



Extract from Register of Indigenous Land Use Agreements

NNTT number	QI2014/090
Short name	Birriah People and Local Government ILUA
ILUA type	Area Agreement
Date registered	19/05/2015
State/territory	Queensland
Local government region	Burdekin Shire Council, Charters Towers Regional Council, Isaac Regional Council, Mackay Regional Council, Whitsunday Regional Council

Description of the area covered by the agreement

'ILUA Area' means the area described in writing in Schedule 2 being all of the land and waters within the Claim Area which does not overlap with any other native title claim and shown on the map marked "ILUA Area" in Schedule 3.

[A copy of Schedules 2 and 3 are attached to this Register extract

The following general description of the agreement area has also been provided by the National Native Title Tribunal to assist people to understand the location of the agreement area . It does not replace, and is less precise than, the description of the agreement area contained in the agreement. It is provided for information only and should not be considered part of the Register of ILUAs:

The agreement area covers about 14,920 sq km, about 60 km south of Townsville and north of Glenden.]

Parties to agreement

Applicant

Party name	Burdekin Shire Council, Charters Towers Regional Council, Isaac Regional Council, Mackay Regional Council and Whitsunday Regional Council
Contact address	c/- Gilkerson Legal GPO Box 12543 Brisbane QLD 4003

Other Parties

Party name David Miller, Colin McLennan, Gracelyn Smallwood, Algon Walsh Junior and Frank Fisher as the Applicants for Native Title Determination Application QUD 6224/1998 (Birriah People)

Contact address c/- Michael Owens
PO Box 1989
Aitkenvale QLD 4814

Party name Birriah Cultural Heritage Services Pty Ltd

Contact address c/- Michael Owens
PO Box 1989
Aitkenvale QLD 4814

Period in which the agreement will operate

Start date not specified

End date not specified

2.1 Part 1 commences on the Execution Date.

2.2 Part 1 applies indefinitely unless and until the Agreement is Terminated.

17.1 This Agreement takes effect as a contractually binding agreement between the Parties from the Execution Date and continues unless and until the Agreement is Terminated.

17.2 This Agreement is made up of five Parts and in certain circumstances some Parts no longer apply. For clarification:-

- (a) Part 2 no longer applies in the circumstances in sub-clause 28.2;
- (b) Part 3 no longer applies in the circumstances in sub-clause 38.3;
- (c) Part 4 no longer applies in the circumstances in sub-clause 48.2; and
- (d) Parts 1 and 5 continue indefinitely unless the Agreement is Terminated.

28.1 Part 2 commences on the Execution Date.

28.2 Where:-

(a) the Native Title Claim results in a Successful Determination or an Unsuccessful Determination in relation to the ILUA Area;

(b) all Native Title in the ILUA Area is surrendered under the Native Title Act;

(c) the Native Title Claim is:

i) discontinued;

ii) struck out; or

iii) dismissed by order of the Federal Court of Australia

any Party may give Notice to the other Parties that Part 2 no longer applies.

28.3 Otherwise Part 2 applies indefinitely, unless the Agreement is Terminated.

38.1 Clause 41 in Part 3 commences on the Execution Date.

38.2 All other provisions in Part 3 commence on the Registration Date.

38.3 Where:-

(a) the Native Title Claim results in an Unsuccessful Determination;

(b) all Native Title in the ILUA Area is surrendered under the Native Title Act; or

(c) for any other reason there is legal certainty that Native Title does not exist anywhere in the ILUA Area

any Party may give Notice to the other Parties that Part 3 no longer applies.

38.4 Otherwise Part 3 applies indefinitely unless the Agreement is Terminated.

48.1 Part 4 commences on the Execution Date.

48.2 Where the Native Title Party is no longer an Aboriginal Party for all of the Cultural Heritage Area, any Party may give Notice to the other Parties that Part 4 no longer applies.

48.3 Otherwise, Part 4 applies indefinitely unless the Agreement is Terminated.

65.1 Part 5 commences on the Execution Date.

65.2 Part 5 applies indefinitely unless the Agreement is Terminated.

Statements of the kind mentioned in ss. 24EB(1) or 24EBA(1) or (4)

39.2 Part 2 Division 3 Subdivision P of the Native Title Act (which relates to the right to negotiate) does not apply to any Future Acts covered by the Agreement.

45.1 The Parties consent to any Activity which has a Low Native Title Impact (they are described in Schedule 7). [A copy of Schedule 7 is attached to this Register extract]

45.2 There are no conditions on the consent to an Activity which has a Low Native Title Impact.

45.3 Where the conditions in the immediately following sub-clause are satisfied, the Parties consent to any Activity which has a High Native Title Impact (they are described in Schedule 8). [A copy of Schedule 8 is attached to this Register extract]

45.4 The conditions are that the Local Government proposing the Activity satisfies one of the following:-

(a) The Local Government:

i) gives a Notice to the Native Title Party or the Native Title Party's Representative in accordance with paragraph 46.1(a); and

ii) completes Consultation in accordance with paragraph 46.1(b).

(b) Where the Activity involves a capital work dealt with at a Capital Works Forum (provisions about a Capital Works Forum are contained in clause 62), the Local Government:

i) gives a list of capital works involving the Activity under paragraph 62.6(e); and

ii) consensus is reached under paragraph 62.6(f) about the Activity being carried out.

45.5 For clarification, an Activity which has a Low Native Title Impact will not be an Activity which has a High Native Title Impact.

47.1 With regard to Part of Lot 26 on CPDK276 comprising an estimated 51 hectares as illustrated on the map at Schedule 18 Part A which has been identified for future development as an industrial site abutting Collinsville airport (the "Airport Parcel") and notwithstanding clause 39.1:-

(a) The Native Title Party and Whitsunday Regional Council consent to the extinguishment of any Native Title over the Airport Parcel in accordance with the process in the following sub-paragraphs.

(b) In accordance with section 24MD(2) of the Native Title Act, Whitsunday Regional Council will take Native Title over the Airport Parcel in its capacity as a local government (of the State of Queensland) under the Local Government Act, 2009 and as a constructing authority pursuant to the provisions of the Acquisition of Land Act, 1967.

(c) The Native Title Party on its own behalf and on behalf of the Birriah People:

i) will use their best endeavours to ensure that there is no objection made under the Acquisition of Land Act, 1967; and

ii) agree to do all things necessary to support and facilitate the acquisition and the extinguishment of Native Title in the Airport Parcel.

47.2 With regard to a Lot 4 on SP263501 being unallocated State land where the 'Ravenswood Restoration and Preservation Association' maintains a perma-culture park which is open to the public and being the area roughly illustrated on the plan Schedule 18 Part B, the Birriah People consent to the dedication of this area as a reserve for park and gardens purposes with Charters Towers Regional Council appointed as trustee of the reserve.

47.3 With regard to the Charters Towers Regional Council project to reconstruct four tourist walking trails and interpretative signing, which trails are roughly situated in the area indicated on

the plan at Schedule 18 Part C, to the extent necessary, the Birriah People consent to the re-establishment of these trails under the control of Council and any associated enhancement work.

“Local Government” means each of Burdekin Shire Council, Charters Towers Regional Council, Isaac Regional Council, Mackay Regional Council and Whitsunday Regional Council separately and any Third Party acting on the Local Government’s behalf or for the Local Government’s benefit.

Attachments to the entry

[QI2014_090 Schedule 2 Written Description.pdf](#)

[QI2014_090 Schedule 3 Map of Areas.pdf](#)

[QI2014_090 Schedule 7 Low Native Title Impact Activities.pdf](#)

[QI2014_090 Schedule 8 High Native Title Impact Activities.pdf](#)