

**EASTERN YALANJI, QUEENSLAND AND DSC INDIGENOUS
LAND USE AGREEMENT
QI2006/011**

Between

**Agnes Walker, Eileen Walker, Hazel Douglas, John Walker Jnr,
Peter Fisher and Raymond Pierce**

and

Douglas Shire Council

and

State of Queensland



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THIS DEED OF AGREEMENT is made this day of 2006

BETWEEN: Agnes Walker, Eileen Walker, Hazel Douglas, John Walker Jnr, Peter Fisher and Raymond Pierce

(‘the Native Title Parties’)

AND: Douglas Shire Council

(‘the Council’)

AND: State of Queensland

(‘the State’)

RECITALS

- A. The Native Title Parties are the Registered Native Title Claimant for part of the Agreement Area and as members of the Eastern Kuku-Yalanji People claim to hold Native Title in relation to the whole of the Agreement Area.
- B. The Eastern Kuku-Yalanji People have authorised the Native Title Parties under section 251A of the NTA to enter into this Agreement.
- C. The parties have agreed to the making of the Determination, the surrender of native title and the creation of freehold, reserves and roads under the *Land Act 1994* (Qld) in relation to parts of the Agreement Area.
- D. The parties have also agreed other arrangements for other parts of the Agreement Area.
- E. This Agreement is entered into as an indigenous land use agreement (area agreement) and it is intended to be registered under Subdivision C, Division 3, Part 2 of the NTA.

NOW THE PARTIES AGREE AS FOLLOWS -

1. Interpretation

- 1.1 In this Agreement unless the context otherwise requires or the contrary intention appears:

“Aboriginal Cultural Heritage” has the meaning given in the *Aboriginal Cultural Heritage Act 2003* (Qld);

“Agreed Acts” means:

- (a) the Surrender;
- (b) any grant of a lease, agreement, licence, permit or other authority under sections 34 or 35 of the *Nature Conservation Act 1992* (Qld) to the Council for the construction, use and maintenance of water infrastructure in relation to the Thompson Creek Surrender Area, (subject to the discretion to make the grant having been exercised);

- (c) the dedication, management and use (including the construction of infrastructure that is consistent with the dedicated purpose) of the New Reserve Areas as reserves under the *Land Act 1994* (Qld) for the purposes described in the second column of the table at **Schedule 3**;
- (d) the dedication, use and management of the Road Opening Area as roads under the *Land Act 1994* (Qld);
- (e) any declaration amending the location of roads under section 96(3) of the *Land Act 1994* (Qld) pursuant to clause 20.3 of this Agreement, and the use and management of those roads;
- (f) the creation of any tenure under clause 20.4 of this Agreement;
- (g) the grant of a trustee lease under section 57 of the *Land Act 1994* (Qld), pursuant to clause 22.2 of this Agreement;
- (h) the dedication, management and use (including the construction of infrastructure that is consistent with the dedicated purpose) of a further reserve under the *Land Act 1994* (Qld) for cultural, environmental and recreation purposes in relation to the part of Lot 15 on USL8831 (M092) as shown approximately on the map at **Schedule 3(b)** as ‘CER’, in the event that the reserve to be dedicated in relation to that area pursuant to clause 12.1(b)(i) of this Agreement is ever revoked;
- (i) any grant to the Council of a permitted use authority under section 35 of the *Nature Conservation Act 1992* (Qld), as referred to in clause 21.1 of this Agreement;
- (j) the dedication, use and management of an area 60 metres wide that includes the constructed road known as the CREB Track (China Camp to Daintree), as shown approximately on the map at **Schedule 16**, as a road under the *Land Act 1994* (Qld); and
- (k) all acts necessary to give effect to those acts;

“Agreement” means this document and all schedules to this document;

“Agreement Area” means the area described in **Schedule 1**, as shown on the maps in **Schedule 1**;

“ALA” means the *Aboriginal Land Act 1991* (Qld);

“Bamanga Bubu Ngadimunku Inc.” means Bamanga Bubu Ngadimunku Inc (ABN 26 904 810 679), a corporation incorporated under the *Associations Incorporation Act 1981* (Qld);

“Business Day” has the meaning given in the *Acts Interpretation Act 1954* (Qld);

“Claim” means any claim, proceeding, action, cause of action or demand;

“Compensation” means any compensation monetary or otherwise, payable in relation to:

- (a) the doing of the Agreed Acts; and

(b) the extinguishment of Native Title by the Surrender;

“Confidential Information” means:

- (a) the negotiations between the parties in relation to this Agreement, including any information provided by or on behalf of, any of the parties during those negotiations; and
- (b) information provided by, or on behalf of, any of the parties as required by this Agreement;

“Cow Bay Beach Protection Reserve” means that part of Lot 15 on USL8831 (M092) to be dedicated as a reserve for beach protection purposes under the *Land Act 1994* (Qld), referred to in clause 12.1(b)(i) of this Agreement;

“Cow Bay CER Reserve” means that part of Lot 15 on USL8831 (M092) to be dedicated as a reserve for cultural, environmental and recreation purposes under the *Land Act 1994* (Qld), referred to in clause 12.1(b)(i) of this Agreement;

“Determination” means a determination of the Eastern Kuku-Yalanji Claim by the Federal Court of Australia in substantially the same terms as the draft determination in **Schedule 14**;

“Dispute” means a dispute between the parties with respect to this Agreement or any of its provisions;

“Dispute Notice” means written notice given to the other parties containing full particulars of the Dispute;

“Eastern Kuku-Yalanji Claim” means native title determination application QUD 6008 of 1998;

“Eastern Kuku-Yalanji Entity” means a body to be established on behalf of the Eastern Kuku-Yalanji People, for purposes including being the trustee of any reserve created under the *Land Act 1994* (Qld);

“Eastern Kuku-Yalanji People” means the Native Title Claim Group for the Eastern Kuku-Yalanji Claim;

“Exclusive USL Areas” means the following areas:

- (a) Lot 2 on USL8832 (M093);
- (b) Lot 3 on USL8832 (M094);
- (c) Lot 4 on USL8832 (M095);
- (d) Lot 1 on USL8848 (M101);
- (e) Lot 22 on USL8885 (M104);
- (f) Lot 23 on USL8885 (M105);

- (g) Lot 3 on USL8888 (M106);
- (h) Lot 4 on USL8888 (M107);
- (i) Lot 6 on USL8888 (M108);
- (j) Lot 2 on USL8897 (M110);
- (k) Lot 17 on USL8892 (M111); and
- (l) Lot 19 on USL8892 (M112);

“Execution Date” means the day on which this Agreement is executed by the parties and if executed on different days, the later of those days;

“Existing Reserve Areas” means the areas described in the second column of the table at **Schedule 2**;

“Firearm” means:

- (a) a gun or other thing ordinarily described as a firearm; or
- (b) a thing ordinarily described as a weapon that, if used in the way for which it was designed or adapted, is capable of being aimed at a target and causing death or injury by discharging a projectile, other than a weapon traditionally used by the Eastern Kuku-Yalanji People, such as a woomera;

“Future Act” has the meaning given in the NTA;

“GST” has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“Land Councils” means the Cape York Land Council Aboriginal Corporation and the North Queensland Land Council Native Title Representative Body Aboriginal Corporation incorporated under the *Aboriginal Councils and Associations Act 1976* (Cth), being the Representative Bodies for the Agreement Area;

“Land Trust” means the trustee of Lot 7 on DP189923, to be appointed by the Minister under section 28 of the ALA;

“Margin Scheme” means the margin scheme under division 75 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“Minister” means:

- (a) where the word appears by reference to the *Land Act 1994* (Qld), the Minister from time to time administering the *Land Act 1994* (Qld), and
- (b) where the word appears by reference to the ALA, the Minister from time to time administering the ALA;

“National Park ILUA Deed of Variation” has the meaning given in the State and WTMA ILUA;

“Native Title” has the meaning given in the NTA;

“Native Title Claim Group” has the meaning given in the NTA;

“Native Title Holders” has the meaning given in the NTA;

“Native Title Parties” means Agnes Walker, Eileen Walker, Hazel Douglas, John Walker Jnr, Peter Fisher and Raymond Pierce;

“Native Title Rights and Interests” has the meaning given in the NTA;

“New Reserve Areas” means the areas described in the second column of the table at **Schedule 3**;

“Non-Extinguishment Principle” has the meaning given in the NTA;

“NTA” means the *Native Title Act 1993* (Cth);

“Other ILUAs” means the following indigenous land use agreements:

- (a) Eastern Yalanji, Queensland and WTMA (Freehold Grants) Indigenous Land Use Agreement, QI2006/007;
- (b) Eastern Yalanji, Queensland and WTMA (National Parks) Indigenous Land Use Agreement, QI2006/026;
- (c) Eastern Yalanji and DSC Indigenous Land Use Agreement, QI2006/024;
- (d) Eastern Yalanji, Queensland and CSC Indigenous Land Use Agreement, QI2006/009;
- (e) Eastern Yalanji and CSC Indigenous Land Use Agreement, QI2006/025;
- (f) Eastern Yalanji, Queensland and WWASC Indigenous Land Use Agreement, QI2006/013;
- (g) Eastern Yalanji, Queensland and BAC Indigenous Land Use Agreement, QI2006/015;
- (h) Eastern Yalanji, Queensland and BMAC Indigenous Land Use Agreement, QI2006/017;
- (i) Eastern Yalanji, Queensland and Harlow Indigenous Land Use Agreement, QI2006/012;
- (j) Eastern Yalanji, Queensland and Marshall Indigenous Land Use Agreement, QI2006/014;
- (k) Eastern Yalanji, Queensland and Brandt Indigenous Land Use Agreement, QI2006/016;
- (l) Eastern Yalanji, Queensland and McLean Indigenous Land Use Agreement, QI2006/010;

(m) Eastern Yalanji and Telstra Indigenous Land Use Agreement, QI2006/008; and

(n) Eastern Yalanji and Ergon Indigenous Land Use Agreement, QI2006/005;

“PBC” means the prescribed body corporate to be determined by the Federal Court of Australia under section 57 of the NTA with respect to the Determination;

“Pink Zone Agreement” has the meaning given in the State and WTMA ILUA;

“Prescribed Documents” means the documents and information referred to in section 24CG(2) of the NTA;

“Queensland Law” means the law in force in the State of Queensland;

“Rare or Threatened Wildlife Activity Guideline” has the meaning given in the State and WTMA ILUA;

“Receipt Date” means the day on which a Dispute Notice is taken to have been received in accordance with clause 39;

“Recipient” has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“Registered” means registered on the Register of Indigenous Land Use Agreements;

“Register of Indigenous Land Use Agreements” has the meaning given in the NTA;

“Registered Native Title Claimant” has the meaning given in the NTA;

“Registrar” has the meaning given in the NTA;

“Registration” means the date on which an indigenous land use agreement is Registered;

“Remaining ALA Freehold Area” has the meaning given in the State and WTMA ILUA;

“Representative Body” has the meaning given in the NTA;

“Road Closure Area” means the area described in **Schedule 5**;

“Road Opening Area” means the area described in **Schedule 6**;

“State” means the State of Queensland;

“State and WTMA ILUA” means the Eastern Yalanji, Queensland and WTMA (Freehold Grants) Indigenous Land Use Agreement, QI2006/007;

“Supplier” has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“Surrender” means the surrender of Native Title in relation to the Surrender Area to the State;

“Surrender Area” means the area described in the second column of the table at **Schedule 11**;

“Tax Invoice” has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“Taxable Supply” has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

“Thompson Creek Surrender Area” means an area up to 4 hectares to be identified by the Council as being necessary for the construction, use and maintenance of water infrastructure on Thompson Creek, within that part of Lot 20 on NPW695 (M019) shown on the map at **Schedule 11(a)** as ‘Thompson Creek Area’

“Thornton Peak Walking Track” has the meaning given in the Yellow Zone Agreement;

“WTMA” means the Wet Tropics Management Authority established under the *Wet Tropics World Heritage Protection and Management Act 1993* (Qld) or the person from time to time administering the *Wet Tropics World Heritage Protection and Management Act 1993* (Qld) and the *Wet Tropics Management Plan 1998* (Qld); and

“Yellow Zone Agreement” has the meaning given in the State and WTMA ILUA.

1.2 In this Agreement:

- (a) words indicating a gender include each other gender;
- (b) words in the singular include the plural and words in the plural include the singular;
- (c) the table of contents, the recitals and the headings are for ease of reference only and do not affect the meaning of this Agreement;
- (d) a reference to a clause or schedule is a reference to a clause in, or schedule to, this Agreement including as varied in accordance with clause 44.4;
- (e) in the case of any inconsistency between a clause and a schedule, the clause will prevail to the extent of any inconsistency;
- (f) an agreement, acknowledgement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (g) an agreement, acknowledgement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally;
- (h) a reference to a Queensland statute or regulation is to be interpreted in accordance with section 14H of the *Acts Interpretation Act 1954* (Qld);
- (i) a reference to a Commonwealth statute or regulation is to be interpreted in accordance with section 10 of the *Acts Interpretation Act 1901* (Cth);
- (j) a reference to a nominated time is a reference to that time in Queensland;

- (k) where a period of time is to be calculated from after a given day, event or act, the period is to be calculated excluding the given day or the day on which the event or act occurs;
- (l) when the day or last day for doing an act is not a Business Day, the day or last day for doing the act will be the following Business Day;
- (m) a reference to a person includes a reference to corporations and other entities recognised by law;
- (n) where this Agreement defines a word or expression, other grammatical forms of the word or expression are taken to have corresponding meanings; and
- (o) all references in the form of 'M000' in relation to a description of an area are included for the parties' ease of reference, and do not affect the meaning of this Agreement.

2. Authority to Enter into Agreement

2.1 The Native Title Parties represent and warrant that:

- (a) all reasonable efforts, including consulting the Land Councils, have been made to ensure that all persons who hold Native Title in relation to the Agreement Area have been identified;
- (b) all of the persons identified as a result of the reasonable efforts referred to in clause 2.1(a):
 - (i) are Eastern Kuku-Yalanji People; and
 - (ii) authorised the making of this Agreement in accordance with section 251A of the NTA; and
- (c) prior to executing this Agreement they consulted with the Land Councils regarding this Agreement and informed the Land Councils of their intention to enter into this Agreement.

2.2 The Native Title Parties claim to hold Native Title in relation to all land or waters within the Agreement Area, including any which is not subject to the Eastern Kuku-Yalanji Claim.

3. Binding Effect on Native Title Holders

3.1 While details of this Agreement are entered on the Register of Indigenous Land Use Agreements this Agreement is, by operation of the NTA, binding on all Native Title Holders in relation to any part of the Agreement Area as if they were the Native Title Parties.

4. Commencement and Termination of Agreement

4.1 Subject to clauses 4.2, 4.3 and 4.4 this Agreement commences upon the later of the following:

- (a) this Agreement being Registered;
 - (b) each of the Other ILUAs being Registered; or
 - (c) the making of the Determination.
- 4.2 Clauses 1 (Interpretation), 2 (Authority to Enter into Agreement), 4 (Commencement and Termination of Agreement), 7 (Registration as an Area Agreement) and 40 (Confidentiality) commence upon the Execution Date.
- 4.3 Clause 9 (Consent Determination) commences upon the later of the following:
- (a) this Agreement being Registered;
 - (b) each of the Other ILUAs being Registered; or
 - (c) the execution of the Pink Zone Agreement, the Yellow Zone Agreement and the National Park ILUA Deed of Variation by the parties to those agreements.
- 4.4 Clauses 30.3 (Compensation) and 31 (Release and Waiver) commence upon the grant of the Remaining ALA Freehold Area to the Land Trust as Aboriginal land under the ALA.
- 4.5 This Agreement may be terminated by written agreement executed by each party.

5. Consent to Agreed Acts

- 5.1 The parties consent to the doing of the Agreed Acts, to the extent they are Future Acts, in accordance with and subject to any conditions contained in this Agreement.
- 5.2 Clause 5.1 is a statement for the purposes of section 24EB(1)(b) of the NTA.
- 5.3 If this Agreement terminates, the parties' consent in clause 5.1 continues to apply to any Agreed Acts done prior to the date this Agreement terminates.

6. Right to Negotiate

- 6.1 To avoid any doubt, Part 2, Division 3 of Subdivision P of the NTA does not apply to the Agreed Acts.

7. Registration as an Area Agreement

- 7.1 This Agreement is intended to be Registered as an area agreement under sections 24CA to 24CL of the NTA and the *Native Title (Indigenous Land Use Agreement) Regulations 1999* (Cth).
- 7.2 The State is authorised on behalf of the parties to –
- (a) apply to the Registrar for this Agreement to be Registered; and
 - (b) advise the Registrar in accordance with section 199E of the NTA that the parties do not want any details of this Agreement available for inspection other than those required to be entered into the Register under section 199B(1) of the NTA.
- 7.3 Upon execution of the Agreement the Native Title Parties will either:

- (a) obtain a certificate from the Land Councils pursuant to section 203BE(1)(b) of the NTA for the purposes of section 24CG(3)(a) of the NTA; or
- (b) execute a statement in the terms contained in **Schedule 15** and provide it to the State.

7.4 The parties must promptly do all things necessary to assist this Agreement being Registered, including providing any Prescribed Documents to the State upon request.

8. Non-Extinguishment Principle

8.1 The parties acknowledge that the Non-Extinguishment Principle will apply to the Agreed Acts, other than the Surrender, to the extent they are Future Acts.

9. Consent Determination

9.1 The parties agree to the making of the Determination.

10. Surrender of Native Title

10.1 The Surrender is intended to extinguish any Native Title that may exist in relation to the Surrender Area.

10.2 Subject to clause 10.3 the Surrender will take effect, with respect to each part of the Surrender Area, immediately prior to any grant of the relevant part of the Surrender Area in fee simple under the *Land Act 1994* (Qld), in accordance with this Agreement.

10.3 Native Title will only be surrendered in relation to the Thompson Creek Surrender Area if the Council applies for the grant of the Thompson Creek Surrender Area, in fee simple, under section 14(1) of the *Land Act 1994* (Qld), and any such grant is made, in which case the surrender of Native Title in relation to the Thompson Creek Surrender Area will take effect immediately prior to the grant.

10.4 The Council will not apply for the grant of the Thompson Creek Surrender Area in fee simple, as contemplated by clause 10.3, unless the Council has first obtained all necessary statutory approvals for the construction, use and maintenance of water infrastructure on the Thompson Creek Surrender Area, including under the *Wet Tropics Management Plan 1998* (Qld) and the *Water Act 2000* (Qld).

11. Revocation of Reserves on Existing Reserve Areas

11.1 The Council consents to the State applying to the Minister to revoke, by gazette notice under section 33 of the *Land Act 1994* (Qld), the reserves in relation to the Existing Reserve Areas.

12. Creation of Reserves on New Reserve Areas

12.1 Subject to clauses 13 and 14, and as soon as practicable following the declaration of the Remaining ALA Freehold Area as transferable land in accordance with clause 14.2 of the State and WTMA ILUA, the State will apply to:

- (a) the Governor in Council to revoke, under section 28(4) of the *Forestry Act 1959*, the setting apart of any timber reserve on any of the New Reserve Areas; and

- (b) the Minister to:
 - (i) dedicate, by gazette notice under section 31 of the *Land Act 1994* (Qld), the New Reserve Areas as reserves for the purposes described in the third column of the table at **Schedule 3**; and
 - (ii) appoint, by gazette notice under section 44 of the *Land Act 1994* (Qld), the Council and the Eastern Kuku-Yalanji Entity as either sole or joint trustees of the reserves on the New Reserve Areas, as described in the fourth column of the table at **Schedule 3**.

13. Management Plans for New Reserve Areas

13.1 The State will not make application under clause 12.1 until:

- (a) the proposed trustee or joint trustees described in the fourth column of the table at **Schedule 3** (referred to for the purposes of this clause as ‘the proposed trustee’) has prepared draft management plans for the purposes of the *Land Act 1994* (Qld) in relation to the New Reserve Areas, in accordance with clause 13.2 and 13.3, and in the case of the Cow Bay Beach Protection Reserve and the Cow Bay CER Reserve, in accordance with clause 14; and
- (b) the State has approved the draft management plan.

13.2 In preparing the draft management plan, the proposed trustee must consult with the local community together with:

- (a) where the Council is to be sole trustee, the Eastern Kuku-Yalanji People; and
- (b) where the Eastern Kuku-Yalanji Entity is to be sole trustee, the Council.

13.3 The proposed trustee must provide the State with a written report describing both the consultation referred to in clause 13.2 and the way in which the results of that consultation have been considered and, where appropriate, incorporated into the draft management plan.

14. Management Plans for the Cow Bay Beach Protection Reserve and the Cow Bay CER Reserve

14.1 In preparing the draft management plan for the Cow Bay Beach Protection Reserve, as contemplated by clause 13.1(a), the Eastern Kuku-Yalanji Entity, as the proposed trustee of the reserve, will:

- (a) consult with the Council in relation to the contents of the draft management plan, prior to resolving to make application to the State for approval under clause 13.1(b); and
- (b) provide the Council with a copy of the draft management plan at least 40 Business Days prior to submitting the draft management plan to the State for approval under clause 13.1(b).

14.2 In preparing the draft management plan for the Cow Bay CER Reserve, as contemplated by clause 13.1(a), the Council, as the proposed trustee of the reserve, will:

- (a) without limiting the contents of the draft management plan, ensure that it makes provision for:
 - (i) the retention of public and vehicular access to the reserve;
 - (ii) the retention of carparking facilities on the reserve;
 - (iii) the retention of vehicle access to the foreshore and beach area for the sole purpose of launching boats from the beach;
 - (iv) the retention of the ability to park vehicles and trailers on the reserve;
 - (v) the protection of environmental, cultural and recreational values;
 - (vi) camping, subject to permits to be granted by the trustee of the reserve;
 - (vii) the formation of an advisory board in accordance with clause 14.3; and
 - (viii) the ability of the trustee to amend any management plan to address management issues should they occur;
- (b) consult with the local community, including Terry Anne Rogers, Arnifried Brendecke, Odette Catherine Phillpot, Russell David O'Doherty and Vernon John Goodyear, in relation to the contents of the draft management plan; and
- (c) provide the Native Title Parties with a copy of the draft management plan at least 40 Business Days prior to submitting the draft management plan to the State for approval under clause 13.1(b).

14.3 For the purposes of clause 14.2(a)(vii), the advisory board will be comprised of six people, being:

- (a) two representatives of the Council, to be divisional Councilors for the proposed reserve area while such divisions exist;
- (b) two Eastern Kuku-Yalanji People;
- (c) the President from time to time of the Bailey's Creek Community League (or any similar organisation formed in its place) or the President's nominee; and
- (d) one resident of the Daintree Coast community.

14.4 The role of the advisory board referred to in clause 14.2(a)(vii) includes providing advice to the Council, as trustee, on management issues generally and strategies to be incorporated into the management plan for the Cow Bay CER Reserve. The advisory board will not have any decision making powers or power of veto in relation to the decisions of the trustee.

14.5 To allay any doubt, the Council, as trustee of the Cow Bay CER Reserve, will assume responsibility for any infrastructure that is situated within the Cow Bay CER Reserve at the time it is dedicated under clause 12.1(b)(i) of this Agreement.

15. Buffer Zone for Cow Bay Aboriginal land

- 15.1 The Native Title Parties will direct (to the extent possible) the Land Trust to not, and will use their best endeavours to ensure that the Land Trust will not, develop or seek to develop that part of Lot 15 on USL8831 (M092) situated within 30 metres of Buchanan Creek Road, other than that part of the 30 metre area that is within 20 metres of the south-western corner of Lot 15 on USL8831 to allow for possible future access to that part of the parcel proposed to become Aboriginal land under the ALA.

16. Changes to Trustee and Purpose of Reserves

- 16.1 The State will apply to the Minister to appoint, by gazette notice under section 44 of the *Land Act 1994* (Qld), the Eastern Kuku-Yalanji Entity as joint trustee of the reserves for which the Council was the sole trustee at the Execution Date, in relation to:

- (a) Lot 11 on SR804234 (M230);
- (b) Lot 13 on SR804235 (M231);
- (c) Lot 150 on SR532 (M069);
- (d) Lot 5 on SP159909 (formerly Lot 5 on SR906) (M263); and
- (e) Lot 381 on SR833 (M277).

- 16.2 The Council will, in accordance with section 50(1)(a) of the *Land Act 1994* (Qld), resign as trustee of the reserve in relation to Lot 86 on SR798 (M068), and the State will, following the resignation, apply to the Minister to appoint the Eastern Kuku-Yalanji Entity as trustee of the reserve under section 50(2) of the *Land Act 1994* (Qld).

- 16.3 The State will apply to the Minister to change, by gazette notice under section 31(2) of the *Land Act 1994* (Qld), the purpose for which the following three reserves were dedicated, as set out below:

- (a) Lot 150 on SR532 (M069), to be changed to ‘cultural, environmental and recreation’ purposes;
- (b) Lot 5 on SP159909 (formerly Lot 5 on SR906) (M263), to be changed to ‘cultural, environmental and recreation’ purposes;
- (c) Lot 86 on SR798 (M068), to be changed to ‘beach protection’ purposes; and
- (d) Lot 381 on SR833 (M277), to be changed to ‘cultural and environmental’ purposes.

17. Exercise of Native Title Rights and Interests on the New Reserve Areas and any other reserves

- 17.1 Subject to clauses 17.2 and 19, and notwithstanding any determination of Native Title under the NTA, the Native Title Parties will only exercise Native Title Rights and Interests within the New Reserve Areas (for so long as the areas are reserves), other than the Cow Bay Beach Protection Reserve or the Cow Bay CER Reserve, and any other reserves under the *Land Act 1994* (Qld) that are situated within the Agreement Area, in a manner consistent with the purpose of the reserves, any management plans for the

reserves, the *Wet Tropics World Heritage Protection and Management Act 1993* (Qld) and the *Wet Tropics Management Plan 1998* (Qld).

17.2 In exercising any Native Title Rights and Interests within the New Reserve Areas (for so long as the areas are reserves), other than the Cow Bay Beach Protection Reserve or the Cow Bay CER Reserve, and any other reserves that are situated within the Agreement Area, the Native Title Parties will not:

- (a) control or seek to control use of or access to the reserves;
- (b) take, keep, use or interfere with any plants or animals that are regulated by the Rare or Threatened Wildlife Activity Guideline, other than in accordance with the Rare or Threatened Wildlife Activity Guideline;
- (c) in those reserves listed in the table at **Schedule 4(a)**, conduct the burial of an Eastern Kuku-Yalanji Person, without first obtaining the approval of the Council;
- (d) in those reserves listed in the table at **Schedule 4(b)**, camp or hunt using a Firearm or dog without first obtaining the approval of the Council;
- (e) in those reserves listed in the table at **Schedule 4(c)**, camp or hunt using a Firearm or dog:
 - (i) within three years from the date the Determination is made by the Federal Court of Australia; or
 - (ii) prior to the State approving a draft management plan in relation to the reserve in accordance with clause 13.1(b),

whichever occurs sooner.

- (f) in those reserves listed in the table at **Schedule 4(d)**, light fires without first obtaining the approval of the Council:
 - (i) within three years from the date the Determination is made by the Federal Court of Australia; or
 - (ii) prior to the State approving a draft management plan in relation to the reserve in accordance with clause 13.1(b),

whichever occurs sooner.

18. Exercise of Native Title Rights on the Cow Bay reserves

18.1 In relation to the Cow Bay Beach Protection Reserve and the Cow Bay CER Reserve, the Native Title Parties agree:

- (a) that the exercise of any Native Title Rights and Interests, including exclusive Native Title Rights and Interests, are restricted, curtailed or suspended in so far as they are inconsistent with the relevant purposes and any management plans for the reserves;
- (b) not to control or seek to control use of or access to the reserves; and

- (c) not to take, keep, use or interfere with any plants or animals that are regulated by the Rare or Threatened Wildlife Activity Guideline, other than in accordance with the Rare or Threatened Wildlife Activity Guideline.

19. Register of Burial Sites

- 19.1 If following the commencement of this Agreement an Eastern Kuku-Yalanji Person is buried, in the exercise of Native Title Rights and Interests, within the Agreement Area but outside a cemetery administered by the Council, the Native Title Parties will ensure that the location of the burial site, the identity of the deceased person, and the date of the burial is recorded in the register referred to in clause 19.3.
- 19.2 If the Native Title Parties identify any site within the Agreement Area but outside a cemetery administered by the Council, where an Eastern Kuku-Yalanji Person was buried prior to the commencement of this Agreement, the Native Title Parties will ensure that the location of the burial site and any other appropriate information, is recorded in the register referred to in clause 19.3.
- 19.3 The Native Title Parties will establish and maintain a written register recording information in relation to the burial sites of Eastern Kuku-Yalanji People, as provided by clauses 19.1 and 19.2, and will provide a written copy of each register entry to the Council, on a confidential basis, within 20 Business Days of the entry having been made.
- 19.4 To allay any doubt, this clause does not apply to any area in relation to which Native Title Rights and Interests have been surrendered under the NTA.

20. Roads

- 20.1 The State will, as soon as practicable following the completion of all necessary survey work, apply to the Governor in Council to revoke, under section 28(4) of the *Forestry Act 1959* (Qld), the setting apart of any timber reserve within the Road Opening Area.
- 20.2 Subject to clause 20.3, the State will, as soon as practicable following the completion of all necessary survey work, apply to the Minister to:
 - (a) permanently close, by gazette notice under section 98 of the *Land Act 1994* (Qld), all roads within the Road Closure Area; and
 - (b) dedicate, by gazette notice under section 94 of the *Land Act 1994* (Qld), the Road Opening Area as roads for public use.
- 20.3 Where section 96(3) of the *Land Act 1994* (Qld) applies to any road within the Road Closure Area or the Road Opening Area, the State may apply to the Minister to declare, by gazette notice under section 96(3), that the location of the road is amended by the description stated in the notice.
- 20.4 Upon the closure of any road within the Road Closure Area the land previously subject to the road may be dealt with under section 108 of the *Land Act 1994* (Qld) and may, at the discretion of the State, be incorporated into any adjoining tenure. This clause 20.4 does not give rise to any surrender of Native Title.

21. Little Falls

- 21.1 The State will use its best endeavours to favourably consider an application by the Council for a permitted use authority under section 35 of the *Nature Conservation Act 1992* (Qld) in order to permit the continuation of water extraction for community purposes from, and the regularisation of water infrastructure at, the area situated within Lot 20 on NPW695 (M019) known as Little Falls.

22. Newell Beach

- 22.1 In the event that Lot 287 on SR864 (M012) is no longer required for waste management purposes, the Council will engage in negotiations with the Native Title Parties, in good faith, in relation to the future use and tenure of the land, including the possible commercial use of all or part of the land by the Eastern Kuku-Yalanji People and the possible dedication of a reserve under the *Land Act 1994* (Qld), with the Eastern Kuku-Yalanji Entity or the Council to be appointed as trustee, or both of them to be appointed as joint trustee, in relation to any such reserve.
- 22.2 The Council will use its best endeavours to grant the Eastern Kuku-Yalanji Entity a trustee lease under section 57 of the *Land Act 1994* (Qld), in relation to a 2 000 square metre area within Lot 382 on SR864 (M063), as approximately shown on the plan at **Schedule 7** (referred to for the purposes of this clause 22.2 and clause 22.3 as ‘the trustee lease area’), to enable the Eastern Kuku-Yalanji Entity to conduct commercial activities within the trustee lease area, including kayaking, constructing and operating a kiosk, constructing a shed, conducting boat maintenance and conducting guided walks.
- 22.3 If the trustee lease area is removed from the environmental management register maintained under the *Environmental Protection Act 1994* (Qld):
- (a) the Council will consent to the State applying to the Minister to revoke, by gazette notice under section 33 of the *Land Act 1994* (Qld), the reserve in relation to the trustee lease area; and
 - (b) the State will, as soon as practicable following the completion of all necessary survey work, and subject to sub-clause (c), apply to the Governor in Council to grant the trustee lease area to the PBC in fee simple, in exchange for the surrender of Native Title in relation to the trustee lease area, under section 18 of the *Land Act 1994* (Qld), and the Native Title Parties will use their best endeavours to ensure that the PBC will do all things necessary, including executing any documents, to enable the application to be made.
 - (c) In the event that, prior to the State making an application under sub-clause (b):
 - (i) an amendment is made to section 18(1) of the *Land Act 1994* (Qld) to enable the trustee lease area to be granted to an entity other than the PBC; and
 - (ii) the Native Title Parties provide the State with a notice requesting that any grant referred to in sub-clause (b) be made to a nominated entity that meets the requirements of section 18(1) of the *Land Act 1994* (Qld) as amended,any application under sub-clause (b) shall be made as if the references in sub-clause (b) to the PBC are references to the other nominated entity.

- 22.4 The parties acknowledge that this Agreement and the Other ILUAs are entered into in settlement of the Eastern Kuku-Yalanji Claim, and any application referred to in clause 22.3(b) is part of that settlement.

23. Cooya Beach

- 23.1 If Lot 5 on USL8735 (M086) is dedicated as a reserve in accordance with clause 12.1(b) of this Agreement, the State will apply to the Minister to approve, under section 362(1) of the *Land Act 1994* (Qld), the creation of a public utility easement over part of Lot 5 on USL8735 (M086), for drainage purposes, in favour of the Council. The Eastern Kuku-Yalanji Entity, as trustee of the reserve, will do all things necessary, including executing any documents, to enable the easement to be created.

24. Cape Tribulation Parcel

- 24.1 The State will, as soon as practicable following the completion of all necessary survey work, and subject to clause 24.2, apply to the Governor in Council to grant Lot 12 on RP746567 (M172) to the PBC, in fee simple, in exchange for the surrender of Native Title in relation to that area, under section 18 of the *Land Act 1994* (Qld), and the PBC will do all things necessary, including executing any documents, to enable the application to be made.

- 24.2 In the event that, prior to the State making an application under clause 24.1:

- (a) an amendment is made to section 18(1) of the *Land Act 1994* (Qld) to enable Lot 12 on RP746567 (M172) to be granted to an entity other than the PBC; and
- (b) the Native Title Parties provide the State with a notice requesting that any grant referred to in clause 24.1 be made to a nominated entity that meets the requirements of section 18(1) of the *Land Act 1994* (Qld) as amended,

any application under clause 24.1 shall be made as if the references in clause 24.1 to the PBC are references to the other nominated entity.

- 24.3 The parties acknowledge that this Agreement and the Other ILUAs are entered into in settlement of the Eastern Kuku-Yalanji Claim, and any application referred to in clause 24.1 is part of that settlement.
- 24.4 Following any grant under clause 24.1 the Council may undertake all works and pay all costs necessary to reconfigure the area into two parcels, as shown on the map at **Schedule 8**. The Native Title Parties will use their best endeavours to ensure that the Eastern Kuku-Yalanji Entity will do all things necessary to assist the reconfiguration.
- 24.5 Upon any reconfiguration under clause 24.4 the Native Title Parties will use their best endeavours to ensure that the Eastern Kuku-Yalanji Entity will transfer the southern reconfigured area, as shown on the map at **Schedule 8**, to the Council for consideration of one dollar (\$1.00), and the Council will pay all costs associated with the transfer.
- 24.6 If the Eastern Kuku-Yalanji Entity transfers the southern reconfigured area to the Council under clause 24.5, the Council will consent to the State applying to the Minister to revoke, by gazette notice under section 33 of the *Land Act 1994* (Qld), the reserves in relation to:

- (a) Lot 45 on SR841 (M054);
- (b) Lot 44 on SR841 (M057); and
- (c) Lot 46 on SR841 (M058).

25. Intake Creek

- 25.1 The State will, as soon as practicable following the completion of all necessary survey work, apply to the Governor in Council to grant an area of 2.028 hectares within Lot 78 on FTY809 (M071), situated as approximately shown on the map at **Schedule 9**, (referred to for the purposes of this clause 25 as ‘the Intake Creek area’) to the Council, in fee simple, under section 14 of the *Land Act 1994* (Qld), and the Council will do all things necessary, including executing any documents, to enable the application to be made.
- 25.2 The Council will pay all costs associated with any grant of the Intake Creek area under clause 25.1, including the purchase price under section 122 of the *Land Act 1994* (Qld) where that provision applies.
- 25.3 The Council will provide reasonable assistance to the Land Trust in negotiating a right for the Land Trust and the Eastern Kuku-Yalanji People to pass through Lot 180 on C157273 for the purposes of gaining access to the Intake Creek area.
- 25.4 The Land Trust and the Eastern Kuku-Yalanji People may access the Intake Creek area for the purpose of conducting cultural activities provided those activities will not:
 - (a) pollute or otherwise interfere with the quality of water; or
 - (b) impede or restrict the surface or subsurface flow of water.
- 25.5 The Eastern Kuku-Yalanji People will not exercise any native title rights and interests within the catchment area for Intake Creek, situated within Lot 163 on NPW58 (formerly Lot 133 on FTY179), in a way that:
 - (a) pollutes or otherwise interferes with the quality of water; or
 - (b) impedes or restricts the surface or subsurface flow of water.

26. Pioneer Park

- 26.1 The State will apply to the Minister to approve, under section 362(1) of the *Land Act 1994* (Qld), the creation of an easement in favour of the PBC, in relation to Lot 284 on SR395 (M242), to enable the PBC and its invitees to pass through Lot 284 on SR395 and gain access to Lot 7 on USL8574 (M175). The Council, as trustee of the reserve, will do all things necessary, including executing any documents, to enable the easement to be created.
- 26.2 The Council will remove the picnic table situated to the west of the existing access track on Lot 103 on SR120 (M174).

27. Forest Creek

- 27.1 The Council consents to the State applying to the Minister to revoke, by gazette notice under section 33 of the *Land Act 1994* (Qld), the reserve in relation to an area approximately 8 000 square metres within the southern part of Lot 85 on SR702 (M245) (referred to for the purposes of this clause 27 as ‘the Forest Creek area’), as shown on the map at **Schedule 10** , provided that:
- (a) the State pays for the surveying of the Forest Creek area; and
 - (b) if an easement is necessary in relation to Lot 85 on SR702 (M245) to provide practical access to the Forest Creek area, the State, the Land Trust and the Council reach ‘in-principle’ agreement on the terms of any such easement.
- 27.2 As soon as practicable following any revocation of the reserve in relation to the Forest Creek area in accordance with clause 27.1, the State will apply to the Governor in Council to declare the Forest Creek area as transferable land under section 12(e) of the ALA.
- 27.3 As soon as practicable after any declaration of the Forest Creek area as transferable land in accordance with clause 27.2 the State will apply to the Governor in Council to grant the Forest Creek area to the Land Trust as Aboriginal land under section 30 of the ALA, with no reservation to the State of forest products or quarry materials under section 43 of the ALA.
- 27.4 If the Forest Creek area is granted to the Land Trust in accordance with clause 27.3, the State will apply to the Minister to approve, under section 362(1) of the *Land Act 1994* (Qld), the creation of an easement in favour of the Land Trust in relation to Lot 285 on SR702 (M245), to enable the Land Trust to gain access to the Forest Creek area, provided such an easement is necessary for practical access.
- 27.5 The Council, as trustee of the reserve, will do all things necessary, including executing any documents, to enable the easement referred to in clause 27.4 to be created.

28. Rex Creek

- 28.1 The Council will use its best endeavours to negotiate with the Eastern Kuku-Yalanji People, the Bamanga Bubu Ngadimunku Inc. and the State, for the grant of a trustee lease under section 57 of the *Land Act 1994* (Qld) for low impact commercial purposes, in relation to Lot 94 on SR257 (M064).
- 28.2 The Native Title Parties acknowledge that Lot 20 on NPW695 (M019) includes the catchment area for water used in Mossman and Port Douglas for domestic purposes, and agree to not exercise any native title rights and interests within Lot 20 on NPW695, in a way that:
- (a) pollutes or otherwise interferes with the quality of water; or
 - (b) impedes or restricts the surface or subsurface flow of water.

29. Access to Aboriginal land, Thornton Peak Walking Track and Exclusive USL Areas

- 29.1 Subject to clause 29.4, a person who is not an Eastern Kuku-Yalanji Person may request permission to access any part of the Agreement Area that is Aboriginal land under the ALA by making a request to the Land Trust.
- 29.2 The Native Title Parties will use their best endeavours to ensure that the Land Trust will, and (to the extent possible) direct the Land Trust to, give reasonable consideration to the request under clause 29.1 and make a decision within a reasonable time.
- 29.3 Where a request under clause 29.1 is approved, the person who made the request, and any other persons to whom the approval relates, may access the relevant part of the Agreement Area in accordance with the terms of the approval.
- 29.4 The Native Title Parties will use their best endeavours to ensure that the Land Trust will, and (to the extent possible) direct the Land Trust to, allow a person who is not an Eastern Kuku-Yalanji Person to access the Thornton Peak Walking Track on the following basis:
- (a) requests must be made to the Land Trust in writing;
 - (b) subject to sub-clause (iv), any permission will be given in writing;
 - (c) permission will not be unreasonably denied, and may be subject to conditions;
 - (d) if permission is not denied within three Business Days of the receipt of any request, permission will be deemed to have been given; and
 - (e) any permission will be effective for a period of one month following the date of it being given or deemed to have been given under sub-clause (iv).
- 29.5 A person who is not an Eastern Kuku-Yalanji Person may request permission to access the Exclusive USL Areas by making a request to the PBC.
- 29.6 The Native Title Parties will direct the PBC to give reasonable consideration to the request under clause 29.5 and make a decision within a reasonable time.
- 29.7 Where a request under clause 29.5 is approved, the person who made the request, and any other persons to whom the approval relates, may access the relevant part of the Agreement Area in accordance with the terms of the approval.

30. Compensation

- 30.1 The Native Title Parties will not make a Claim for Compensation from the State or the Council prior to:
- (a) the grant of the Remaining ALA Freehold Area to the Land Trust as Aboriginal land under the ALA; or
 - (b) the expiration of six years from the time this Agreement commences,
- whichever occurs sooner.

- 30.2 If the Native Title Parties or any other person makes a Claim referred to in clause 30.1, the Native Title Parties will use their best endeavors to have the Claim withdrawn.
- 30.3 The Native Title Parties on their own behalf and on behalf of the Eastern Kuku-Yalanji People agree that the benefits under this Agreement and the Other ILUAs are:
- (a) in full and final satisfaction of any entitlement to Compensation; and
 - (b) for the benefit of all Native Title Holders.
- 30.4 If this Agreement terminates, the Native Title Parties' acknowledgement in clause 30.3 continues to apply to any Agreed Acts done prior to the date this Agreement terminates.

31. Release and Waiver

- 31.1 The Native Title Parties on their own behalf and on behalf of the Eastern Kuku-Yalanji People:
- (a) release and discharge the State and the Council from all Claims for Compensation; and
 - (b) waive any right to make a Claim for Compensation from the State or the Council.
- 31.2 This clause 31 may be pleaded as a complete bar to any Claim brought by the Native Title Parties or any member of the Eastern Kuku-Yalanji People against the State or the Council for Compensation.
- 31.3 If this Agreement terminates, the Native Title Parties' agreement in clauses 31.1 and 31.2 continues to apply to any Agreed Acts done prior to the date this Agreement terminates.

32. Discretion Under Queensland Law

- 32.1 Nothing in this Agreement will act as an agreement, estoppel or fetter about the exercise of a discretion or the making of a decision under Queensland Law.
- 32.2 To allay any doubt, the State's obligations under clauses 11 (Revocation of Reserves on Existing Reserve Areas), 12 (Creation of Reserves on New Reserve Areas), 16 (Changes to Trustee and Purpose of Reserves), 20 (Roads), 21 (Little Falls), 22 (Newell Beach), 23 (Cooya Beach), 24 (Cape Tribulation Parcel), 25 (Intake Creek), 26 (Pioneer Park) and 27 (Forest Creek) are subject to all relevant statutory preconditions and requirements.

33. Aboriginal Cultural Heritage Protection Laws

- 33.1 Nothing in this Agreement affects the rights and obligations of the parties under any law dealing with preservation or protection of Aboriginal Cultural Heritage.
- 33.2 All Aboriginal Cultural Heritage in the Agreement Area is expressly excluded from the operation of this Agreement for the purposes of sections 23(3)(a)(iii), 24(2)(a)(iii), 25(2)(a)(iii), 26(2)(a)(iii) and 86(b) of the *Aboriginal Cultural Heritage Act 2003* (Qld).

34. Perpetuity Period

- 34.1 For the purposes of Part 14 of the *Property Law Act 1974* (Qld), the perpetuity period applicable to the disposition in clause 22.2 (Newell Beach) of this Agreement is eighty (80) years from the Execution Date.

35. Application of Other Laws

- 35.1 To allay any doubt, the parties must, in conducting any activity in the Agreement Area, comply with the common law and the laws of the State and the Commonwealth of Australia, including all legislation, regulations, statutory instruments, local planning instruments and local laws.

36. Goods and Services Tax

- 36.1 Any consideration under this Agreement is inclusive of GST.
- 36.2 A recipient of any Taxable Supply made under this Agreement is not required to pay any sum of money on account of GST to the supplier of the Taxable Supply.
- 36.3 The State and the Council agree that the Margin Scheme will apply to the Taxable Supply of land granted by the State to the Council under this Agreement or the part of that land specified by the State, if the State gives the Council a notice:
- (a) stating that the Margin Scheme is to apply; and
 - (b) describing the land or the part of the land in respect of which the Margin Scheme is to apply.
- 36.4 The Native Title Parties must ensure that by the later of:
- (a) the date 10 Business Days after the date of appointment of the Land Trust under section 28 of the ALA; and
 - (b) the date 10 Business Days after the date of this Agreement,
- the Land Trust executes an agreement in the form set out in **Schedule 13** and provides the executed agreement to the State. The State must execute the agreement and provide a copy of the executed agreement to the Land Trust within 10 Business Days after receiving the agreement executed by the Land Trust.
- 36.5 The Native Title Parties must ensure that by the later of:
- (a) the date 10 Business Days after the incorporation of the Eastern Kuku-Yalanji Entity; and
 - (b) the date 10 Business Days after the Execution Date,
- the Eastern Kuku-Yalanji Entity executes an agreement in the form set out in **Schedule 13** and provides the executed agreement to the State. The State must execute the agreement and provide a copy of the executed agreement to the Eastern Kuku-Yalanji Entity within 14 Business Days after receiving the agreement executed by the Eastern Kuku-Yalanji Entity.

36.6 The Native Title Parties must ensure that by the later of:

- (a) the date 10 Business Days after the determination of the PBC by the Federal Court of Australia under section 57 of the NTA with respect to the Determination; and
- (b) the date 10 Business Days after the Execution Date,

the PBC executes an agreement in the form set out in **Schedule 13** and provides the executed agreement to the State. The State must execute the agreement and provide a copy of the executed agreement to the PBC within 14 Business Days after receiving the agreement executed by the PBC.

36.7 The Supplier of a Taxable Supply made under this Agreement, other than a Taxable Supply to which the Margin Scheme is applied, must give a Tax Invoice to the Recipient of the Taxable Supply on or before the date on which the Supplier makes the Taxable Supply.

37. Deregistration

37.1 The parties acknowledge that removal of the details of this Agreement from the Register of Indigenous Land Use Agreements under section 199C of the NTA will not affect any Agreed Acts done prior to such removal, and that this Agreement will in those circumstances continue to operate as a contract between the parties.

38. Dispute Resolution

38.1 A party claiming that a Dispute has arisen must give a Dispute Notice to the other parties within 10 Business Days after becoming aware of the Dispute.

38.2 Within 10 Business Days after the Receipt Date a representative of each party must discuss the Dispute and negotiate to resolve the Dispute.

38.3 If the Dispute is not resolved by the parties within 20 Business Days after the Receipt Date then any party may refer the Dispute to the Land and Resources Tribunal to mediate the Dispute.

38.4 The parties will each bear their own costs in relation to the mediation.

38.5 Despite clauses 38.2 and 38.3, any party may take any action to resolve the Dispute, including commencing court proceedings, if the Dispute is not resolved within the later of:

- (a) 30 Business Days after the referral to the Land and Resources Tribunal; or
- (b) 20 Business Days after the Receipt Date.

39. Notices

39.1 All notices given under the Agreement must be in writing and either:

- (a) delivered or sent by prepaid post to the relevant party's address in **Schedule 12** or any substitute address as may have been notified in writing by the relevant party from time to time; or

- (b) sent by facsimile to the relevant party's facsimile number in **Schedule 12** or any substitute facsimile number as may have been notified in writing by the relevant party from time to time.

39.2 Subject to clause 39.3, notice given in accordance with clause 39.1 will be deemed to be given:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, three Business Days after the date of posting; and
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming that the notice was transmitted in its entirety to the facsimile number of the relevant party.

39.3 If a notice is hand delivered or sent by facsimile on a day that is not a Business Day or after 5:00pm on a Business Day it will be deemed to be given on the next Business Day at 9:00am.

40. Confidentiality

40.1 A party must not disclose Confidential Information to a person who is not a party without the prior written consent of the other parties unless:

- (a) required by law;
- (b) it is in, or enters the public domain, other than in breach of this Agreement;
- (c) it has been, or is published, other than in a breach of this Agreement;
- (d) it was known, or becomes known, to a party by lawful means on a non-confidential basis;
- (e) it is disclosed to a party's employees, legal advisers or consultants on their undertaking to keep the information confidential in accordance with this Agreement; or
- (f) it is required to be disclosed for reporting or accountability purposes.

40.2 Nothing in clause 40.1 is intended to prevent a party from making a public statement that this Agreement has been executed.

40.3 If this Agreement terminates the parties' agreement in clauses 40.1 and 40.2 continues to apply.

41. No Termination for Breach

41.1 No breach of this Agreement by any party will give another party a right to elect to terminate this Agreement, but another party may exercise any other remedy available to it in respect of such breach.

42. Costs

42.1 Each party will pay its own costs of and incidental to the negotiation, preparation and execution of this Agreement and this Agreement being Registered

42.2 This clause 42.2 is subject to clauses 42.3 and 42.4. If the Council receives the benefit of a transaction under or arising out of this Agreement which is dutiable under the *Duties Act 2000* (Qld), the Council must pay the duty in respect of the transaction. If the Native Title Parties receive the benefit of a transaction under or arising out of this Agreement which is dutiable under the *Duties Act 2001* (Qld), the Native Title Parties must pay the duty in respect of the transaction. In any other case, the Council and the Native Title Parties are jointly and severally liable for the duty in respect of the transaction.

42.3 The Council must pay any duty payable in accordance with the *Duties Act 2001* (Qld) on:

(a) any grant of land or an interest in land to the Council; and

(b) any transfer of land to the Council,

under or arising out of this Agreement.

42.4 The Native Title Parties must ensure that:

(a) the Eastern Kuku-Yalanji Entity pays any duty payable in accordance with the *Duties Act 2001* (Qld) on any grant of land or an interest in land to the Eastern Kuku-Yalanji Entity under or arising out of this Agreement;

(b) the Land Trust pays any duty payable in accordance with the *Duties Act 2001* (Qld) on any grant of land or an interest in land to the Land Trust under or arising out of this Agreement; and

(c) the PBC pays any duty payable in accordance with the *Duties Act 2001* (Qld) on any grant of land or an interest in land to the PBC under or arising out of this Agreement.

42.5 The Council must pay all statutory fees and costs in relation to the grant of any interest to the Council in accordance with this Agreement, and the Native Title Parties must ensure that the Eastern Kuku-Yalanji Entity, the Land Trust or the PBC pays all statutory fees and costs in relation to the grant of any interest to the Eastern Kuku-Yalanji Entity, the Land Trust or the PBC respectively, in accordance with this Agreement, except:

(a) where this Agreement specifies otherwise; and

(b) that the State will survey any boundaries that it is required to survey in relation to adjoining areas under this Agreement or the Other ILUAs.

43. Legal Advice

43.1 The parties represent and warrant that prior to executing this Agreement they received independent legal advice on all aspects of this Agreement.

44. General

- 44.1 Each party must do all things reasonably necessary to give full effect to this Agreement.
- 44.2 A party must not assign its rights under the Agreement without the written consent of the other parties.
- 44.3 A right under this Agreement may only be waived in writing, executed by the party giving the waiver.
- 44.4 This Agreement can only be varied by written agreement executed by each party.
- 44.5 The Agreement may be executed in counterparts.
- 44.6 If part or all of any clause of this Agreement is void, illegal or unenforceable, that part may be severed from this Agreement and the remaining provisions of this Agreement continue in force.
- 44.7 This Agreement constitutes the entire agreement between the parties and supersedes any prior agreement between the parties.
- 44.8 This Agreement is governed by Queensland Law. Any proceedings arising from or in relation to this agreement must be commenced in Queensland. To avoid any doubt, any such proceeding commenced in the Federal Court must be commenced in the Queensland District Registry.

SCHEDULE 1

The Agreement Area

SCHEDULE 2 (clause 11.1)

The Existing Reserve Areas

M053	Lot 223 on BK15770
M059	Lot 373 on SR783
M065	Lot 87 on SR815
M067	Part of Lot 359 on SR709 as shown approximately on the map at Schedule 2(a) as ‘cultural and environmental reserve’
M246	Lot 81 on SR850
M265	Lot 1 on CP903509

SCHEDULE 3 (clause 12.1)

The New Reserve Areas

	Property description	Purpose of Reserve	Trustee
M059	Part of Lot 373 on SR783 to be determined during the management planning process referred to in clause 14, and including areas below the highest astronomical tide, as shown approximately on the map at Schedule 3(a) as ‘beach protection’	Beach Protection	Council and Eastern Kuku-Yalanji Entity
M059	Part of Lot 373 on SR783 to be determined during the management planning process referred to in clause 14, and including areas below the highest astronomical tide, as shown approximately on the map at Schedule 3(a) as ‘cultural and environmental’	Cultural and Environmental	Eastern Kuku-Yalanji Entity
M086	Lot 5 on USL8735	Cultural Environmental and Recreational	Eastern Kuku-Yalanji Entity

M092	Part of Lot 15 on USL8831, as shown approximately on the map at Schedule 3(b) as 'CER', being the area bounded by a line commencing at the south-eastern corner of Lot 15 on USL8831, extending westerly to where the land rises up from the edge of the swamp wetland (approximately 110 metres east of Penda Close), then north to intersect the northern bank of the unnamed creek at approximately 145.456495 longitude east and 16.233277 latitude south, then generally north-easterly along the northern bank of that creek to the high water mark as defined in the <i>Land Act 1994</i> (Qld), then generally southerly along the high water mark to the commencement point (datum GDA94)	Cultural, Environmental and Recreational	Council
M092	Part of Lot 15 on USL8831 as shown approximately on the map at Schedule 3(b) as 'beach protection', with the southern boundary to be contiguous with the proposed cultural, environmental and recreation reserve, and the eastern boundary to correspond with the high water mark as defined in the <i>Land Act 1994</i> , with the area to be no less than 95 metres in width, and to correspond with the erosion prone area identified in the Wet Tropical Coast Regional Coastal Management Plan	Beach Protection	Eastern Kuku-Yalanji Entity
M115	Lot 37 on USL8901	Cultural Environmental and Recreational	Eastern Kuku-Yalanji Entity
M116	Lot 58 on USL8901	Cultural Environmental and Recreational	Eastern Kuku-Yalanji Entity
M117	Part of Lot 97 on USL8922 as shown approximately on the map at Schedule 3(c) as 'beach protection'	Beach Protection	Council and Eastern Kuku-Yalanji Entity

M174	Part of Lot 103 on SR120 (excluding Lot 272 on SR639) as shown approximately on the map at Schedule 3(d) as ‘reserve’ and ‘extension to reserve’	Recreation	Council
M067	Part of Lot 359 on SR709, as shown approximately on the map at Schedule 3(e) as ‘cultural and environmental’	Cultural and Environmental	Eastern Kuku-Yalanji Entity
M074	Part of Lot 20 on USL8398, as shown approximately on the map at Schedule 3(f) as purple	Cultural and Environmental	Eastern Kuku-Yalanji Entity
M89A	Lot 1 on AP8350	Cultural and Environmental	Eastern Kuku-Yalanji Entity
M89B	Lot 2 on AP8350	Cultural and Environmental	Eastern Kuku-Yalanji Entity
M89C	Lot 3 on AP8350	Cultural and Environmental	Eastern Kuku-Yalanji Entity
M103	Lot 21 on USL8885	Cultural and Environmental	Eastern Kuku-Yalanji Entity
M141	Part of Lot 79 on SR845 (excluding Lot 1 on CP891017) as shown approximately on the map at Schedule 3(g) as purple	Cultural and Environmental	Eastern Kuku-Yalanji Entity

SCHEDULE 4 (clause 17.2)

Exercise of Native Title Rights and Interests on reserves

SCHEDULE 4(a)

No burial in absence of approval

	Reserve Description
M063	Lot 382 on SR864 (R1246, Newell Beach)
M064	Lot 94 on SR257 (R135, Rex Creek)
M066	Lot 90 on SR652 (R175, Thornton Beach Camping and Recreation Reserve)
M067	Lot 359 on SR709 (R191, Daintree Ferry Road and Toilets), except that part included in the New Reserve Areas
M068	Lot 86 on SR798 (R205, Noah Creek)
M069	Lot 150 on SR532 (R160, Cooya Beach)
M230	Lot 11 on SR804234 (R1275, Cape Tribulation)
M231	Lot 13 on SR804235 (R1275, Cape Tribulation)
M238	Lot 4 on D3335 (R145, Daintree Boat Landing Reserve)
M239	Lot 3 on D3339 (R117, Daintree Sport and Recreation Reserve)
M240	Lot 6 on D3339 (R117, Daintree Sport and Recreation Reserve)
M241	Lot 82 on RP804944 (R1272, Daintree Landing Reserve, Mayers Boat)
M242	Lot 284 on SR395 (R147, Daintree Water Reserve)
M243	Lot 1 on SR63 (R95, Daintree Township)
M247	Lot 52 on RE886629 (R1277, Lower Daintree)
M248	Lot 29 on SP121816 (R132, Mossman River)
M252	Lot 157 on SR676 (R182, Jack Street, Mossman)
M253	Lot 92 on SR81 (R1269, Mossman Showgrounds)
M254	Lot 148 on SR825 (Kindergarten)

M255	Lot 127 on SR826 (R132, Mossman River)
M256	Lot 15 on SR871 (R1241, Mossman)
M259	Lot 219 on N7851 (R118, Newell Water Supply)
M260	Lot 11 on N7853 (R129, Newell Public Hall)
M261	Lot 374 on SR533 (R161, Newell Beach)
M262	Lot 263 on SR540 (R190, Newell Beach)
M263	Lot 5 on SP159909 (formerly Lot 5 on SR906) (R5, Newell Town Reserve)
M264	Lot 24 on SR491 (Upper Daintree)
M266	Lot 65 on CP903509 (Wonga Beach)
M267	Lot 115 on RP748442 (R1254, Wonga Beach)
M269	Lot 369 on SR803 (R200, Wonga)
M270	Lot 112 on SR870 (R1242, Wonga)
M271	Lot 19 on RP849656 (R1270, Miallo)
M272	Lot 250 on SR564 (Miallo Sanitary Reserve)
M275	Lot 378 on SR672 (R179, Miallo)
M276	Lot 341 on CP890717 (R1276, Scenic Reserve, Cane Siding)
M277	Lot 381 on SR833 (R218, Rocky Point)
M278	Lot 355 on SR654 (R178, Wonga Water Reservoir)
M279	Lot 26 on SR875 (R1237, Wonga)
M281	Lot 88 on SR831 (R1259, Cow Bay Waste Transfer)
M059	Lot 373 on SR783 (R54, Beach Protection Reserve)
M268	Lot 377 on SR534 (R162, Recreation and Camping)
M245	Lot 85 on SR702 (R186, Recreation)

SCHEDULE 4(b)**No camping or hunting with a Firearm or dog in absence of approval**

	Reserve Description
M063	Lot 382 on SR864 (R1246, Newell Beach)
M064	Lot 94 on SR257 (R135, Rex Creek)
M066	Lot 90 on SR652 (R175, Thornton Beach Camping and Recreation Reserve)
M067	Lot 359 on SR709 (R191, Daintree Ferry Road and Toilets), except that part included in the New Reserve Areas
M238	Lot 4 on D3335 (R145, Daintree Boat Landing Reserve)
M239	Lot 3 on D3339 (R117, Daintree Sport and Recreation Reserve)
M240	Lot 6 on D3339 (R117, Daintree Sport and Recreation Reserve)
M241	Lot 82 on RP804944 (R1272, Daintree Landing Reserve, Mayers Boat)
M242	Lot 284 on SR395 (R147, Daintree Water Reserve)
M247	Lot 52 on RE886629 (R1277, Lower Daintree)
M248	Lot 29 on SP121816 (R132, Mossman River)
M252	Lot 157 on SR676 (R182, Jack Street, Mossman)
M253	Lot 92 on SR81 (R1269, Mossman Showgrounds)
M254	Lot 148 on SR825 (Kindergarten)
M255	Lot 127 on SR826 (R132, Mossman River)
M256	Lot 15 on SR871 (R1241, Mossman)
M259	Lot 219 on N7851 (R118, Newell Water Supply)
M260	Lot 11 on N7853 (R129, Newell Public Hall)
M261	Lot 374 on SR533 (R161, Newell Beach)
M262	Lot 263 on SR540 (R190, Newell Beach)
M264	Lot 24 on SR491 (Upper Daintree)
M266	Lot 65 on CP903509 (Wonga Beach)

M267	Lot 115 on RP748442 (R1254, Wonga Beach)
M269	Lot 369 on SR803 (R200, Wonga)
M270	Lot 112 on SR870 (R1242, Wonga)
M271	Lot 19 on RP849656 (R1270, Miallo)
M272	Lot 250 on SR564 (Miallo Sanitary Reserve)
M275	Lot 378 on SR672 (R179, Miallo)
M276	Lot 341 on CP890717 (R1276, Scenic Reserve, Cane Siding)
M278	Lot 355 on SR654 (R178, Wonga Water Reservoir)
M279	Lot 26 on SR875 (R1237, Wonga)
M281	Lot 88 on SR831 (R1259, Cow Bay Waste Transfer)
M245	Lot 85 on SR702 (R186, Recreation)

SCHEDULE 4(c)

No camping or hunting with a Firearm or dog within three years or prior to a management plan

	Reserve Description
M059	Lot 373 on SR783 (South Arm)
M067	That part of Lot 359 on SR709 (R191, Daintree Ferry Road and Toilets) included in the New Reserve Areas
M068	Lot 86 on SR798 (R205, Noah Creek)
M069	Lot 150 on SR532 (R160, Cooya Beach)
M230	Lot 11 on SR804234 (R1275, Cape Tribulation)
M231	Lot 13 on SR804235 (R1275, Cape Tribulation)
M243	Lot 1 on SR 63 (R95, Daintree Township)
M263	Lot 5 on SP159909 (formerly Lot 5 on SR906) (R5, Newell Town Reserve)
M277	Lot 381 on SR833 (R218, Rocky Point)

SCHEDULE 4(d)**No lighting fires within three years or prior to a management plan**

	Reserve Description
M069	Lot 150 on SR532 (R160, Cooya Beach)
M086	Lot 5 on USL8735 (Cooya Beach Spit)
M063	Lot 382 on SR864 (R1246, Newell Beach)
M259	Lot 219 on N7851 (R118, Newell Water Supply)
M260	Lot 11 on N7853 (R129, Newell Public Hall)
M261	Lot 374 on SR533 (R161, Newell Beach)
M263	Lot 5 on SP159909 (formerly Lot 5 on SR906) (R5, Newell Town Reserve)
M266	Lot 65 on CP903509 (Wonga Beach)
M267	Lot 115 on RP748442 (R1254, Wonga Beach)
M268	Lot 377 on SR534 (Wonga)
M269	Lot 369 on SR803 (R200, Wonga)
M270	Lot 112 on SR870 (R1242, Wonga)
M278	Lot 355 on SR654 (R178, Wonga Water Reservoir)
M279	Lot 26 on SR875 (R1237, Wonga)
M271	Lot 19 on RP849656 (R1270, Miallo)
M252	Lot 157 on SR676 (R182, Jack Street, Mossman)
M253	Lot 92 on SR81 (R1269, Mossman Showgrounds)
M254	Lot 148 on SR825 (Kindergarten)
M256	Lot 15 on SR871 (R1241, Mossman)
M238	Lot 4 on D3339 (R145, Daintree Boat landing)
M239	Lot 3 on D3339 (R117, Daintree Sports Ground)
M240	Lot 6 on D3339 (R117, Daintree Sport and Recreation Reserve)

M242	Lot 284 on SR395 (R147, Daintree Water Reserve)
M243	Lot 1 on SR63 (R95, Daintree Township)
M174	Lot 103 on SR120 (excluding Lot 272 on SR639) (Pioneer Park)

SCHEDULE 5 (clause 20.2(a))

The Road Closure Area

Road Name	Road closure description
Bloomfield Valley Road: 10 Mile Creek Road (North)	The dedicated road (intersecting Lot A on SP139257 and Lot 3 on SR576 over Lot 165 on FTY1722), situated between the point where that road meets with the intersection of 10 Mile Creek Road South and Boolbun Creek Road West and the point where that road meets the CREB Track (Dawnvale to China Camp), as shown as part of Lot 1 on AP16384 as attached to this schedule
Bloomfield Valley Road: 10 Mile Creek Road (South)	The dedicated road (intersecting Lot 3 on SR576 and Lot D on SR876 over Lot 165 on FTY1722), situated between the point where the road meets the intersection of 10 Mile Creek Road North and Boolbun Creek Road West and the point where that road meets the western boundary of Lot 281 on BK15777, as shown as part of Lot 1 on AP16382 as attached to this schedule
Bloomfield Valley Road: Boolbun Creek Road (West)	The dedicated road (intersecting Lot 3 on SR576 over Lot 165 on FTY1722 and Lot 165 on FTY1722), situated between the point where that road meets the intersection of 10 Mile Creek Road North and 10 Mile Creek Road South and the point where that road meets the western boundary of Lot 165 on FTY1722, as shown as part of Lot 1 on AP16382 as attached to this schedule
Zig Zag Track	The dedicated road (intersecting Lot D on SR876 and Lot 43 on SR804 over Lot 165 on FTY1722 and Lot 42 on SR837), situated between the point where that road meets Lot 281 on BK15777 and the point where that road meets Edith Street, as shown as Lots 1 and 2 on AP16383 as attached to this schedule
CREB track (Wujal to Dawnvale)	The dedicated road (intersecting Lot A on SP139257 over Lot 165 on FTY1722), situated between the point where that road meets the intersection of 10 Mile Creek Road North and the CREB Track (Dawnvale to China Camp) (see Schedule 6) and to the end of the road where it meets the south west corner of Lot 2 on SR2, as shown as part of Lot 1 on AP16384 as attached to this schedule
Gold Hill Road	The dedicated road (intersecting Lot D on SR876), situated between the point where that road meets the CREB Track and the point where that road meets the southern boundary of Lot D on SR876 (M007), as shown as Lot 1 on AP16386 as attached to this schedule
Kobie Flat Road	The dedicated road (intersecting Lot 165 on FTY1722), situated between the point where that road meets the CREB Track and the point where that road meets the southern boundary of Lot D on SR876 (M007) (where it joins with Gold Hill Road), as shown as

Road Name	Road closure description
	Lots 2 and 3 on AP16386 as attached to this schedule
Cape Tribulation: (Bloomfield Road)	<p>a) The dedicated road (intersecting or abutting Lot 43 on SR804 over Lot 165 on FTY1722, Lot 20 on NPW695, Lot 50 on AP7008, Lot 84 on USL8943, Lot 44 on SR841, Lot 45 on SR841, Lot 47 on SR841 and Lot 46 on SR841) situated between the point where that road meets Lot 1 on RP726723 and the point where that road meets the south east corner of Lot 40 on CP891904 as shown as Lot 1 on AP16387 as attached to this schedule</p> <p>b) The dedicated road (intersecting Lot 20 on NPW695 (M019)), situated between the point that road meets the south western corner of Lot 2 on RP730531 and the point that road meets the Cape Tribulation Road, as shown as Lot 2 on AP16387 as attached to this schedule</p>
Cape Tribulation Coastal Road: George's Yard	<p>a) The dedicated road (intersecting Lot 43 on SR804 over Lot 165 on FTY1722), situated between the point where that road meets the north east corner of Lot 7 on RP728605 and the point where that road meets the dedicated alignment of the Cape Tribulation Bloomfield Road as shown as Lot 2 on AP16388 as attached to this schedule</p> <p>b) The dedicated road (intersecting Lot 43 on SR804 over Lot 165 on FTY1722), situated between the point where that road meets the dedicated alignment of the Cape Tribulation Bloomfield Road and the point where that road meets the dedicated alignment of the Cape Tribulation Bloomfield Road, as shown as Lot 3 on AP16388 as attached to this schedule</p> <p>c) The dedicated road (intersecting Lot 43 on SR804 over Lot 165 on FTY1722), situated between the point where that road meets the dedicated alignment of the Cape Tribulation Bloomfield Road and the point where that road meets Lot 20 on NPW695 (M019), as shown as Lot 4 on AP16388 as attached to this schedule</p>
Cape Tribulation Coastal Road: Idriess Creek Road	The dedicated road (intersecting Lot 43 on SR804 over Lot 165 on FTY1722, Lot 2 on USL8491 and Lot 20 on NPW695) situated between the point where that road meets the southern boundary of Lot 1 on SP127916 and the point where that road ends within Lot 20 on NPW695 (M019), as shown as Lot 1 on AP16388 as attached to this schedule
Cape Tribulation Road	a) The dedicated road (intersecting Lot 20 on NPW695), situated between the point where that road meets the north eastern boundary of Lot 1 on RP 741071 and the point where that road meets the eastern coastline in the vicinity of Cape Tribulation, as shown as Lot 1 on AP16389 as attached to this schedule

Road Name	Road closure description
	<p>b) The dedicated road (intersecting Lot 20 on NPW695, Lot 10 on AP9485, Lot 11 on SR804234 and Lot 13 on SR804235), situated from the point where that road meets the south east corner of Lot 10 on CP894280 and the point where that road meets the northern bank of Noah Creek in the vicinity of Lot 62 on SP146421, as shown as Lot 2 on AP16389 as attached to this schedule</p> <p>c) The dedicated road (intersecting Lot 86 on SR798, Lot 63 on RP898391, Lot 20 on NPW695, Lot 8 on USL8841, Lot 87 on SR815, Lot 90 on SR652, Lot 98 on SR23 and Lot 7 on USL8841), situated between the point where that road meets the eastern boundary of Lot 63 on RP898391 and the point where that road meets the road abutting the south eastern boundary of Lot 52 on SR537, as shown as Lot 3 on AP16389 as attached to this schedule</p> <p>d) The dedicated road (intersecting Lot 20 on NPW695), situated between the point where that road meets the south eastern boundary of Lot 433 on RP738673 and the point where that road meets the western boundary of Lot 37 on Plan SR372, as shown as Lot 4 on AP16389 as attached to this schedule</p> <p>e) The dedicated road (intersecting Lot 20 on NPW695), situated between the point where that road meets the south western corner of Lot 14 on RP740684 and the point where that road meets the eastern boundary of Lot 82 on RP905261, as shown as Lot 5 on AP16389 as attached to this schedule</p>
Pioneer Park	The dedicated road that abuts the eastern boundary of Lot 103 on Plan SR120, as shown as Lot 1 on AP16391 as attached to this schedule
Unnamed Road, Moore Street, Gordon Street and part of Burns Street, Whitby	The dedicated roads (intersecting Lot 20 on NPW695), situated in the township of Whitby comprising the road that abuts the western boundary of Lot 91 on W3451 (M214), that part of Wharf Street to the west of Moore Street, the whole of Moore Street including its intersection with Wharf Street, the whole of Gordon Street including the intersection with Burns Street and that part of Burns Street abutting the eastern boundaries of Lots 304 and 308 on Plan W3451, as shown as Lot 2 on AP16390 as attached to this schedule
Part of Bryon Street Milton Street and part of Wharf Street, Whitby	The dedicated roads (intersecting Lot 20 on NPW695), situated in the township of Whitby comprising the road that forms that part of Bryon Street abutting the northern boundaries of Lots 201 – 204 on W3451, the whole of Milton Street including its intersections with both Bryon Street and Wharf Street and that part of Wharf Street abutting the southern boundary of Lot 95 on W3451, as shown as Lot 1 on AP16390 as attached to this schedule

Road Name	Road closure description
Unnamed Road	The dedicated road (intersecting Lot 165 on FTY 1722), situated between the point where that road meets an unnamed road within Lot 165 on FTY1722 and the point where that road meets an esplanade (within Lot 165 on FTY1722) abutting the Daintree River, as shown as Lot 4 on AP16386 as attached to this schedule
Unnamed Road	The dedicated road (esplanade) (intersecting Lot 165 on FTY 1722), situated where that road abuts the Daintree River and situated between the point where that road meets an unnamed road within Lot 165 on FTY1722 and the point where that road intersects the northern boundary of Lot 194 on BK157164, as shown as Lot 5 on AP16386 as attached to this schedule

SCHEDULE 6 (clause 20.2(b))

The Road Opening Area

Road Name	Road opening description
Bloomfield Valley Road: 10 Mile Creek Road (North)	An area 60 metres wide that includes the constructed road known as Bloomfield Valley Road (10 Mile Creek Road North) (intersecting Lot A on SP139257 and Lot 3 on SR576 over Lot 165 on FTY1722), situated between the point where that road meets with the intersection of 10 Mile Creek Road South and Boolbun Creek Road West and the point where that road meets with the CREB Track (Dawnvale to China Camp), as shown approximately in red on Drawing No. CLM RES 3 as attached to this schedule
Bloomfield Valley Road: 10 Mile Creek Road (South)	An area 60 metres wide that includes the constructed road known as Bloomfield Valley Road (10 Mile Creek Road South) (intersecting Lot 3 on SR576 and Lot D on SR876 over Lot 165 on FTY1722), situated between the point where that road meets the intersection of 10 Mile Creek Road North and Boolbun Creek Road West and the point where that road meets the western boundary of Lot 281 on BK15777 as shown approximately by a broken red line on Drawing No. CLM RES 1 as attached to this schedule
Bloomfield Valley Road: Boolbun Creek Road (West)	An area 60 metres wide (intersecting Lot 3 on SR576 over Lot 165 on FTY1722 and Lot 165 on FTY1722), situated between the point where that road meets with the intersection of 10 Mile Creek Road North and 10 Mile Creek Road South and the point where that road meets the western boundary of Lot 165 on FTY1722, as shown approximately by a broken red line on Drawing No. CLM RES 1 as attached to this schedule
Zig Zag Track	An area 60 metres wide that includes the constructed road known as the Zig Zag Track (intersecting Lot D on SR876, Lot 43 on SR804 over Lot 165 on FTY1722 and Lot 42 on SR837), situated between the point from where that road meets Lot 281 on BK15777 and the point where that road meets Edith Street in the township of Degarra, beginning again, at Edith street in the township of Degarra heading east to the point where it meets the road (esplanade) at the south west boundary of Lot 40 on CP891904, as shown approximately red on Drawing No. CLM RES 2 as attached to this schedule
CREB track (Wujal to Dawnvale)	An area 60 metres wide that includes the constructed road known as the CREB Track (Wujal to Dawnvale) (intersecting Lot A on SP139257 over Lot 165 on FTY1722 and Lot 3 on SR2), situated between the point where that road meets the intersection of 10 Mile Creek Road North and the CREB Track (Dawnvale to China Camp) and the point where that road meets the end of the road where it abuts Lot 3 on SR2, as shown approximately in red on Drawing No. CLM

Road Name	Road opening description
	RES 3 as attached to this schedule
CREB track (Dawnvale to China Camp)	An area 60 metres wide that includes the constructed road known as the CREB Track (Dawnvale to China Camp) (intersecting Lot A on SP139257, Lot D on SR876, Lot 3 on SR576 over Lot 165 on FTY1722, Lot A on SP139257 and Lot D on SR876), situated from the point where that road meets with the intersection of 10 Mile Creek Road North and the CREB Track (Wujal to Dawnvale) and the point where that road meets the Zig Zag Track, as shown approximately in red on Drawing No. CLM RES 3 as attached to this schedule
Undedicated track to ATC trunk Radio site	An area 60 metres wide that includes the constructed road known as the track to the ATC Trunk Radio Site (intersecting Lot 165 on FTY1722), situated between the point where that road meets the CREB Track (China Camp to Daintree) and the point where that road meets Lot B on SR775 (M014),tas shown approximately in red on Drawing No. CLM RES 4 as attached to this schedule
Cape Tribulation: (Bloomfield Road)	<p>a) An area of varying width that includes the constructed road known as Cape Tribulation (Bloomfield Road) (intersecting or abutting Lot 43 on SR804 over Lot 165 on FTY1722, Lot 20 on NPW695, Lot 50 on AP7008 (M171), Lot 84 on USL8943 (M120), Lot 44 on SR841 (M057), Lot 45 on SR841 (M054), Lot 46 on SR841 (M058) and Lot 47 on SR841 (M140)), situated between the point where that road meets Lot 1 on RP726723 and the point where that road meets the north western corner of Lot 2 on RP726706, as shown approximately in red on Drawing No. CLM RES 5 as attached to this schedule</p> <p>b) An area 60 metres wide that includes the constructed road known as Cape Tribulation (Bloomfield Road) (intersecting Lot 20 on NPW695), situated between the point where that road meets the south western corner of Lot 2 on RP730531 and the point where that road meets Cape Tribulation Road, as shown approximately in red on Drawing No. CLM RES 5 as attached to this schedule</p>
Cape Tribulation Road	<p>a) An area 60 metres wide that includes the constructed road known as Cape Tribulation Road (intersecting Lot 20 on NPW695), situated between the point where that road meets the north eastern boundary of Lot 1 on RP 741071 and the point where that road meets the eastern coastline in the vicinity of Cape Tribulation, as shown approximately in red on Drawing No. CLM RES 6 as attached to this schedule</p> <p>b) An area 60 metres wide that includes the constructed road known as Cape Tribulation Road (intersecting or abutting Lot 20 on NPW695, Lot 10 on AP9485, Lot 11 on SR804234 and Lot 13 on SR804235) situated between where that road meets the south east</p>

Road Name	Road opening description
	<p>corner of Lot 10 on CP894280 and the point where that road meets the northern bank of Noah Creek in the vicinity of Lot 62 on SP146421, as shown approximately in red on Drawing No. CLM RES 6 as attached to this schedule</p> <p>c) An area 60 metres wide that includes the constructed road known as Cape Tribulation Road (intersecting or abutting Lot 20 on NPW695, Lot 86 on SR798, Lot 8 on SL8841, Lot 87 on SR815, Lot 90 on SR652, Lot 98 on SR23 and Lot 7 on USL8841) situated between where that road meets the eastern boundary of Lot 63 on RP898391 and the point where that road meets the road abutting the south eastern boundary of Lot 52 on SR537, as shown approximately in red on Drawing No. CLM RES 6 as attached to this schedule</p> <p>d) An area 60 metres wide that includes the constructed road known as Cape Tribulation Road (intersecting Lot 20 on NPW695), situated between the point where that road meets the south eastern boundary of Lot 433 on RP738673 and the point where that road meets the western boundary of Lot 37 on Plan SR372, as shown approximately in red on Drawing No. CLM RES 6 as attached to this schedule</p> <p>e) An area 60 metres wide that includes the constructed road known as Cape Tribulation Road (intersecting Lot 20 on NPW695), situated between the point where that road meets the south western corner of Lot 14 on RP740684 and the point where that road meets the eastern boundary of Lot 82 on RP905261, as shown approximately in red on Drawing No. CLM RES 6 as attached to this schedule</p>
Pioneer Park	An area generally 10 metres wide, situated between the point where that road meets the northern boundary of Lot 103 on SR120 and the point where that road meets north west corner of Lot 272 on SR897, then continuing south to the southern boundary of Lot 103 on SR120 running parallel to the existing formed track, as shown approximately in red on Drawing No. CLM RES 7 as attached to this schedule
Scrub Island Causeway	Lot 30 on USL8390 (M197), as shown approximately in grey on NNTT Map No. M197 dated 25/10/06 as attached to this schedule
Lot near Forest Creek Road	Lot 61 on SR711 (M201), as shown approximately in grey on NNTT Map No. M201 dated 19/10/06 as attached to this schedule
Lot 1 on USL8764	An area comprising part of Lot 1 on USL8764 adjoining the esplanade at Trinity Bay, as shown in grey on NNTT Map No. M087 dated 19/10/06 as attached to this schedule

Road Name	Road opening description
Unnamed Road (Esplanade)	An area 60 metres wide (intersecting Lot 165 on FTY1722), situated between the end of the esplanade abutting the Daintree River at the south eastern boundary of Lot 258 on BK157164 and the point where the esplanade abuts the Daintree River at the north western boundary of Lot 34 on SR628, as shown approximately in red on Drawing No. CLM RES 8 as attached to this schedule
Saltwater Creek Lot to be included into esplanade	Lot 1 on CP896308 (M219) as shown approximately in grey on NNTT Map No. M219 dated 25/10/06 as attached to this schedule

SCHEDULE 7 (clause 22.2)

Newell Beach (M063)

SCHEDULE 8 (clause 24.4)

Cape Tribulation (M172)

SCHEDULE 9 (clause 25.1)

Intake Creek (M071)

SCHEDULE 10 (clause 27.1)

Forest Creek (M245)

SCHEDULE 11 (clause 10)

The Surrender Area

M019	The Thompson Creek Surrender Area (being an area up to 4 hectares to be identified by the Council as being necessary for the construction, use and maintenance of water infrastructure on Thompson Creek, within that part of Lot 20 on NPW695 (M019) shown on the map at Schedule 11(a) as ‘Thompson Creek Area’								
M071	That part of Lot 78 on FTY809 (Intake Creek area of about 2.028 hectares) commencing at a point on the eastern boundary of that lot at Latitude 16.249399° South and extending southerly along the boundary of that lot to Latitude 16.249776° South; then south westerly to Longitude 145.292279° East, Latitude 16.250812° South; then due south to Latitude 16.251216° South; then due west to Longitude 145.291342° East; then due north to Latitude 16.250316° South; then due east to Longitude 145.292222° East; then north easterly to Longitude 145.293845° East, Latitude 16.249270° South; then south easterly back to the commencement point (subject to Survey), as shown approximately on the map at Schedule 9								
M172	Lot 12 on RP746567 as shown on the map at Schedule 11(b)								
M063	<p>That part of Lot 382 on SR864 being an area of up to 2000m² commencing at a point on the northern boundary of that lot at Longitude 145.404378° East and extending easterly and southerly along northern and eastern boundaries of that lot to Latitude 16.433050° South; then southerly, south westerly, westerly and northerly through the following coordinate points back to the commencement point (subject to Survey),</p> <table><tr><th>Longitude (East)</th><th>Latitude (South)</th></tr><tr><td>145.404963</td><td>16.433102</td></tr><tr><td>145.404783</td><td>16.433216</td></tr><tr><td>145.404312</td><td>16.433172</td></tr></table> <p>as approximately shown on the plan at Schedule 7, as referred to in clause 22.2</p>	Longitude (East)	Latitude (South)	145.404963	16.433102	145.404783	16.433216	145.404312	16.433172
Longitude (East)	Latitude (South)								
145.404963	16.433102								
145.404783	16.433216								
145.404312	16.433172								

Note

Data Reference and source

- Cadastre and easement data sourced from Dept of Natural Resources, Mines and Water, Qld (Aug 2006).
- Intake Creek area coordinates provided by MacDonnell's Solicitors for Douglas Shire Council.
- Surrender areas compiled by NNTT based on information sourced from the Eastern Yalanji Negotiated Agreement and updates reported by the parties to the NNTT.

Prepared by Geospatial Services, National Native Title Tribunal (14/11/2006)

SCHEDULE 12 (clause 39)

Notices

1. Council

Address: c/- Chief Executive Officer
Douglas Shire Council
64-66 Front Street
MOSSMAN QLD 4873

Postal Address: PO Box 357
MOSSMAN QLD 4873

Telephone: (07) 4099 9444

Facsimile: (07) 4098 2902

2. Native Title Parties

Address: c/- the Principal Legal Officer
Cape York Land Council Aboriginal Corporation
32 Florence Street
CAIRNS QLD 4870

Postal Address: PO Box 2496
CAIRNS QLD 4870

Telephone: (07) 4053 9222

Facsimile: (07) 4051 0097

3. State

Address: c/- Mr Mark Cranitch
Regional Services Director
Department of Natural Resources and Mines
Townsville State Government Building
187 – 209 Stanley Street
TOWNSVILLE QLD 4810

Postal Address: PO Box 5318
TOWNSVILLE QLD 4810

Telephone: (07) 4799 7733

Facsimile: (07) 4799 7736

Margin Scheme Agreement

BETWEEN: *[insert name of the Land Trust / Eastern Kuku-Yalanji Entity / PBC]*
 (“Grantee”) *[insert address of Land Trust / Eastern Kuku-Yalanji Entity / PBC]*
 in the State of Queensland

AND: **State of Queensland** (“State”) acting through the Department of Natural Resources, Mines and Water of the Landcentre, cnr Main and Vulture Streets, Woolloongabba in the State of Queensland

1. In this Agreement:

“Indigenous Land Use Agreement” means the Eastern Yalanji, Queensland and DSC Indigenous Land Use Agreement between Agnes Walker, Eileen Walker, Hazel Douglas, John Walker Jnr, Peter Fisher and Raymond Pierce, Douglas Shire Council and the State;

“Land” means land granted to the *[Land Trust / Eastern Kuku-Yalanji Entity / PBC]* under the Indigenous Land Use Agreement; and

“Margin Scheme” means the margin scheme under division 75 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

2. The Margin Scheme will apply to a Taxable Supply by the State to the Grantee of the Land or the part of it specified by the State if the State gives the Grantee a notice:
 - (a) stating that the Margin Scheme is to apply; and
 - (b) describing the part of the Land in respect of which the Margin Scheme is to apply.
3. The State may give any number of notices under clause 2.
4. Any notice under clause 2 must be given to the Grantee on or before the later of:
 - (a) the date of the relevant supply; and
 - (b) such further period as the Commissioner of Taxation allows under s 75-5(1A)(b) of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Executed by the Parties as a Deed on the Dates Appearing Below.

[INSERT APPROPRIATE EXECUTION)
CLAUSE FOR THE LAND TRUST/ EASTERN)
KUKU-YALANJI ENTITY/PBC.])
)
)
)
this day of 2006)
)
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)
)

SIGNED SEALED and DELIVERED for and)
)
on behalf of the STATE OF QUEENSLAND)
)
by)
)
)
this day of 2006) (signature)
)
in the presence of:)
)
)
(Signature of Witness))
)
)
(Name of Witness))

SCHEDULE 14 (clause 9)

Determination

SCHEDULE 15 (clause 7.3)

Statement by Agnes Walker, Eileen Walker, Hazel Douglas, John Walker Jnr, Peter Fisher and Raymond Pierce

We the undersigned state:

1. We agree to the State applying in writing to the Native Title Registrar for the Eastern Yalanji, Queensland and DSC Indigenous Land Use Agreement ('the ILUA') to be registered on the Register of Indigenous Land Use Agreements. This is a statement for the purpose of sub-regulation 7(2)(b) of the *Native Title (Indigenous Land Use Agreements) Regulations 1999* (Cth).
2. Prior to executing the ILUA we informed the Cape York Land Council Aboriginal Corporation and the North Queensland Land Council Native Title Representative Body Aboriginal Corporation ('the Land Councils') of our intention to execute the ILUA. This is a statement for the purpose of sub-regulation 7(4) of the *Native Title (Indigenous Land Use Agreements) Regulations 1999* (Cth).
3. All reasonable efforts have been made, including consulting the Land Councils, to ensure that all persons who hold or may hold native title in relation to land or waters in the area covered by the ILUA have been identified. All of the persons so identified have authorised the making of the ILUA.
4. Attached to this document and marked "A" is a further statement setting out the grounds on which the Native Title Registrar should be satisfied that the requirements of section 24CG(3)(b) of the NTA have been met.

Signed by

AGNES WALKER on her own behalf and on behalf of the Eastern Kuku-Yalanji People)
)

this day of 2006)

in the presence of: _____)

.....)
(signature))

.....
(print name of witness)

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(signature)
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EILEEN WALKER on her own behalf and on behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

HAZEL DOUGLAS on her own behalf and on behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

JOHN WALKER JNR on his own behalf and on behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

[illegible]

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SCHEDULE 16 (item (j), definition of “Agreed Acts”)

CREB Track (China Camp to Daintree)

An area 60 metres wide that includes the constructed road known as the CREB Track (China Camp to Daintree) (intersecting Lot D on SR876 over Lot 165 on FTY1722 and Lot 165 on FTY1722):

- a) situated between the point where that road meets the south east boundary of Lot 281 on BK15777 and the point where the road meets to the northern boundary of Lot 181 on BK15769; and
- b) an area of unnamed road where it meets the above road to where that road intersects the northern boundary of Lot 173 on BK15769

as shown approximately in red on Drawing No. CLM RES 4 as attached to this schedule.

Executed as a Deed on the Dates Appearing Below

SIGNED SEALED and DELIVERED

by **AGNES WALKER** on her own behalf and on
behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

)
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) (signature)
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SIGNED SEALED and DELIVERED

by **EILEEN WALKER** on her own behalf and
on behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

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) (signature)
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SIGNED SEALED and DELIVERED

by **HAZEL DOUGLAS** on her own behalf and
on behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

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SIGNED SEALED and DELIVERED

by **JOHN WALKER JNR** on his own behalf and
on behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

SIGNED SEALED and DELIVERED

by **PETER FISHER** on his own behalf and on
behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

SIGNED SEALED and DELIVERED

by **RAYMOND PIERCE** on his own behalf and
on behalf of the Eastern Kuku-Yalanji People

this day of 2006

in the presence of:

.....
(signature)

.....
(print name of witness)

