exclude people from entering the land.
- A licence-based land use agreement guarantees the right to use the land for a specified purpose. However, this type of land use agreement does not include the right to exclude people from the land.

Key steps to create land use agreements under Section 19

Any person or organisation willing to establish a land use agreement under Section 19 needs to adhere to the the following steps:

1. Approach the Northern Land Council formed under the *Land Rights Act* to obtain necessary information about Section 19 land use agreements.
2. Submit an Expression of Interest Application to the National Land Council for either lease or licence-based land use agreement.
3. Attach a map of the proposed area to the Expression of Interest Application, including a copy of the business or development plan if required.

After receiving an Expression of Interest Application for a Section 19 land use agreement, the National Land Council will undertake the following actions:

- Assess the significance and impact of the proposed land use agreement.
- Consult with traditional owners about the proposed land use agreement.
- Provide traditional owners an opportunity to make an informed decision in accordance with their customary practices.
- Consult with Indigenous people and communities who may be affected by the proposed land use agreement.
- Where informed consent is given and after the National Land Council has approved the application for Indigenous land use, direct the appropriate Aboriginal Land Trust to enter into a Section 19 Land Use Agreement with the applicant. An applicant could be an individual or company, including a traditional owner of the land.
- Where the proposed land use agreement is for more than 40 years or worth more than \$1 million, obtain approval from the Commonwealth Minister responsible for the Land Rights Act.

This fact sheet is only for information purposes, and to assist you in understanding your legal rights and obligations in a general sense. It is not tailored to any particular fact, situation or specific requirements, and must not be relied on as legal advice.

This research was conducted by the *ARC Industrial Transformation Training Centre for Uniquely Australian Foods* (IC180100045) and funded by the Australian Government.



Australian Government
Australian Research Council