



Extract from Register of Indigenous Land Use Agreements

NNTT number	NI2019/005
Short name	Cavanbah (Byron Bay) Arakwal Indigenous Land Use Agreement
ILUA type	Area Agreement
Date registered	20/05/2020
State/territory	New South Wales
Local government region	Ballina Shire Council, Byron Shire Council

Description of the area covered by the agreement

Agreement Area means the land or waters described and mapped in Schedule A. [A copy of Schedule A is attached to this register extract. The following general description of the agreement area has been provided by the National Native Title Tribunal to assist people to understand the location of the agreement area. It is provided for information only and should not be considered part of the Register of ILUAs:

The agreement area covers approx. 241 sq km and is located in the Byron Bay area extending north to Brunswick Heads and 9 km south towards Lennox Head.]

Parties to agreement

Applicant

Party name	Attorney General of New South Wales
Contact address	1243 Bruxner Hwy Wollongbar NSW 2477

Party name	Bundjalung of Byron Bay (Arakwal) Aboriginal Corporation ICN 2663
Contact address	PO Box 1555 Byron Bay NSW 2481

Party name	Dulcie Nicholls, Yvonne Stewart, Stanley Kay, Norman Graham, Brian Kelly, Judith Davies on behalf of the Bundjalung People of Byron Bay
Contact address	c/- NTSCORP Limited PO Box 2105 Strawberry Hills NSW 2012

Other Parties

Party name	Chief Executive of the Office of Environment and Heritage
Contact address	1243 Bruxner Hwy Wollongbar NSW 2477

Party name	Minister administering the Crown Land Management Act 2016 (NSW)
Contact address	1243 Bruxner Hwy Wollongbar NSW 2477

Party name Minister administering the Fisheries Management Act 1994 (NSW) and the Marine Estate Management Act 2014 (NSW)
Contact address 1243 Bruxner Hwy
Wollongbar NSW 2477

Party name Minister administering the Marine Estate Management Act 2014 (NSW) and the National Parks and Wildlife Act 1974 (NSW)
Contact address 1243 Bruxner Hwy
Wollongbar NSW 2477

Period in which the agreement will operate

Start date	not specified
End Date	not specified

3.1 The following clauses of this Agreement commence on the Execution Date:

(a) in this Part 1 (Management of this Agreement) clauses:

- (i) 1 (Objects);
- (ii) 2 (Overview of this Agreement);
- (iii) 3 (Commencement);
- (iv) 4 (Term);
- (v) 5 (Authorisation and warranties);
- (vi) 7 (Land or waters covered by this Agreement);
- (vii) 21 (Confidentiality);
- (viii) 22 (Registration of this Agreement as an ILUA);
- (ix) 23 (Contractual effect of this Agreement);
- (x) 25 (Use of this Agreement);
- (xi) 27 (Amendment of this Agreement);
- (xii) 28 (Dispute Resolution Procedure);
- (xiii) 29 (Notices);
- (xiv) 30 (No termination for breach);
- (xv) 33 (General);
- (xvi) 34 (Dictionary); and

(b) in Part 2 (Crown Land and Water) clauses:

- (i) 1 (Objects);
- (ii) 2 (Overview of this Agreement);
- (iii) 3 (Commencement);
- (iv) 6 (Land and waters covered by Part 2);
- (v) 15 (Confidentiality);
- (vi) 18 (Amendment of this Part);
- (vii) 19 (Dispute Resolution Procedure);
- (viii) 20 (Notices);
- (ix) 21 (No termination for breach);
- (x) 22 (General);
- (xi) 23 (Dictionary); and

(c) in Part 3 (National Park Estate) clauses:

- (i) 1 (Objects);
- (ii) 2 (Overview of this Agreement);
- (iii) 3 (Commencement);
- (iv) 6 (Land and waters covered by Part 3);
- (v) 12 (Confidentiality);
- (vi) 15 (Amendment of this Part);
- (vii) 16 (Dispute Resolution Procedure);
- (viii) 17 (Notices);
- (ix) 18 (No termination for breach);
- (x) 19 (General);
- (xi) 20 (Dictionary); and

(d) in Part 4 (Aboriginal Cultural Heritage) clauses:

- (i) 1 (Objects);
- (ii) 2 (Overview);
- (iii) 3 (Commencement);
- (iv) 5 (Land and waters covered by Part 4);
- (v) 7 (Confidentiality);
- (vi) 10 (Amendment of this Part);
- (vii) 11 (Dispute Resolution Procedure);
- (viii) 12 (Notices);
- (ix) 13 (No termination for breach);
- (x) 14 (General); and
- (xi) 15 (Dictionary).

3.2 The remainder of this Agreement commences on the Registration Date.

3.3 If this Agreement is not Registered, the Parties shall take such steps as are necessary in good faith to address any concerns which the Registrar may have to enable this Agreement to be Registered, including amending this Agreement.

3.4 If this Agreement is not Registered within 36 months after the Execution Date or within a further period that is agreed in writing between the Parties, this Agreement shall be terminated and cease to have effect.

4.1 This Agreement continues until:

- (a) it is terminated by operation of sub-clause 3.4 of this Part 1 (Management of this Agreement); or
- (b) all Parties agree in writing to release each other and every other Party from their respective rights and obligations under this Agreement.

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

[Explanatory notes in brackets inserted by the National Native Title Tribunal]

Part 1: 8.1 For the purposes of section 24EBA(1)(a)(i) of the *Native Title Act 1993* (Cth) and regulation 7(5)(d) of the *Native Title (Indigenous Land Use Agreements) Regulations 1999* (Cth), all Future Acts (other than Intermediate Period Acts) that were done in relation to land or waters in the Application Area after 1 January 1994 and before the Execution Date, are valid, to the extent that they were done invalidly because of the existence of Native Title.

8.2 All Future Acts done in relation to land or waters in the Application Area on and after the Execution Date and before the Registration Date are valid, to the extent that they are done invalidly because of the existence of Native Title, provided that they are done in accordance with the procedures set out in this Agreement or in the *Native Title Act 1993* (Cth).

9.1 For the purposes of section 24EBA(1)(a)(i) of the *Native Title Act 1993* (Cth) and regulation 7(5)(d) of the *Native Title (Indigenous Land Use Agreements) Regulations 1999* (Cth), all Public Works that were constructed or established on land or waters in the Application Area before the Execution Date (other than Intermediate Period Acts) are valid, to the extent that they have been constructed or established invalidly because of the existence of Native Title, and such Public Works have extinguished Native Title in relation to:

- (a) the land or waters on which the Public Works were, or are, situated; and
- (b) adjacent land or waters, the use of which is or was necessary for, or incidental to, the construction, establishment or operation of the Public Works.

9.2 All Public Works that were constructed or established on land or waters in the Application Area on and after the Execution Date and before the Registration Date are valid, to the extent they are constructed or established invalidly because of the existence of Native Title, provided that they are constructed or established in accordance with the procedures set out in this Agreement or in the *Native Title Act 1993* (Cth).

"**Future Act**" has the meaning given by section 233 of the *Native Title Act 1993* (Cth), but does not include a Future Act done by the Commonwealth.

"**Public Work**" has the meaning given by section 253 of the *Native Title Act 1993* (Cth), but does not include Public Works done by the Commonwealth. To avoid doubt, a reference to land or waters on which a Public Work is constructed, established or situated includes a reference to any adjacent land or waters the use of which is or was necessary for, or incidental to, the construction, establishment or operation of that work under section 251D of the *Native Title Act 1993* (Cth).

Part 2: 7.2 Future Acts covered by *[Schedule B to Part 2]* are validated under that Schedule where those acts are done in accordance with the applicable procedure in that Schedule. *[Schedule B covers the grant of a Crown lease or licence over Crown land; Emergency Acts including fire suppression and prevention activities, any urgent activity required for public health or safety in response to a bushfire, flood or other major natural disaster or emergency, and the grant of certain interests for an emergency occupation of land such as in response to bushfire, flood or other major natural disaster or emergency; Acts of Remediation; Future Acts under a Reservation including the construction of a public work, the control of noxious species and pest animal control; Permissible Renewals of a lease, licence, permit or authority; Low Level Future Acts including the grant of a licence to hold an event, the grant of a bee keeping interest and maintenance of infrastructure.]*

Part 3: 11.5 For the purpose of section 24EB(1)(b) of the *Native Title Act 1993* (Cth), the Relevant Parties consent to the doing of the National Park Future Act/s in accordance with this clause.

"**Relevant Parties**" means:

- (a) the Native Title Parties;
 - (b) OEH *[Office of Environment and Heritage]*; and
 - (d) the State Minister;
- as the context requires.

["National Park Future Act" means a Future Act which consists of: (a) the preparation, adoption, implementation and amendment of a Plan of Management in relation to the National Park Estate; (b) the making, amendment or revocation of any legislation in relation to, or applicable to, the National Park Estate; or (c) any other activities undertaken in accordance with, or incidental to, the carrying out of such activities or a Plan of Management including the construction of Public Works and facilities for, or related to, the purpose of the management of the National Park Estate.]

"**National Park Estate**" means the land: (a) land declared as a wilderness area under the *Wilderness Act 1987* (NSW) or the *National Parks and Wildlife Act 1974* (NSW); or (b) land reserved or dedicated under the *National Parks and Wildlife Act 1974* (NSW); within the external boundary of the Application Area *[that is under the control of the Office of Environment and Heritage]* including Tyagarah Nature Reserve, Brunswick Heads Nature Reserve and Hayters Hill Nature Reserve.

Attachments to the entry

[Schedule A Agreement Area Written Description.pdf](#)

[NI2019-005 NNTT map for information only.pdf](#)