

Late Agenda Items Ordinary Meeting of Council

Tuesday 23 June 2020

Ordinary Meeting 6.00pm

Council Chambers, Civic Centre,
Stuart Highway, Katherine

16. LATE AGENDA ITEM

16.1 Katherine Regional Cultural Precinct Limited

(Trading as Godinymayin Yijard Rivers Arts and Cultural Centre),

Lot 3287 Town of Katherine

1-76

KATHERINE TOWN COUNCIL



REPORT

NO : 16.1

FOLDER : LOCAL GOVERNANCE/ORDINARY COUNCIL MEETING /REPORTS TO COUNCIL/CHIEF EXECUTIVE OFFICER

MEETING : ORDINARY COUNCIL MEETING – (23/06/2020)

REPORT TITLE : KATHERINE REGIONAL CULTURAL PRECINCT LIMITED (TRADING AS GODINYMAYIN YIJARD RIVERS ARTS AND CULTURAL CENTRE), LOT 3287 TOWN OF KATHERINE

AUTHOR : IAN BODILL, CHIEF EXECUTIVE OFFICER

ATTACHMENT/S : 1. CROWN LEASE TERM 02571
2. APPLICATION FORM – NATIONAL NATIVE TITLE TRIBUNAL

PURPOSE OF REPORT

To discuss and approve the replacement of wording in Provision 5 of the existing Crown Lease Term no 2571, expiry date 24th August 2087. Attached is the executed ILUA and Crown Lease Term no 2571.

BACKGROUND

On 26 April 2013 an Indigenous Land Use Agreement (ILUA) was registered for the Katherine Regional Cultural Precinct over Lot 3287, Town of Katherine for a term of 75 years. Subsequently, on 31 May 2013 Crown Lease Term No. 2405 issued to Katherine Regional Cultural Precinct Limited over that area for an initial term of five (5) years.

In accordance with the provisions of the ILUA and Crown Lease, improvements were erected on the Leased land to the value of not less than \$7 million, and the whole of Lease was exchanged for a Crown Lease Term for seventy (70) years. On 25 August 2017 Crown Lease Term No. 2571 was issued with an expiry date of 24th August 2087. Enclosed to this letter is a copy of the executed ILUA and Crown Lease Term No. 2571.

Recently, following an enquiry from the Board of Godinymayin Yijard Rivers Arts and Cultural Centre (GYRACC) regarding the ownership of the facilities constructed within Lot 3287; it was identified that a variation to Provision 5 of the existing Crown Lease was required. Subsequently, advice was provided to GYRACC on the necessary process, which includes providing notice of any proposed variation to the Crown Lease to the Katherine Town Council.

It is proposed that the following wording replace Provision 5 of the existing Crown Lease:

“For the purpose of section 58 of Crown Lands Act 1992, the ownership of any improvements, including buildings and fixtures, within the leased land, vests in the Lessee, and will revert to the Territory upon cessation of the Lease. During the term of the Lease, the Lessee will be responsible for all improvements, including any repairs and maintenance required. The Lessee’s entitlement to compensation in respect of any improvements upon cessation of the lease, under section 82 of the Crown Lands Act or

otherwise, will be limited to the value of any improvements constructed after the date of inclusion of this condition."

While this variation is not of the kind requiring consent of the parties under the ILUA, the Territory wishes to ensure the Katherine Town Council is aware of the proposal, and provided the opportunity for comment before 17th July 2020.

OFFICER RECOMMENDATION

That it be recommended to Council to:

Note the intent to replace the wording in Provision 5 of the existing Crown Lease Term no 2571 and advises the NTG that it has no concerns regarding this proposal.



Ian Bodill
CHIEF EXECUTIVE OFFICER

Date Registered: 25/08/2017
Duplicate Certificate as to Title issued? No

Volume 820 Folio 835

SEARCH CERTIFICATE

CROWN LEASE TERM 02571

Lot 3287 Town of Katherine from plan(s) S2010/247
 Area under title is 9 hectares 8300 square metres

Owner:

Katherine Regional Cultural Precinct Limited (ACN 151 148 104)
 of PO Box 613, Katherine NT 0851

Easements:

Electricity supply easement to Power and Water Corporation
 Right of way easement to Power and Water Corporation
 Sewerage easement to Power and Water Corporation
 Water supply easement to Power and Water Corporation

Registered Date	Dealing Number	Description
25/08/2017	892035	Previous title is Volume 819 Folio 813 Notice of a Right to a Grant of Interest
End of Dealings		

Commencement Date: 25th August 2017

Expiry Date: 24th August 2087

Reservations

1. Reservation of a right of entry and inspection.
2. Reservation of all minerals, mineral substances and ores in or upon land, including gems, stones, sands, valuable earths and fossil fuels.
3. Reservation of a power of resumption.

Provisions

1. The purpose of the Lease ('the Lease purpose') is Katherine Cultural Precinct and ancillary.
2. The annual rent for the Lease (called 'the rent') will be nil.
3. The Lease is granted under and subject to the Crown Lands Act and the Regulations for the time being in force thereunder, and is conditional upon compliances by the Lessee with the Conditions and Covenants and will, subject to the Crown Lands Act and the Regulations, be liable to be forfeited for non-compliance with any such Lease condition.
4. The Lessee may at any time surrender the Lease in the manner prescribed under the Crown Lands Act.
5. For the purpose of section 58 of the Crown Lands Act the lessee agrees that the Minister may at his absolute discretion determine the Lessee's rights in improvements.

Conditions and Covenants

Date Registered: 25/08/2017

Volume 820 Folio 835

Duplicate Certificate as to Title issued? No

1. Subject to the Crown Lands Act, the Lessee will not use the leased land for a purpose other than the purpose for which it is leased, viz: Katherine Cultural Precinct and ancillary.
2. The Lessee will at all times comply with any Control Plan and/or any Development Permit or any other planning laws affecting the leased land.
3. The Lessee will pay rates and taxes which may at any time become due in respect of the leased land.
4. The Lessee will ensure that all building plans have the necessary approvals prior to commencement of building.
5. The Lessee will in respect of the land included in the lease, ensure that at all times and to the satisfaction of the Minister, the land is kept clean, tidy and free of weeds, debris, dry herbage, rubbish, carcasses of animals and other unsightly or offensive or poisonous, toxic or hazardous matter and harbour for insect, pests and the breeding of mosquitoes.
6. If the Lessee fails to observe and carry out or to cause to be observed or carried out the requirements of condition 5 above or on his part, the Territory shall have a right to enter onto the demised premises and do all things necessary to that end and the expense and cost thereof, as determined by the Minister, shall be borne and payable by the Lessee on demand.
7. The non-extinguishment principle (as defined in the Commonwealth's Native Title Act 1993) applies to the grant of this lease.
8. Any variation to the conditions and covenants of the lease will be subject to the registered Indigenous Land Use Agreement No. DI2012/002.



National
Native Title
Tribunal

Application Form

Part A – Application details

1. Short name of agreement	Second Katherine Cultural Precinct ILUA
2. Certified applications (ss. 24CG(3)(a), 203BE(1)(b) & (5) and 251A NTA and r. 7(2)(f) ILUA regulations)	Is the application for registration certified by all relevant representative bodies/native title service providers (NTSPs) for the agreement area? Yes.
	If yes, is a copy of all the required certifications attached to this application? Yes.
3. Non-certified applications (ss. 24CG(3)(b) & 251A NTA and r. 7(2)(f) ILUA regulations)	Have all reasonable efforts (including consulting all representative bodies/ NTSPs) been made to identify all holders and potential holders of native title for the agreement area and have all those identified authorised the making of the agreement? N/A
	Please detail the grounds on which the Registrar should be satisfied that the above requirements have been met: N/A

Part B – Party details

4. First party details (s. 24CG(1) NTA)	Name	Northern Territory of Australia
	Contact Name	Director of Land Administration - Department of Lands, Planning and the Environment
	Postal Address	GPO Box 1680 DARWIN NT 0801
	Telephone number	08 8999 6886
	Fax number (if available)	08 8999 5404
	Email address (if available)	N/A
	Is this party also the applicant?	Yes
Representative's name, address and telephone number (if applicable)	Company Name	Solicitor for the Northern Territory
	Contact Name	Antony Shelly
	Postal Address	GPO Box 1722 DARWIN NT 0801
	Telephone number	08 8935 7456
	Fax number (if available)	08 8935 7773
	Email address (if available)	anthony.shelly@nt.gov.au
	Contact address for notification?	Yes.
Contact address for Register entry?	Yes.	

Second party details (s. 24CG(1) NTA)	Name	Northern Land Council
	Contact Name	The Chairperson
	Postal Address	GPO Box 1222 DARWIN NT 0801
	Telephone number	08 8920 5100
	Fax number (if available)	08 8920 5251
	Email address (if available)	N/A
	Is this party also the applicant?	No
Representative's name, address and telephone number (if applicable)	Company Name	Northern Land Council
	Contact Name	Tamara Cole
	Postal Address	GPO Box 1222 DARWIN NT 0801
	Telephone number	08 8920 5125
	Fax number (if available)	08 8920 5251
	Email address (if available)	tscole@nlc.org.au
	Contact address for notification?	Yes
Contact address for Register entry?	Yes	

Third party details (r. 7(3)(a) ILUA Regulations)	Name	The registered native title claimants in DC99/2, being Jessie Brown, Ivy Brumby, Marie Dowling, Gary Manbulloo and Amy Marrapunyah on behalf of the Dagoman people.
	Contact Name	N/A
	Postal Address	N/A
	Telephone number	N/A
	Fax number (if available)	N/A
	Email address (if available)	N/A
	Is this party also the applicant?	No
Representative's name, address and telephone number (if applicable)	Company Name	Northern Land Council
	Contact Name	Tamara Cole
	Postal Address	GPO Box 1222 DARWIN NT 0801
	Telephone number	08 8920 5125
	Fax number (if available)	08 8920 5251
	Email address (if available)	tsc@nltc.org.au
	Contact address for notification?	Yes
Contact address for Register entry?	Yes	

Part C—Mandatory parties

<p>5. Native title group – registered native title claimant or registered native title body corporate (s. 24CD(1) & (2)(a)–(b) NTA)</p>	<p>Is there one or more:</p> <ul style="list-style-type: none"> • registered native title claimant(s) or • registered native title body/bodies corporate <p>for any of the land or waters in the agreement area?</p> <p>Yes.</p> <hr/> <p>If yes, are all such registered native title claimants and/or all registered native title bodies corporate parties to the agreement?</p> <p>Yes.</p> <p>If yes please identify which party/parties:</p> <p>Registered native title claimants in NTD 6002 of 1999, being Jessie Brown, Ivy Brumby, Marie Dowling, Gary Manbullo and Amy Marrapunyah on behalf of the Dagoman people.</p>
<p>6. Native title group – no registered native title claimant or registered native title body corporate (s. 24CD(1), (2)(c) & (3) NTA)</p>	<p>If there is no registered native title claimant or native title body corporate for all or any part of the agreement area, one or more of the following persons/bodies must be party to the agreement (there must be at least one):</p> <p>A person(s) who claims to hold native title in relation to an area?</p> <p>N/A</p> <p>A representative body/NTSP for the area?</p> <p>N/A</p> <p>If yes, please identify which party/parties:</p>

<p>7. Government parties (ss. 24CD(5), 24EBA(1)(a)(i) & (ii), (b) & (c), 24EBA(2)-(4) NTA and r. 7(3)(c) ILUA Regulations)</p>	<p>Does the agreement make provision for the extinguishment of native title rights and interests by surrendering them to the Commonwealth or a State or Territory government?</p> <p>No.</p> <p>Does the agreement validate the purported past extinguishment of native title rights and interests by surrender to the Commonwealth or a State or Territory government?</p> <p>No.</p> <p>If the answer to either of the above questions is yes, is the relevant Commonwealth, State or Territory party to the agreement?</p> <p>N/A</p> <p>If yes, please identify which party/parties:</p> <p>N/A</p>
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Part D—Other parties

<p>8. Other native title parties (s. 24CD(4)(a) & (b) NTA)</p>	<p>Please identify any other party/parties who claims to hold native title in relation to the area who has not previously been identified in questions 5 or 6.</p> <p>(a) Wardman people claiming native title rights and interests in the land specified at Attachment A of the ILUA; and</p> <p>(b) Jawoyn people claiming native title rights and interests in the land specified at Attachment A of the ILUA.</p>
<p>9. Representative Aboriginal/Torres Strait Island Bodies or NTSPs for the area (s. 24CD(7) NTA and r. 7(3)(b) & (4) ILUA Regulations)</p>	<p>Are there any representative bodies/NTSPs for any of the area covered by the agreement not previously identified in question 6?</p> <p>Yes.</p> <hr/> <p>If yes, are any representative bodies/NTSPs for any of the area a party to the agreement?</p> <p>Yes.</p> <p>If yes, please identify which representative body/NTSP:</p> <p>The Northern Land Council.</p>

<p>10. Government parties (r. 7(3)(c) ILUA Regulations)</p>	<p>If not previously identified in question 7, is the Commonwealth, State or Territory government a party to the agreement?</p> <p>Yes.</p> <p>If yes, please identify which party/parties:</p> <p>The Northern Territory of Australia.</p>
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Part E—Informing representative bodies/NTSPs of intention to enter agreement

<p>11. Informing representative bodies or NTSPs of intention to enter agreement (s. 24CD(7) NTA and r. 7(4) ILUA regulations)</p>	<p>If there is one or more representative body/bodies/NTSP/s for any of the agreement area and none are parties to the agreement, has a person in the native title group informed at least one of those bodies of the groups' intention to enter into the agreement?</p> <p>N/A</p> <p>If yes, please specify which representative bodies/NTSPs have been informed, how and when they were notified and by whom:</p> <p>N/A</p>
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Part F – Agreement area

<p>12. Complete description of agreement area (s. 24CG(2) NTA and r. 7(2)(d) & 5 ILUA Regulations)</p>	<p>Provide a 'complete description' of the agreement area, including any areas within the external boundary of the agreement area that are excluded from the agreement area (or refer to relevant section of agreement):</p> <p style="text-align: center;">Proposed Lot 3287 Town of Katherine as depicted on Survey Plan s2010/247. See Attachment A of the ILUA (a clear copy of which is enclosed).</p> <p>Note: a map of the agreement area showing geographic coordinates must be attached to this application or be contained within the agreement.</p>
<p>(s. 24CG(2) NTA and r. 7(2)(e) & 5 ILUA Regulations)</p>	<p>Does the agreement provide for the surrender of native title that is intended to extinguish native title rights and interests in the agreement area?</p> <p style="text-align: center;">No.</p> <p>If yes, please provide a 'complete description' of those areas (or refer to relevant section of agreement):</p> <p style="text-align: center;">N/A</p> <p>Note: a map showing geographic coordinates which identifies any areas where the surrender of native title is intended to extinguish native title rights and interests must be attached to this application or be contained within the agreement.</p>

Part G—Operating period

<p>13. Operating period (r. 7(3)(d) ILUA Regulations)</p>	<p>Does the agreement specify a time period during which it will operate?</p> <p>Yes.</p> <p>If applicable, please provide the commencement date here (the commencement date may also be defined by reference to a specified event or activity, e.g. once a determination of native title is made by the Federal Court):</p> <p>The lease must be granted within three (3) years of the date of execution of the ILUA or the ILUA will cease to have effect and will be removed from the ILUA Register.</p> <p>If applicable, please write the end date here (the end date may also be defined by reference to a specified event or activity, e.g. upon completion of a particular project):</p> <p>Seventy five (75) years from the date of the grant of the Lease.</p> <p>Please specify where in the agreement details of the operating period are located:</p> <p>Clauses 2 (Term of Agreement), 4.3 (Commencement) and 4.6 (Duration).</p>
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Part H—Statements in the agreement

<p>14. Consent to future acts (s. 24EB(1)(b) NTA and r. 7(5)(a) ILUA Regulations)</p>	<p>Does the agreement contain any statement/s consenting to the doing of a particular future act, or class of acts, whether or not subject to conditions?</p> <p>Yes.</p> <p>If yes, please specify where each such statement is located in the agreement (e.g. clause 5 and 6 plus definitions):</p> <p>Clause 4.</p>
<p>15. Acts excluded from the right to negotiate (s. 24EB(1)(c) NTA and r. 7(5)(b) ILUA Regulations)</p>	<p>Does the agreement include any statement/s to the effect that the right to negotiate provisions of the Act are not intended to apply to any or all of the future acts included in the agreement?</p> <p>Yes.</p> <p>If yes, please specify where each such statement is located in the agreement:</p> <p>Clause 3.1.3.</p>

<p>16. Surrender intended to extinguish native title (s. 24EB(1)(d) NTA and r. 7(5)(c) ILUA Regulations)</p>	<p>Does the agreement provide for the surrender of native title rights and interests in the future?</p> <p>No.</p> <p>If yes, does the agreement contain a statement to the effect that the surrender is intended to extinguish native title rights and interests?</p> <p>N/A</p> <p>If yes, please specify where each such statement is located in the agreement (please also ensure that question 7 has also been completed):</p> <p>N/A</p>
<p>17. Validation of future acts that have already been done invalidly (s. 24EBA(1)(a)(i)–(ii) NTA and r. 7(5)(d)–(e) ILUA Regulations)</p>	<p>Does the agreement provide for the validation of future acts or class of future acts (other than intermediate period acts or the surrender of native title) that have already been done invalidly, whether or not subject to conditions?</p> <p>No.</p> <p>If yes, please specify where each such statement is located in the agreement:</p> <p>N/A</p>

<p>18. Intermediate period acts affected (s. 24EBA(1)(a) (iii) NTA and r. 7(5)(f) ILUA Regulations)</p>	<p>Does the agreement provide for changing the effects on native title of the validation of an intermediate period act or class of acts?</p> <p>No.</p> <p>If yes, please specify where each such statement is located in the agreement:</p> <p>N/A</p>
<p>19. Validation of the previous purported surrender of native title (s. 24EBA(1) & (4) NTA and r. 7(5)(g) ILUA Regulations</p>	<p>Does the agreement provide for the validation of the extinguishment of native title rights and interests by surrender which has already occurred invalidly?</p> <p>No.</p> <p>If yes, does the agreement contain a statement to the effect that the surrender is intended to have extinguished those native title rights and interests?</p> <p>N/A</p> <p>If yes, please specify where each such statement is located in the agreement (please ensure that question 7 has also been completed):</p> <p>N/A</p>
<p>20. Any other comments about statements in the agreement?</p>	<p>N/A</p>

Part I—Parts of the Register to be kept confidential

<p>21. Confidential information</p> <p>(s. 199E(1)-(2) NTA)</p>	<p>Please indicate if there is any information or documents which you do not wish to be available for inspection by the public if the agreement is registered:</p> <p style="text-align: center;">The entire ILUA and attachments, excepting any information required by law to be disclosed.</p> <p>Note: the Registrar can only keep information confidential to the extent that the law allows.</p>
	<p>Is the agreement between the parties confidential?</p> <p style="text-align: center;">Yes.</p>

Part J—Document checklist

Documents that must accompany the application (s. 24CG(2) NTA, r. 7(2) ILUA Regulations and r. 9(1) PBC Regulations)	A copy of the agreement (the original is not required) including any attachments or appendices—s. 24CG(2).	Yes
	A copy of each determination of native title for each party that is a registered native title body corporate—r. 7(2)(a).	N/A
	A statement by each party to the agreement, signed by or for the party, that the party agrees to the application being made—r. 7(2)(b).	Yes Specify where in agreement/application: Clause 7.4 of the ILUA.
	An extract from the Register of Native Title Claims giving details of each party that is a registered claimant—r. 7(2)(c).	Yes
	A complete description of the agreement area (r. 7(2)(d) and (5)) including: <ul style="list-style-type: none"> • any areas within the external boundary of the agreement area that are not included in the agreement area, and • a map showing geographic coordinates of that area. 	Yes Specify where in agreement/application: Attachment A of the ILUA (a clear copy of which is enclosed).

	<p>If applicable:</p> <ul style="list-style-type: none"> • a complete description of any areas where the surrender of native title is intended to extinguish native title rights and interests in the agreement area and any areas not included, and • a map showing geographic coordinates of that area— r. 7(2)(e) and (5). 	<p>N/A</p> <p>Specify where in agreement/application:</p> <p>N/A</p>
	<p>If the application is certified, a copy of the certification— s. 24CG(3)(a).</p>	<p>Yes</p>
	<p>If the application is not certified, a statement setting out how the requirements for identification and authorisation have been met— s. 24CG(3)(b).</p>	<p>N/A</p>
	<p>If:</p> <ul style="list-style-type: none"> • a registered native title body corporate is party to the agreement, and • the agreement gives effect to a 'native title decision', and • for any part of the agreement area there is one or more representative bodies or NTSPs, and • none of them is party (or there is no representative body/ NTSP for the agreement area)— <p>a document as mentioned in r. 9(1) of the PBC Regulations (see r. 7(2)(g) ILUA Regulations).</p>	<p>N/A</p>

	<p>If there is a representative body/NTSP for the agreement area and it is not a party, a statement signed by a party that is a member of the native title group (see s. 24CD(1)–(3)) that at least one representative body/NTSP was informed of the native title group’s intention to enter into the agreement – r. 7(4).</p>	<p>N/A</p> <p>Specify where in agreement/application:</p> <p>N/A</p>
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Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

THIS AGREEMENT is made on the 8th day of November 2012

BETWEEN: NORTHERN TERRITORY OF AUSTRALIA, whose address is care of the Director, Land Administration, Department of Lands and Planning Level 1 Arnhemica House, 16 Parap Road, Parap, Northern Territory 0820 (hereinafter referred to as "the Northern Territory")

AND: THE NATIVE TITLE PARTY, being the persons listed or described in Attachment C, and whose address is care of the Northern Land Council of 45 Mitchell Street Darwin, Northern Territory (hereinafter referred to as "the Native Title Party").

AND: THE NORTHERN LAND COUNCIL, (ABN 56 327 515 336), whose address is 45 Mitchell Street Darwin Northern Territory (hereinafter referred to as "the NLC").

(collectively referred to as "the Parties").

WHEREAS:

- A. The Parties have entered an Indigenous Land Use Agreement that was registered on the ILUA Register on 8 July 2010 (DI2010/002) (the "First ILUA").
- B. The First ILUA covered matters related to the grant of a term Lease under the *Crown Lands Act* (NT) for a Regional Cultural Precinct upon which premises were to be constructed for that purpose and related purposes
- C. The Northern Territory has since identified an additional area that is required for the operation of the Regional Cultural Precinct. The area of the First ILUA together with the additional area is proposed Lot 3287 Town of Katherine as shown on the map and Plan of Survey S2010/247 being an area of 9.83 hectares at Attachment "A" ("hereinafter referred to as "the Land").
- D. The Northern Territory wishes to grant a term lease under the *Crown Lands Act* (NT) covering the entire area of the Land.

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- E. The Land is subject to a native title determination application, namely NTD6002/99.
- F. The Native Title Party wishes to consent to the grant of the Lease over the Land subject to the Non-Extinguishment Principle as defined in the NTA.
- G. The Lessee shall be Katherine Regional Cultural Precinct Limited, a company limited by guarantee whose constitution provides for the management of the Regional Cultural Precinct and which is the Lessee contemplated under the First ILUA.
- H. The Parties intend this Agreement to be registered on the ILUA Register held by the National Native Title Tribunal ("NNTT") to ensure the validity of the grant.

NOW THIS AGREEMENT WITNESSES as follows.

1. INTERPRETATION

- 1.1 In this Deed and in the recitals, unless the context otherwise requires, the following terms shall have the following meanings.

"Aboriginal" means a person who is a member of the Aboriginal race of Australia.

"affect" in the context of affecting native title rights or interests has the same meaning as ascribed to that expression by s227 of the NTA.

"Agreement" means this Indigenous Land Use Agreement.

"Business Day" means a day which is not a Saturday, Sunday or Public Holiday in Darwin in the Northern Territory.

"Constitution" means the constitution of Katherine Regional Cultural Precinct Limited as set out at Attachment "D", and amended from time to time.

"First ILUA" means the Indigenous Land Use Agreement reference DI2010/002 that was registered on the ILUA Register on 8 July 2010.

"Future Act" has the same meaning given to that expression by s233 of the NTA.

"ILUA Register" means the Register of Indigenous Land Use Agreements under the care and control of the NNTT pursuant to the NTA.

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

"Land" means the land described and depicted in Attachment A to this Agreement being proposed Lot 3287 Town of Katherine in Survey Plan S2010/247

"Lease" means a standard crown lease granted to the Lessee for 75 years over the Land for the Lease Purpose with the conditions set out at Attachment B to this Agreement, including any variations that may be agreed between all the Parties.

"Lease Purpose" shall be for the Regional Cultural Precinct, being a cultural centre and surrounds used for the recognition, promotion, preservation and enhancement of the cultures and cultural diversity of the Katherine region, and related purposes.

"Lessee" means Katherine Regional Cultural Precinct Limited.

"National Native Title Tribunal"; "native title"; "native title determination application" and "determination of native title" have the same meanings as they have in the NTA.

"NTA" means the *Native Title Act 1993 (Cth)* as amended.

"Native Title Party" means the persons listed or described in Attachment C.

"*Native Title Regulations*" means the *Native Title (Indigenous Land Use Agreements) Regulations 1999 (Cth)*.

"NLC" means the Northern Land Council, a Land Council established pursuant to Section 21 of the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cwth)* ("ALRA") and the relevant representative Aboriginal/Torres Strait Islander body under the *Native Title Act 1993 (Cwth)* ("NTA"), and its successors.

"Non-Extinguishment Principle" has the same meaning as ascribed to that expression by s238 of the NTA.

"Northern Territory" means the Northern Territory of Australia.

"Regional Cultural Precinct" means the Katherine Regional Cultural Precinct situated on the Land, being a cultural centre and surrounds used for the recognition, promotion, preservation and enhancement of the cultures and cultural diversity of the Katherine region.

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"Registrar " has the same meaning as ascribed to that expression by s253 of the NTA.

"The Parties" means the Native Title Party, the NLC and the Northern Territory.

- 1.2 Unless the contrary intention otherwise appears in this Agreement:
- (a) a reference to an authority, office, body or person includes the authority, office, body or person for the time being performing the functions of such authority, office, body or person at the date of this Deed;
 - (b) the singular includes the plural and vice versa;
 - (c) a reference to a person includes a firm, company, corporation, authority or body whether incorporated or not.
- 1.3 The headings in this Agreement are not part of this Agreement and shall not be used in its interpretation or construction.
- 1.4 This Agreement shall be governed by and construed in accordance with the laws in force (whether of the Commonwealth or of the Northern Territory) in the Northern Territory of Australia.
- 1.5 No modification, variation or amendment to this Agreement shall be of any force unless agreed in writing and executed by each Party.
- 1.6 This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

2. TERM OF AGREEMENT

- 2.1 The Term of this Agreement shall be either:
- a) Three years from the date of execution of this Agreement where the Northern Territory does not grant the Lease within that period (Clause 4.3), or
 - b) Seventy five (75) years from the date of the grant of the Lease.

3. STATEMENT FOR THE PURPOSES OF THE NATIVE TITLE ACT

- 3.1 The Parties state as follows:
- 3.1.1 This Agreement is intended to be registered on the ILUA Register as an area agreement under sections 24CA and 24CK NTA and Regulation 7 of the *Native Title Regulations*;

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3.1.2 This Agreement applies to the Land; and

3.1.3 Subdivision P, Part 2 of Division 3 of the *NTA* is not intended to apply to any Future Act described in Clause 4.

4. FUTURE ACTS

4.1 The Northern Territory shall grant the Lease to the Lessee.

4.2 Subject to this Clause and Clauses 5 and 6, the Native Title Party consents to:

- the grant of the Lease by the Northern Territory, and
- The doing of any actions by the Northern Territory for the purpose of, or in anticipation of the grant of the Lease, and in accordance with the Lease Purpose, and in accordance with the conditions of this Agreement.

4.3 The Lease must be granted within three (3) years of the date of execution of the Agreement.

4.4 The Land shall be Leased only for the Lease Purpose.

4.5 It is agreed between the Parties that:

- (a) an extension of the term of the Lease;
- (b) any variation to the Lease Purpose; or
- (c) any assignment of the Lease,

not consented to by the Native Title Party, the Northern Territory and the NLC is a Future Act not authorised under this Agreement.

4.6 In the event that the Northern Territory does not grant the Lease within three (3) years of the date of execution of this Agreement, this Agreement will cease to have effect, and will be removed from the ILUA Register.

5. THE NON-EXTINGUISHMENT PRINCIPLE AND COMPENSATION

5.1 The Non-Extinguishment Principle applies to any Future Act described in Clause 4.

5.2 The Native Title Party recognises that compensation for the doing of the Future Acts specified in clause 4 is wholly provided for in the benefit accruing to the Native Title Party, flowing from the grant of the Lease to the Lessee, and accordingly agrees that compensation to Native Title Party for any loss,

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

diminution or impairment of native title is provided for in this ILUA in lieu of any other compensation payable or determinable under Division 5 of Part 2 of the *NTA*.

6. MANAGEMENT OF CULTURAL PRECINCT

6.1. The Cultural Precinct will be managed in accordance with the Constitution.

7. REGISTRATION WITH THE NATIONAL NATIVE TITLE TRIBUNAL

7.1 Upon the signing of this Agreement by the Native Title Party, the NLC will certify the Agreement pursuant to s203BE(1)(b) of the *NTA* for the purposes of the application for registration of the Agreement on the ILUA Register maintained by the Registrar, National Native Title Tribunal.

7.2 The Northern Territory is authorised by the Parties to make an application under s24CG to the Registrar for this Agreement to be registered and entered on the ILUA Register.

7.3 The Parties agree to use their best endeavours to aid and maintain the registration of this Agreement on the ILUA Register.

7.4 For the purposes of s24CG(2) of the *NTA* and Regulation 7(2)(b) of the *Native Title Regulations*, this sub-clause constitutes a statement by each Party that it agrees to the application being made.

8. AUTHORITY TO ENTER INTO AGREEMENT

8.1 The Northern Land Council represents and warrants that:

- (a) All reasonable efforts have been made (including consultations by the NLC) to ensure that all persons who hold or may hold native title in relation to the Land have been identified;
- (b) All of the persons so identified have authorised the making of this Agreement in accordance with section 251A of the *NTA*.

8.2. In the event that a determination of native title is made in relation to the Land whilst the ILUA is registered, and a registered native title body corporate is established to hold that native title, the registered native title body corporate

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

shall assume the rights and obligations of the Native Title Party under this Agreement.

9. NOTICE

- 9.1 A notice, approval, consent or other communication made in connection with this Agreement shall, without prejudice to any other method of service, be duly given or served if delivered or sent by prepaid post to the following address, or transmitted by facsimile to the following number:

In the case of the Native Title Party or the NLC:

The Chairperson
Northern Land Council
45 Mitchell Street
DARWIN NT 0800

or by prepaid mail to

GPO Box 1222
DARWIN NT 0801

or by facsimile to number: (08) 8920 5251

In the case of the Northern Territory:

The Department of Planning and Infrastructure
1st Floor Government Centre
First Street
Katherine NT 0850

or by prepaid mail to:

GPO Box 1171
Katherine NT 0851

or by facsimile number: (08) 8973 8666;

or such other address or number as may be notified by a Party to the other Parties for this purpose from time to time.

- 9.2 A notice, approval, consent or other communication made in connection with this Agreement takes effect from the time it is received unless a later time is specified in it.

- 9.3 A letter or facsimile is taken to be received:

9.3.1 in the case of a posted letter, on the third Business Day after posting; and

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

9.3.2 in the case of a facsimile, upon production, by the machine from which the facsimile was sent, of a transmission report which indicates that the facsimile was sent in its entirety and in an error free form to the facsimile number of the recipient notified for the purpose of this clause.

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

IN WITNESS whereof the parties have signed this agreement:

SIGNED for and on behalf of the **Northern Territory of Australia** by the
SIGNED

[Handwritten signature]

KENNETH LINDSAY DAVIES
Chief Executive
Department of Lands,
Planning and the Environment

in the presence of:

[Handwritten signature]
RICA GRAHAM

8 November 2012

IN WITNESS whereof the common seal of the **Northern Land Council** was hereunto affixed this 7th day of *September* 2012

in the presence of:

Chief Executive Officer

[Handwritten signature]

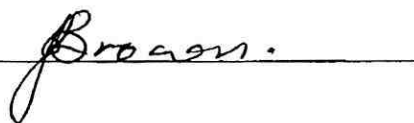



witness

[Handwritten signature]



Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

SIGNED for and on behalf of the **Native Title Party** by:

Name	Signature
SIGNED <u>JESSIE BROWN</u>)	<u></u>
SIGNED <u>IYY BRUMBY</u>)	<u></u>
SIGNED <u>MARIE DOWLING</u>)	<u>M. P. Dowling</u>
SIGNED <u>GARY MANBULLOO</u>)	<u>Gary Manbulloo</u>
SIGNED <u>RODERICK HARNEY</u>)	<u>RODERICK HARNEY</u> <u></u>
SIGNED <u>LISA MUMBIN</u>)	<u></u>
SIGNED _____)	_____
SIGNED _____)	_____
SIGNED _____)	_____
SIGNED _____)	_____

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

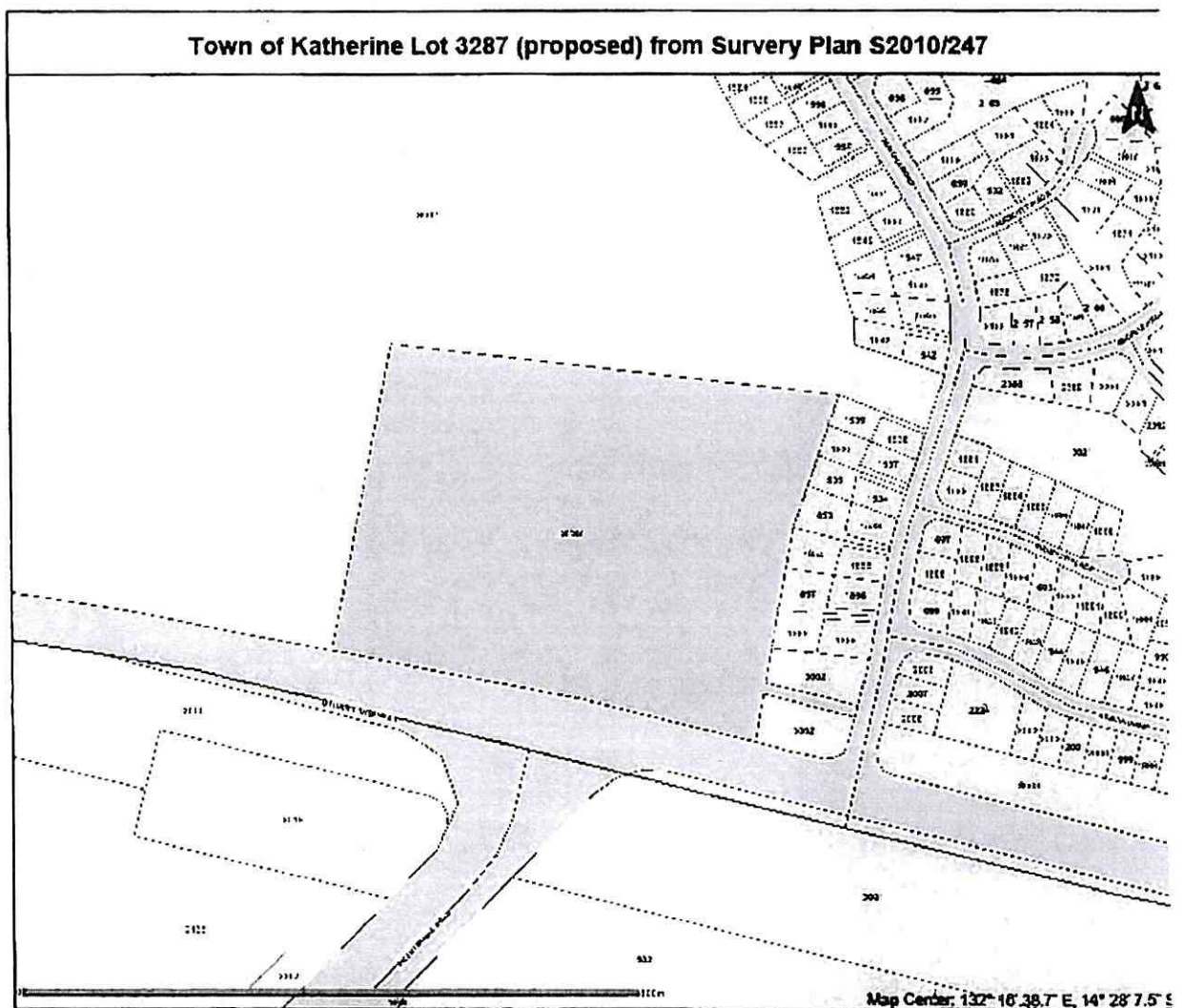
ATTACHMENT "A"

DESCRIPTION OF THE LAND

Proposed Lot 3287 Town of Katherine as depicted on Survey Plan S2010/247

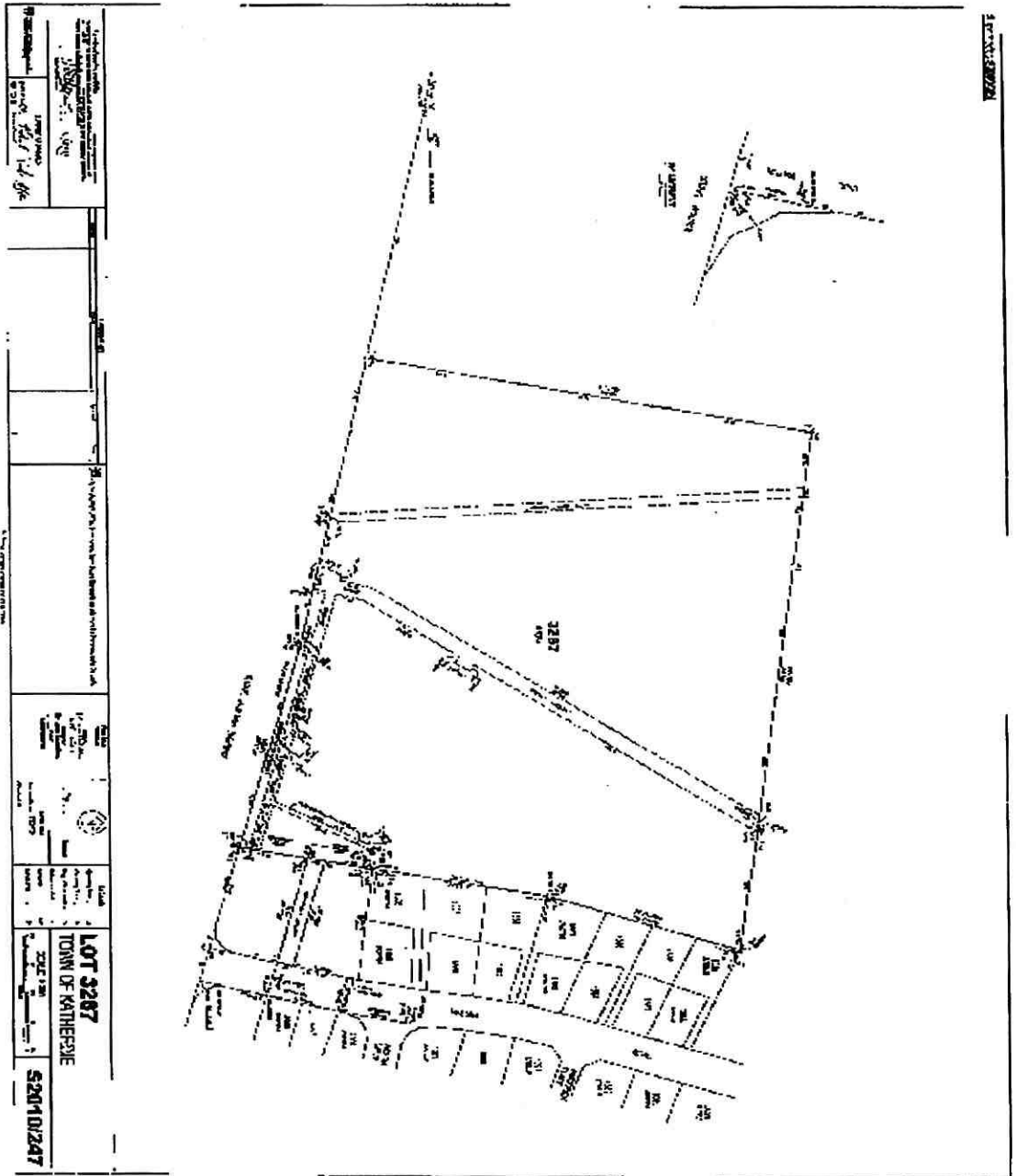
MAP OF THE LAND

See Map and Survey Plan below and on the next page.



Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

SAIWOY PLAN S2010/247



Viewed at 08:05:59 on 25/05/2012 by CSR.

Page 1 of 1.

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

ATTACHMENT "B"

STANDARD FORM of LEASE

CROWN LEASE TERM

Lot 3287 Town of Katherine from survey plan S2010/247
Area under title is 9.83 hectares

Owner: Katherine Regional Cultural Precinct Limited

Registered Date	Dealing Number	Description
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Commencement Date:

Expiry Date:

Reservations:

1. Reservation of a right of entry and inspection.
2. Reservation of all minerals, mineral substances and ores in or upon land, including gems, stones, sands, valuable earths and fossil fuels.
3. Reservation of a power of resumption

Provisions:

1. The purpose of the Lease ('the Lease purpose') is a cultural centre and surrounds for the recognition, promotion, preservation and enhancement of the cultures and cultural diversity of the Katherine region, and related purposes.
2. The annual rent for the Lease ('called the rent') will be nil.
3. This Lease is granted under and subject to the Crown Lands Act and the Regulations for the time being in force thereunder, and is conditional upon compliance by the Lessee with the Conditions and Covenants and will, subject to the Crown Lands Act and the Regulations, be liable to be forfeited for non-compliance with any such Lease condition.
4. The Lessee may at any time surrender the Lease in the manner prescribed under the Crown Lands Act.
5. For the purpose of section 58 of the Crown Lands Act the Lessee agrees that the Minister may at his absolute discretion determine the Lessee's rights in improvements.

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

Conditions and Covenants:

1. Subject to the Crown Lands Act, the Lessee will not use the Leased land for a purpose other than the Lease purpose .
2. The Lessee will erect improvements in accordance with the Lease purpose on the Leased land to a value of not less than the sum of \$7 million and the Lessee shall complete the erection of the said improvement to a value not less than the said sum within five years from the date of commencement of the Lease or within such further time as may be approved in writing by the Minister.
3. The Lessee will at all times comply with any Control Plan and/or any Development Permit or any other planning laws affecting the Leased land.
4. The Lessee will pay rates and taxes which may at any time become due in respect of the Leased land.
5. The Lessee will ensure that all building plans have the necessary approvals prior to commencement of building.
6. The Lessee will in respect of the land included in the Lease, ensure that at all times and to the satisfaction of the Minister, the land is kept clean, tidy and free of weeds, debris, dry herbage, rubbish, carcasses of animals and other unsightly or offensive or poisonous, toxic or hazardous matter and harbour for insects, pests and the breeding of mosquitoes.
7. If the Lessee fails to observe and carry out or to cause to be observed or carried out the requirements of condition 6 above on his part, the Territory shall have a right to enter onto the demised premises and do all things necessary to that end and the expense and cost thereof, as determined by the Minister, shall be borne and payable by the Lessee on demand.
8. The Lessee may upon completion of the development in terms of the Lease surrender the whole of the Lease in exchange for a Crown Lease term for seventy years at nil cost subject to payment of any administrative costs and lodgement fees.
9. The non-extinguishment principle (as defined in the Commonwealth's Native Title Act 1993) applies to the grant of this Lease.
10. Any variation to the conditions and covenants of the Lease will be subject to the registered Indigenous Land Use Agreement No.

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement**ATTACHMENT "C"****The Native Title Party consists of:**

- (a) the registered native title claimants in NTD 6002 of 1999, being Jessie Brown, Ivy Brumby, Marie Dowling, Gary Manbulloo and Amy Marrapunyah on behalf of the Dagoman people;
- (b) Wardaman people claiming native title rights and interests in the Land; and
- (c) Jawoyn people claiming native title rights and interests in the Land.

Second Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement

ATTACHMENT "D"

**CONSTITUTION OF THE LESSEE
KATHERINE REGIONAL CULTURAL PRECINCT LTD**

KATHERINE REGIONAL CULTURAL PRECINCT LIMITED

CONSTITUTION

DATE: 17th February 2012

VISION

To develop and maintain a high quality art enterprise facility to support, enhance and nurture all forms of artistic and cultural practice in the Katherine region.

PRELIMINARY

1. COMPANY NAME AND TYPE

- 1.1. The name of the company is The Katherine Regional Cultural Precinct Ltd.
- 1.2. The Company is a public company limited by guarantee.

2. DEFINED TERMS

- 2.1. In this Constitution unless the contrary intention appears:
 - (a) **Alternate Director** means a person appointed as an alternate director under Clause 29;
 - (b) **Auditor** means the Company's auditor;
 - (c) **Board** means the board of Directors of the Company;
 - (d) **Chairperson** means the Chairperson appointed pursuant to Clause 37
 - (e) **Chief Executive Officer** means the Chief Executive Officer appointed pursuant to Clause 44;
 - (f) **Community Representative Directors** means the Directors appointed pursuant to Clause 27;
 - (g) **Company** means The Katherine Regional Cultural Precinct Ltd *[insert ACN]*;
 - (h) **Constitution** means this constitution of the Company as amended from time to time;
 - (i) **Corporations Act** means the *Corporations Act 2001 (Cth)* as modified or amended from time to time and includes any regulations made under that Act and any exemption or modification to that Act applying to the Company;

- (j) **Deductible Gift Recipient Status** means status conferred by the Australian Taxation Office for an organisation eligible for tax deductibility of donations and listed on the Register of Cultural Organisations;
- (k) **Department** means Australian Taxation Office;
- (l) **Director** means any person occupying the position of director of the Company and, where appropriate, includes an Additional Director or an Alternate Director;
- (m) **Directors** means all or some of the Directors acting as a board;
- (n) **Fund** means the public fund called The Katherine Regional Cultural precinct Gift Fund pursuant to Clause 54,
- (o) **Fund Committee** means the Gift Fund Management Committee appointed by the Board under Clause 55,
- (p) **Indigenous Land Use Agreement** means the Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement registered as an Indigenous land use agreement under the Native Title Act;
- (q) **KTC** means Katherine Town Council, its successors and assigns;
- (r) **Lease** has the meaning given in the Katherine (Katherine Regional Cultural Precinct) Indigenous Land Use Agreement;
- (s) **Member** means a member under Clause 6;
- (t) **Member Representative Directors** means the Directors appointed pursuant to Clause 25;
- (u) **NTG** means Northern Territory of Australia, its successors and assigns;
- (v) **NLC** means Northern Land Council (ABN 56 327 515 336), its successors and assigns;
- (w) **Objects** means the objects of the Company set out in Clause 4;
- (x) **Register of Cultural Organisations** means the list of organisations registered with the Australian Government that are eligible to receive tax-deductible donations;
- (y) **Representative** means a person appointed as such under Clause 10;

- (z) **Seal** means the Company's common seal (if any);
- (aa) **Secretary** means any person appointed by the Directors to perform any of the duties of a secretary of the Company and if there are joint secretaries, any one or more of those joint secretaries; and
- (bb) **Special Resolution** means a resolution:
 - (i) of which twenty one days notice has been given to Members; and
 - (ii) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

3. INTERPRETATION

3.1. In this Constitution, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a Clause, paragraph, schedule or annexure is to a Clause or paragraph of, or schedule or annexure to, this Constitution, and a reference to this Constitution includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time; and
- (e) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions.

OBJECTS

4. OBJECTS

4.1. The objects for which the Company is established are:

- (a) to develop and maintain a high quality art enterprise facility to support, enhance and nurture all forms of artistic and cultural practice in the Katherine region;
- (b) to assist with the design and realisation of the Katherine Regional Cultural Precinct project;

- (c) to provide a high quality multipurpose facility for the display, performance, production and education of artistic and cultural practice in all its forms;
- (d) to promote the financial sustainability of the facility through commercial entrepreneurial activity and the active pursuit of philanthropic and other alternate funding sources;
- (e) to promote and facilitate Indigenous cultural awareness and appreciation through artistic and cultural education;
- (f) to improve and develop artistic and cultural educational programs for the youth and the schools of the Katherine region;
- (g) to develop and maintain a facility which reflects the multicultural diversity within our region and a place for all to share;
- (h) to build capacity of art and cultural groups within the region;
- (i) to provide a safe keeping place for items of Indigenous cultural or spiritual significance;
- (j) to develop and maintain programs to attract artistic and cultural exhibitions and performances to the precinct;
- (k) to develop training, employment and economic opportunity in artistic and cultural practices and to sponsor, facilitate and support such activity by others;
- (l) to support the protection of Indigenous intellectual property;
- (m) to develop a rich and complete appreciation in the general public of the significance and value of Indigenous and other artistic and cultural practice to the regional society; and
- (n) to be the controlling body to undertake the care, control and management of the land granted under term Lease in the Indigenous Land Use Agreement, including any buildings and surrounds, and the improvements from time to time thereon and of any other land improvements which may from time to time be leased or licensed to the Company by the NTG and/or the KTC.

4.2. The Company may only exercise the powers in Section 124(1) of the *Corporations Act* to:

- (a) carry out the Objects; and
- (b) do all things incidental or convenient in relation to the exercise of power under Clause 4.2(a).

5. INCOME AND PROPERTY OF COMPANY

- 5.1. The income and property of the Company will only be applied towards the promotion of the Objects.
- 5.2. No income or property will be paid or transferred directly or indirectly to any Member or Director of the Company except for payments to a Member or Director;
- (a) in return for any bona fide services rendered or goods supplied in the ordinary and usual course of business to the Company; or
 - (b) of interest at a rate not exceeding current bank overdraft rates of interest for moneys lent.
- 5.3. If the endorsement of the Corporation as a deductible gift recipient is revoked, the following shall be transferred to another organisation to which income tax deductible gifts can be made – any surplus;
- (a) Gifts of money or property for the principal purpose of the Corporation
 - (b) Contribution made in relation to an eligible fundraising event held for the principal purpose of the Corporation; and
 - (c) Money received by the Corporation because of such gifts and contributions

MEMBERSHIP

6. MEMBERS

- 6.1. The following are Members of the Company;
- (a) the NLC;
 - (b) the NTG; and
 - (c) the KTC.
- 6.2. The Members may by Special Resolution accept one or more applicants as Members.
- 6.3. A person immediately ceases to be a Member if the person:

- (a) resigns as a Member by giving written notice to the Company; or
- (b) becomes insolvent or makes any arrangement or composition with its creditors.

7. LIABILITY OF MEMBERS

- 7.1. The liability of the Member is limited to the amount of the guarantee given in Clause 8

8. WINDING UP

- 8.1. If the Company is wound up:

- (a) each Member; and
- (b) each person who has ceased to be a Member in the preceding year,

undertakes to contribute to the property of the Company for the:

- (c) payment of debts and liabilities of the Company and payment of costs, charges and expenses of winding up; and
- (d) adjustment of the rights of the contributories amongst themselves,

such amount as may be required, not exceeding \$1.00.

- 8.2. If upon the winding up or dissolution of the company, there remains after satisfaction all its debts and liabilities, any property or funds, the property or funds shall not be paid to or distributed amongst its members, but shall be given or transferred to some other corporation, authority or institution listed on the Register of Cultural Organisations, having objects similar to the objects of the company, and whose rules prohibit the distribution of its or their income among its or their members, such corporation, authority or institution to be eligible for tax deductibility of donations under subdivision 30 – B, section 30 – 100 of the *Income Tax Assessment Act 1997* and listed on the Register of Cultural Organisations maintained under the Act and with such corporation, authority or institution to be determined by the Members at or before the winding up and in default, by application to the Supreme Court of the Northern Territory for determination.

9. POWERS OF ATTORNEY

- 9.1. If a Member executes or proposes to execute any document or do any act by or through an attorney, which affects the Company or the Member's membership in the Company, that Member must deliver the Power of Attorney appointing the Attorney to the Company for notation.

- 9.2. If the Company asks the Member to file with it a certified copy of the Power of Attorney for the Company to retain, the Member will promptly comply with that request.
- 9.3. The Company may ask for whatever evidence it thinks appropriate that the power of attorney is effective and continues to be in force.

10. REPRESENTATIVES

- 10.1. Any governmental body, corporation or organisation which is a Member may by written notice to the Secretary:
- (a) appoint a natural person to act as its Representative in all matters connected with the Company as permitted by the *Corporations Act*; and
 - (b) remove a Representative.
- 10.2. A Representative is entitled to:
- (a) exercise at a General Meeting all the powers which the governmental body, corporation or organisation which appointed him or her could exercise if it were a natural person; and
 - (b) be counted towards a quorum on the basis that the Member governmental body, corporation or organisation is to be considered personally present at a General Meeting by its Representative.
- 10.3. A certificate executed in accordance with Section 127 of the *Corporations Act* is rebuttable evidence of the appointment or of the removal of the appointment (as appropriate) of the Representative.
- 10.4. The Chairperson of a General Meeting may allow a Representative to vote on the condition that he or she subsequently establishes his or her status as a Representative within a period prescribed by and to the satisfaction of the Chairperson of the General Meeting.
- 10.5. The appointment of a Representative may set out restrictions on the Representative's powers.

GENERAL MEETINGS

11. CALLING GENERAL MEETINGS

- 11.1. A General Meeting may only be called;
- (a) by a directors' resolution; or

- (b) in accordance with a members' requisition under the Corporations Act; or
- (c) as otherwise provided in the Corporations Act.
- (d) as provided by s.249A of the Corporations Act.

11.2. Subject to Clause 12.4, the Directors may change the venue for, postpone or cancel a General Meeting if:

- (a) they consider that the meeting has become unnecessary;
- (b) the venue would be unreasonable or impractical; or
- (c) a change is necessary in the interests of conducting the meeting efficiently.

11.3. If the General Meeting was not called by a Directors' resolution or was called in accordance with a Member's requisition under the Corporations Act, then it may not be postponed or cancelled without the prior written consent of the persons who called or requisitioned the meeting.

12. NOTICE OF GENERAL MEETING

12.1. Subject to the provisions of the *Corporations Act* allowing a General Meeting to be held with shorter notice, at least 21 days' written notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given) must be given to Members of any General Meeting.

12.2. A notice calling a General Meeting:

- (a) must specify the place, date and time of the meeting and if the meeting is to be held in two or more places, the technology that will be used to facilitate this;
- (b) must state the general nature of the business to be transacted at the meeting; and
- (c) may specify a place, facsimile number and electronic address for the purposes of proxy appointment.

12.3. A notice of an Annual General Meeting must also specify that the business to be transacted at the meeting includes:

- (a) the consideration of the annual financial report, Directors' report and the Auditor's report;
- (b) the election of directors; and
- (c) the appointment and fixing of the remuneration of the Auditor.

- 12.4. The Directors must give notice of the postponement or cancellation of a General Meeting to all persons referred to in Clause 52.1 entitled to receive notices from the Company.
- 12.5. The failure or accidental omission to send a notice of a General Meeting (including a proxy appointment form) to any Member or the non-receipt of a notice (or form) by any Member does not invalidate the proceedings at or any resolution passed at the General Meeting.

13. QUORUM AT GENERAL MEETINGS

- 13.1. No business may be transacted at a General Meeting unless a majority of all Members are present when the meeting proceeds to business.
- 13.2. If a quorum of Members is not present within 30 minutes after the time appointed for a General Meeting:
- (a) if the General Meeting was called on the requisition of Members, it is automatically dissolved; or
 - (b) in any other case:
 - (i) it will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Members; and
 - (ii) if at the adjourned General Meeting a quorum is not present within 30 minutes after the time appointed for the General Meeting, the General Meeting is automatically dissolved.
- 13.3. In this Clause a Member includes a Member present in person or by proxy, attorney or representative.

14. CHAIRPERSON OF GENERAL MEETINGS

- 14.1. The Chairperson, or in the Chairperson's absence the deputy Chairperson, of Directors' meetings will be the Chairperson at every General Meeting.
- 14.2. The Members present may elect a Chairperson of a General Meeting if:
- (a) there is no Chairperson or deputy Chairperson; or
 - (b) neither the Chairperson nor deputy Chairperson is present within 15 minutes after the time appointed for holding the General Meeting; or
 - (c) the Chairperson and deputy Chairperson are unwilling to act as Chairperson of the General Meeting.

15. ADJOURNMENT

- 15.1. The Chairperson of a General Meeting at which a quorum is present:
- (a) in his or her discretion may adjourn the General Meeting with the meeting's consent; and
 - (b) must adjourn the General Meeting if the meeting directs him or her to do so.
- 15.2. An adjourned General Meeting may take place at a different venue to the initial General Meeting.
- 15.3. The only business that can be transacted at an adjourned General Meeting is the unfinished business of the initial General Meeting.
- 15.4. Notice of an adjourned General Meeting must only be given in accordance with Clause 12.1 if a General Meeting has been adjourned for more than 21 days.

16. DECISIONS AT GENERAL MEETINGS

- 16.1. A resolution, other than a Special Resolution, is carried if a majority of the votes cast on the resolution are in favour of the resolution.
- 16.2. A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the *Corporations Act*.
- 16.3. Unless a poll is demanded:
- (a) a declaration by the Chairperson that a resolution has been carried, carried by a specified majority, or lost; and
 - (b) an entry to that effect in the minutes of the meeting,
- are conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.
- 16.4. The demand for a poll may be withdrawn.
- 16.5. A decision of a General Meeting may not be impeached or invalidated on the ground that a person voting at the General Meeting was not entitled to do so.

17. TAKING A POLL

- 17.1. A poll will be taken when and in the manner that the Chairperson directs.
- 17.2. The result of the poll will be the resolution of the meeting at which the poll was demanded.
- 17.3. The Chairperson may determine any dispute about the admission or rejection of a vote.
- 17.4. The Chairperson's determination, if made in good faith, will be final and conclusive.

- 17.5. A poll demanded on the election of the Chairperson or the adjournment of a General Meeting must be taken immediately.
- 17.6. After a poll has been demanded at a General Meeting, the General Meeting may continue for the transaction of business other than the question on which the poll was demanded.

18. ENTITLEMENT TO VOTE AT GENERAL MEETING

- 18.1. Each Member has one vote.
- 18.2. A proxy, attorney or representative is entitled to a separate vote for each Member the person represents, in addition to any vote the person may have as a Member in his or her own right.

19. OBJECTIONS TO ENTITLEMENT TO VOTE AT GENERAL MEETING

- 19.1. An objection to the qualification of a voter may only be raised at the General Meeting or adjourned General Meeting at which the voter tendered its vote.
- 19.2. An objection must be referred to the Chairperson of the General Meeting, whose decision is final.
- 19.3. A vote which the Chairperson does not disallow because of an objection is valid for all purposes.

20. VOTES BY PROXY AT GENERAL MEETING

- 20.1. If a Member appoints a proxy, proxies or an attorney, the proxy, proxies or attorney may not vote on a show of hands.
- 20.2. A proxy need not be a Member.
- 20.3. A proxy may demand or join in demanding a poll.
- 20.4. A proxy or attorney may vote on a poll.
- 20.5. A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on a particular resolution. If a proxy votes at all, the proxy will be deemed to have voted all directed proxies in the manner directed.

21. DOCUMENT APPOINTING PROXY

- 21.1. An appointment of a proxy is valid if it is signed by the Member making the appointment and contains the information required by Section 250A(1) of the *Corporations Act*. The Directors may determine that an appointment of proxy is valid even if it only contains some of the information required by Section 250A(1) of the *Corporations Act*.
- 21.2. For the purposes of Clause 21.1, an appointment received at an electronic address will be taken to be signed by the Member if:

- (a) a personal identification code allocated by the Company to the Member has been input into the appointment; or
- (b) the appointment has been verified in another manner approved by the Directors.

21.3. A proxy's appointment is valid at an adjourned General Meeting.

21.4. A proxy or attorney may be appointed for all General Meetings or for any number of General Meetings or for a particular purpose.

21.5. Unless otherwise provided for in the proxy's appointment or in any instrument appointing an attorney, the appointment of the proxy or the attorney will be taken to confer authority:

- (a) to vote on:
 - (i) any amendment moved to the proposed resolutions and on any motion that the proposed resolution not be put or any similar motion; and
 - (ii) any procedural motion, including any motion to elect the Chairperson, to vacate the chair or to adjourn the General Meeting,
- (b) even though the appointment may specify the way the proxy or attorney is to vote on a particular resolution; and
- (c) to vote on any motion before the General Meeting whether or not the motion is referred to in the appointment.

21.6. If a proxy appointment is signed by the Member but does not name the proxy or proxies in whose favour it is given, the Chairperson may either cast as proxy or complete the appointment by inserting the name or names of one or more directors or the Secretary.

22. Lodgement of proxy

22.1. The written appointment of a proxy or attorney must be received by the Company, at least 48 hours (unless otherwise specified in the notice of meeting to which the proxy relates) before:

- (a) the time for holding the General Meeting or adjourned General Meeting at which the appointee proposes to vote; or
- (b) the taking of a poll on which the appointee proposes to vote.

22.2. The Company receives an appointment of a proxy and any power of attorney or other authority under which it was executed when they are received at:

- (a) the Company's registered office;
- (b) a facsimile number at the Company's registered office;
- or
- (c) a place, facsimile number or electronic address specified for that purpose in the notice of meeting.

23. VALIDITY

23.1. A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) died;
- (b) became mentally incapacitated; or
- (c) revoked the proxy or power,

unless any written notification of the death, unsoundness of mind or revocation was received by the Company before the relevant General Meeting or adjourned General Meeting.

APPOINTMENT AND REMOVAL OF DIRECTORS

24. NUMBER OF DIRECTORS

- 24.1. There will be twelve (12) Directors of the Company.
- 24.2. The first Directors will be those named as directors in the application for registration of the Company.

25. MEMBER REPRESENTATIVE DIRECTORS

- 25.1. The Member Representative Directors will be appointed as follows:
 - (a) The NLC may appoint six Member Representative Directors, who must be comprised as follows:
 - (i) two directors from the Dagoman clan group;
 - (ii) two directors from the Wardman clan group; and
 - (iii) two directors from the Jawoyn clan group.
 - (b) The NTG may appoint two Member Representative Directors
 - (c) The KTC may appoint one Member Representative Director.

26. REMOVAL OF MEMBER REPRESENTATIVE DIRECTORS

- 26.1. Each Member may remove and appoint a substitute for a person as their Member Representative Director.

27. COMMUNITY REPRESENTATIVE DIRECTORS

- 27.1. The remaining three Directors are to be selected from the general public as Community Representative Directors by the Member Representative Directors at their complete discretion.

28. REMOVAL OF COMMUNITY REPRESENTATIVE DIRECTORS

- 28.1. The Members may by resolution passed in General Meeting remove any Community Representative Director before the end of the Community Representative Director's period of office.
- 28.2. The Directors may appoint a new Community Representative Director to replace any Community Representative Director removed under Clause 28. The appointment of any new Community Representative Director must comply with Clause 27, above.
- 28.3. A Community Representative Director appointed under Clause 28.2 will hold office for the period for which the Community Representative Director replaced would have held office if the Community Representative Director had not been removed.

29. Appointment of alternate directors

- 29.1. Any Director may by a written notice of appointment appoint a person who has consented in writing to being so appointed to act as his or her alternate at any Directors' meeting or meetings. Such appointment shall be effective from the last to occur of the following:
- (a) the delivery to the Company Secretary of the signed written notice of appointment setting out the full name and address of the Alternate Director;
 - (b) The delivery to the Company Secretary of the written consent duly signed by the Alternate Director consenting to being appointed as the alternate to the appointing Director; and
 - (c) The signed consent of all other Directors of the Company to the appointment of the Alternate Director or the passing of a Board resolution approving of the appointment of the Alternate Director.
- 29.2. The appointment of an Alternate Director can be a standing appointment. An Alternate Director so appointed shall be entitled to exercise all of the powers of the Director appointing him or her unless that Director qualifies or limits the powers of his or her alternate in the appointment. The appointment may be

for a particular meeting or for a particular period. If the appointment is so limited then the Alternate Director is not entitled to vote or exercise any rights beyond the particular meeting or particular purpose. The appointment of an Alternate Director may expressly include a power to sign any minute of Directors' resolution or to sign any document which under this Constitution the Director appointing the Alternate Director would have power or authority to sign on the Company's behalf.

- 29.3. If the appointing Director requests the Company to give his or her Alternate Director notice of Directors' meetings, then the Company must do so. Where any Director or Member has power under this Constitution to call a Director's meeting then the Company Secretary must ensure that where an Alternate Director is entitled to notice of the Directors' meeting that such Member or Director also gives notice to the Alternate Director.
- 29.4. When an Alternate Director exercised the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director.
- 29.5. Where a Director who has appointed an Alternate Director is present at the Director's meeting then his or her Alternate Director shall have no right to vote or participate in the Directors' meeting. Where during the course of a Directors' meeting at which the Alternate Director is present the Director who appointed him or her joins the Directors' meeting then as and from the appointing Director joining the Directors' meeting the Alternate Director shall have no right to vote or participate in the Director's meeting.
- 29.6. The appointing Director may terminate his or her Alternate Director's appointment at any time by giving written notice thereof to the Alternate Director and to the Company Secretary.

30. VACATION OF OFFICE

- 30.1. The office of a Director immediately becomes vacant if the Director:
- (a) is prohibited by the *Corporations Act* from holding office or continuing as a Director;
 - (b) is liable to have a person appointed, under a law relating to the administration of estates of persons who through mental or physical incapacity are incapable of managing their affairs, to administer it, or becomes in the opinion of the Directors incapable of performing his or her duties;
 - (c) resigns by notice in writing to the Company;
 - (d) is removed pursuant to Clauses 26.1 or 28.1(a);
 - (e) is removed by a resolution of the Company;
 - (f) is absent from three consecutive Directors' meetings without leave of absence from the Directors; or

- (g) is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare the nature of the interest as required by the *Corporations Act*.

POWERS AND DUTIES OF DIRECTORS

31. POWERS AND DUTIES OF DIRECTORS

- 31.1. The business of the Company is managed by the Directors who may exercise all powers of the Company that this Constitution and the *Corporations Act* do not require to be exercised by the Company in General Meeting.
- 31.2. Without limiting the generality of Clause 31.1, the Directors may exercise all the powers of the Company to:
 - (a) borrow money;
 - (b) charge any property or business of the Company;
 - (c) issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person; and
 - (d) guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

32. PROCEEDINGS OF DIRECTORS' MEETINGS

- 32.1. The Directors may meet together and adjourn and otherwise regulate their meetings as they think fit.
- 32.2. The simultaneous linking together by telephone or other electronic means of a sufficient number of the directors to constitute a quorum constitutes a meeting of the Directors. All the provisions in this constitution relating to meetings of the directors apply, as far as they can and with any necessary changes, to meetings of the directors by telephone and other electronic means.
- 32.3. A Director who takes part in a meeting by telephone or other electronic means is taken to be present in person at the meeting.
- 32.4. A meeting by telephone or other electronic means is taken as held at the place decided by the Chairperson of the meeting, as long as at least one of the directors involved was at that place for the duration of the meeting.
- 32.5. If, before or during the meeting, a technical difficulty occurs which means that one or more directors cease to participate, the Chairperson may adjourn the meeting until the difficulty is remedied or may, if a quorum of directors remains present, continue with the meeting.

33. QUORUM AT MEETINGS OF DIRECTORS

- 33.1. No business may be transacted at a meeting of directors unless a quorum of directors is present at the time the business is dealt with.
- 33.2. A quorum consists of six Directors at least one of which must be:
- (a) a Member Representative Director appointed by the NLC;
 - (b) a Member Representative Director appointed by the NTG;
 - (c) a Member Representative Director appointed by the KTC;
and
 - (d) a Community Representative Director.
- 33.3. The Directors may act even if there are vacancies on the board.
- 33.4. If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:
- (a) appoint a Director; or
 - (b) call a General Meeting.

34. DECISIONS OF DIRECTORS

- 34.1. A meeting of Directors at which a quorum is present may exercise all the powers and discretions vested in or exercisable by the Directors under this constitution.
- 34.2. Questions arising at a meeting of directors must be decided by a majority of votes cast by the Directors present. Such a decision is for all purposes a decision of the directors.
- 34.3. Where the votes on a proposed resolution are equal:
- (a) the Chairperson of the meeting does not have a second or casting vote; and
 - (b) the proposed resolution is taken as lost.
- 34.4. Each Director only has one vote. If, however, an Alternate Director is a Director, he or she also has a vote as a Director.

35. PAYMENTS TO DIRECTORS

- 35.1. No payment will be made to any Director of the Company other than payment:
- (a) of out of pocket expenses incurred by the Director in the performance of any duty as Director of the Company where the amount payable does not exceed an amount previously approved by the Directors of the Company;

- (b) for any bona fide service rendered to the Company by the Director in a professional or technical capacity, other than in the capacity as Director, where the provision of the service has the prior approval of the Directors of the Company and where the amount payable is approved by the Directors of the Company and is not more than an amount which commercially would be reasonable payment for the service;
- (c) of any salary or wage due to the Director as an employee of the Company where the terms of employment have been approved by the Directors of the Company; and
- (d) relating to an indemnity in favour of the Director and permitted by Section 199A of the *Corporations Act* or a contract of insurance permitted by Section 199B.

35.2. Notwithstanding Clause 35.1 any director living outside the Katherine Municipal boundary is to be paid a sitting fee as determined by the board from time to time.

36. DIRECTORS' INTERESTS

- 36.1. No contract made by a Director with the Company and no contract or arrangement entered into by or on behalf of the Company in which any Director may be in any way interested is avoided or rendered voidable merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 36.2. No Director contracting with or being interested in any arrangement involving the Company is liable to account to the Company for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a director or because of the fiduciary obligations arising out of that office.
- 36.3. A Director is not disqualified merely because of being a Director from contracting with the Company in any respect.
- 36.4. Subject to Clause 36, a Director or a body or entity in which a Director has a direct or indirect interest may:
 - (a) enter into any agreement or arrangement with the Company;
 - (b) hold any office or place of profit other than as auditor in the Company; and
 - (c) act in a professional capacity other than as auditor for the Company,

and the Director or the body or entity can receive and keep beneficially any remuneration, profits or benefits under any agreement or arrangement with

the Company or from holding an office or place of profit in or acting in a professional capacity with the Company.

36.5. A Director who has a material personal interest in a matter that is being considered at a Directors' meeting must not:

- (a) be present while the matter is being considered at the meeting; or
- (b) vote on the matter,

unless permitted by the *Corporations Act* to do so, in which case the Director may:

- (c) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
- (d) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement; and
- (e) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement.

36.6. A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.

37. CHAIRPERSON

37.1. The Directors may elect a Director as Chairperson of Directors' meetings and may determine the period for which the Chairperson will hold office.

37.2. If no Chairperson is elected or if the Chairperson is not present at any Directors' meeting within ten minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be Chairperson of the meeting.

37.3. The Directors may elect a Director as deputy Chairperson to act as Chairperson in the Chairperson's absence.

38. DELEGATION

38.1. The Directors may delegate any of their powers, other than those which by law must be dealt with by the Directors as a board, to a committee or committees.

- 38.2. The Directors may at any time revoke any delegation of power to a committee.
- 38.3. At least one member of each committee must be a Director.
- 38.4. A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.
- 38.5. A committee may be authorised by the Directors to sub-delegate all or any of the powers for the time being vested in it.
- 38.6. Meetings of any committee of Directors will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors. The provisions apply as if each member was a Director.

39. WRITTEN RESOLUTIONS

- 39.1. The Directors may pass a resolution without a Director's meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- 39.2. For the purposes of Clause 39.1, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 39.3. Any document referred to in this Clause may be in the form of a facsimile or electronic transmission.
- 39.4. The minutes of Directors' meetings must record that a meeting was held in accordance with this Clause.
- 39.5. This Clause applies to meetings of Directors' committees as if all members of the committee were Directors.

40. VALIDITY OF ACTS OF DIRECTORS

- 40.1. If it is discovered that:
 - (a) there was a defect in the appointment of a person as a Director, Alternate Director or member of a Directors' committee; or
 - (b) a person appointed to one of those positions was disqualified,
- 40.2. all acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

41. MINUTES AND REGISTERS

41.1. The Directors must cause minutes to be made of:

- (a) the names of the Directors present at all Directors' meetings and meetings of Directors' committees;
- (b) all proceedings and resolutions of General Meetings, Directors' meetings and meetings of Directors' committees;
- (c) all resolutions passed by Directors in accordance with Clause 39;
- (d) all appointments of officers;
- (e) all orders made by the Directors and Directors' committees; and
- (f) all disclosures of interests made under Clause 36.

41.2. Minutes must be signed by the Chairperson of the meeting or by the Chairperson of the next meeting of the relevant body.

41.3. The Company must keep all registers required by this Constitution and the *Corporations Act*.

ADVISORY COMMITTEE

42. ESTABLISHMENT OF ADVISORY COMMITTEE

42.1. In addition to the creation of a committee or committees pursuant to Clause 38, the Directors may:

- (a) establish one or more Advisory Committees; and
- (b) appoint and remove, or make provision for the appointment and removal of, members of any Advisory Committee.

42.2. The Directors may terminate an Advisory Committee at any time.

43. FUNCTIONS OF ADVISORY COMMITTEE

43.1. The functions of an Advisory Committee will be decided by the directors.

43.2. The Directors may specify:

- (a) the manner in which proceedings of the Advisory Committee are to be conducted;
- (b) the matters which the Advisory Committee must consider in carrying out its functions; and
- (c) any other matters concerning the Advisory Committee or its functions that the Directors decide.

44. CHIEF EXECUTIVE OFFICER

- 44.1. The Directors may appoint a person but not a Director as the Chief Executive Officer of the Company for such period, and on such terms (including as to remuneration) as the Directors so resolve. A person shall not be appointed as Chief Executive Officer unless he or she has consented in writing to being appointed as Chief Executive Officer.
- 44.2. A person ceases to be the chief executive officer if he or she resigns, retires or is removed by Directors' resolution as Chief Executive Officer.
- 44.3. The Directors may revoke or vary an appointment of a Chief Executive Officer at any time by resolution to that effect.
- 44.4. A Chief Executive Officer shall subject to the terms of any agreement entered into in a particular case receive such remuneration (whether by way of salary commission or participation in profits, or partly in one way and partly in another) as the Directors determine.
- 44.5. The Directors may confer on a Chief Executive Officer any of the powers that the Directors can exercise.
- 44.6. The Directors may revoke or vary a conferral of powers of the Chief Executive Officer.
- 44.7. Subject to any resolution of the Directors to the contrary the Chief Executive Officer shall always be answerable to the Board in respect to all powers exercised by him or her and to make a full and proper disclosure of all transactions in which the Company is involved.
- 44.8. The Chief Executive Officer may, subject to any Directors' resolution to the contrary, delegate any of his or her powers to any executive or management employee of the company and subject to such terms and conditions as the Chief Executive Officer shall think fit.
- 44.9. The Chief Executive Officer shall discharge and exercise all of his or her powers as Chief Executive Officer of the company carefully with skill diligently and always in the best interest of the company.

LOCAL MANAGEMENT

45. LOCAL MANAGEMENT

- 45.1. The Directors may provide for the management and transaction of the affairs of the Company in any places and in such manner as they think fit.
- 45.2. Without limiting Clause 45.1 the Directors may:
- (a) establish local boards or agencies for managing any of the affairs of the Company in a specified place and appoint any

persons to be members of those local boards or agencies;
and

- (b) delegate to any person appointed under Clause 45.2(a) any of the powers, authorities and discretions which may be exercised by the Directors under this Constitution,

on any terms and subject to any conditions determined by the Directors.

45.3. The Directors may at any time revoke or vary any delegation under this Clause.

46. APPOINTMENT OF ATTORNEYS AND AGENTS

46.1. The Directors may from time to time by resolution or power of attorney executed in accordance with Section 127 of the *Corporations Act* appoint any person to be the attorney or agent of the Company:

- (a) for the purposes;
- (b) with the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
- (c) for the period; and
- (d) subject to the conditions,

determined by the Directors.

46.2. An appointment by the Directors of an attorney or agent of the Company may be made in favour of:

- (a) any member of any local board established under this Constitution;
- (b) any company;
- (c) the members, directors, nominees or managers of any company or firm; or
- (d) any fluctuating body of persons whether nominated directly or indirectly by the Directors.

46.3. A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.

46.4. The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Company.

46.5. An attorney or agent appointed under this Clause may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

SECRETARY

47. SECRETARY

- 47.1. If required by the *Corporations Act*, there must be at least one secretary of the Company appointed by the Directors for a term and at remuneration and on conditions determined by them.
- 47.2. The Secretary is entitled to attend and be heard on any matter at all Directors' and General Meetings.
- 47.3. The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

SEALS

48. COMMON SEAL

- 48.1. If the Company has a Seal:
- (a) the Directors must provide for the safe custody of the Seal;
 - (b) the Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal;
 - (c) every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

49. DUPLICATE SEAL

- 49.1. If the Company has a Seal, the Company may have one or more duplicate seals of the Seal each of which:
- (a) must be a facsimile of the Seal with 'Duplicate Seal' on its face;
 - (b) must not be used except with the authority of the Directors.

INSPECTION OF RECORDS

50. INSPECTION OF RECORDS

- 50.1. Financial records and other documents of the Company will be open for inspection by Members on reasonable request.

NOTICES

51. SERVICE OF NOTICES

51.1. Notices by the Company to Members

The Company may give notices, including a notice of General Meeting to a Member:

- (a) personally;
- (b) by sending it by post to the address for the Member in the register of Members or the alternative address (if any) nominated by the Member; or
- (c) by sending it to the fax number or electronic address (if any) nominated by the Member.

51.2. Notices by the Company to directors

Subject to this constitution, a notice may be given by the Company to any director by:

- (a) serving it personally at the director's usual residential or business address;
- (b) sending it by post in a prepaid envelope to the director's usual residential or business address; or
- (c) sending it to the fax number or electronic address supplied by the director to the Company for giving notices.

51.3. Notices by Member or directors to the Company

Subject to this constitution, a notice may be given by a Member or director to the Company by:

- (a) serving it on the Company at the registered office of the Company;
- (b) sending it by post in a prepaid envelope to the registered office of the Company; or
- (c) sending it to the principal fax number or the principal electronic address of the Company at its registered office.

51.4. Time of service

- (a) A notice properly addressed and posted is taken to be served:

- (i) in the case of a notice of a General Meeting, at 10.00am on the day after the date it was posted; or
 - (ii) in any other case, at the time the letter would be delivered in the ordinary course of post.
- (b) Where a notice is sent by fax, the notice is taken as served at the time the fax is sent if the correct fax number appears on the fax report produced by the sender's fax machine.
 - (c) Where a notice is sent by an electronic messaging system with a delivery verification function, the notice is taken as served on generation of a delivery verification notice, log entry, or other confirmation by the electronic messaging system.
 - (d) Where a notice is sent by email or other electronic messaging system (not covered by rule 51.4(c)), the notice is served on delivery to:
 - (i) the addressee's email or electronic messaging system account if the addressee is a natural person; or
 - (ii) the corporation's computer systems if the addressee is a corporation.
 - (e) If service under rules 51.4(b), 51.4(c) and 51.4(d) is on a day which is not a Business Day or is after 4.00pm (addressee's time), the notice is regarded as having been received at 9.00am on the next following Business Day.

51.5. Other communications and documents

Clauses 51.1 to 51.4 (inclusive) apply, as far as they can, with any necessary changes, to the service of any communication or document.

51.6. Notices in writing

A reference in this constitution to a written notice includes a notice given by fax or electronic transmission or any other form of written communication.

52. PERSONS ENTITLED TO NOTICE

52.1. Notice of every General Meeting must be given to:

- (a) every Member;
- (b) every Director and Alternate Director; and
- (c) any Auditor.

52.2. No other person is entitled to receive notice of a General Meeting.

53. AUDIT AND ACCOUNTS

53.1. The Directors must cause the Company to keep written financial records in relation to the business of the Company in accordance with the requirements of the *Corporations Act*.

53.2. The Directors must cause the financial records of the Company to be audited in accordance with the requirements of the *Corporations Act*.

54. GIFT FUND

54.1. If the Company achieves Deductible Gift Recipient Status, the Company will establish and maintain a Public Fund which shall operate under the name of The Katherine Regional Cultural Precinct Gift Fund ("**the Fund**").

54.2. The Fund shall have the same objects and purposes as the Company and in addition, the Fund will also be established and maintained to enable the Company to receive Deductible Gift Recipient Status from the Australian Taxation Office.

54.3. To comply with the requirements for Deductible Gift Recipient Status, the Company must obtain and maintain an Australian Business Number at all times while operating the Fund.

54.4. The Fund shall seek and receive gifts from the public which may only be used to further the objects and purposes of the Company.

54.5. The Fund must maintain a separate bank account to that of the Company.

54.6. The Fund must be listed on the Register of Cultural Organisations.

54.7. Investment of monies in the Fund will be made in accordance with guidelines for public funds as specified by the Australian Taxation Office, from time to time.

54.8. No monies and/or assets in the Fund will be distributed to any Members or office bearers of the Company, except as reimbursement of out-of-pocket expenses incurred on behalf of the Fund or proper remuneration for administrative services.

54.9. The Fund must be wound up in the same manner as the Company with the any remaining surplus monies, assets or property transferred and distributed in accordance with clause 8.

54.10. Receipts for gifts to the Fund must state:

- (a) the name of the Fund and that the receipt is for a gift made to the Fund;

- (b) that the Fund is listed on the Register of Cultural Organisations;
- (c) the date the gift was received;
- (d) the type of gift that was received (including its value);
- (e) the name of the donor of the gift;
- (f) the signature of a person authorised to act on behalf of the Fund;
- (g) the Australian Business Number of the Company;
- (h) the fact that the receipt is for a gift; and
- (i) any other matter required to be included on the receipt pursuant to the requirements of the *Income Tax Assessment Act 1997*.

55. MANAGEMENT OF THE GIFT FUND

- 55.1. The Fund will be administered by a management committee to be named Gift Fund Management Committee ("**Fund Committee**").
- 55.2. The Fund Committee with a minimum of three committee members, will be a committee appointed by the Board in its absolute discretion.
- 55.3. The majority of the Fund Committee members must be Responsible Persons; that is they must have an underlying community responsibility because of their tenure of some public office or their professional standing, as distinct from obligations solely in regard to the cultural objectives of the Company.
- 55.4. The Fund Committee may include members who are not part of the Company's management structure.
- 55.5. The Fund Committee will convene no less than six meetings per year, with such meeting formalities to be determined by the Board.
- 55.6. The Fund Committee will have the following responsibilities:
 - (a) to monitor the current status of the Fund, including the movement of monies and/or assets into and out of the Fund;
 - (b) to authorise the use of the monies and/or assets by the Company;
 - (c) to notify the Department of any proposed amendments or alterations to provisions for the Fund, to assess the effect of any amendments on the Fund's continuing Deductible Gift Recipient status; and

- (d) to provide information to the Department on gifts received by the Fund at six-monthly intervals;
- (e) to participate in periodic reviews of eligibility as may be required by the Department; and
- (f) any other responsibilities or obligations imposed on it by the Board, the Department or the legislation from time to time.

56. INDEMNITY

56.1. To the extent permitted by law and subject to the restrictions in Section 199A of the *Corporations Act*, the Company indemnifies every person who is or has been an officer of the Company against:

- (a) any liability (other than for legal costs) incurred by that person as an officer of the Company (including liabilities incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment); or
- (b) reasonable legal costs incurred in defending an action for a liability incurred by that person as an officer of the Company (including legal costs incurred by the officer as an officer of a subsidiary of the Company where the Company requested the officer to accept that appointment).

56.2. The amount of any indemnity payable under Clause 56.1 will include an additional amount equal to any GST payable by the officer being indemnified in connection with the indemnity (less the amount of input tax credit claimable by the Indemnified Officer in connection with the indemnity). Payment of any indemnity which includes a GST Amount is conditional upon the Indemnified Officer providing the Company with a GST tax invoice for the GST Amount.

56.3. For the purposes of this Clause, **officer** means:

- (a) a Director; or
- (b) a Secretary.

57. REPLACABLE RULES

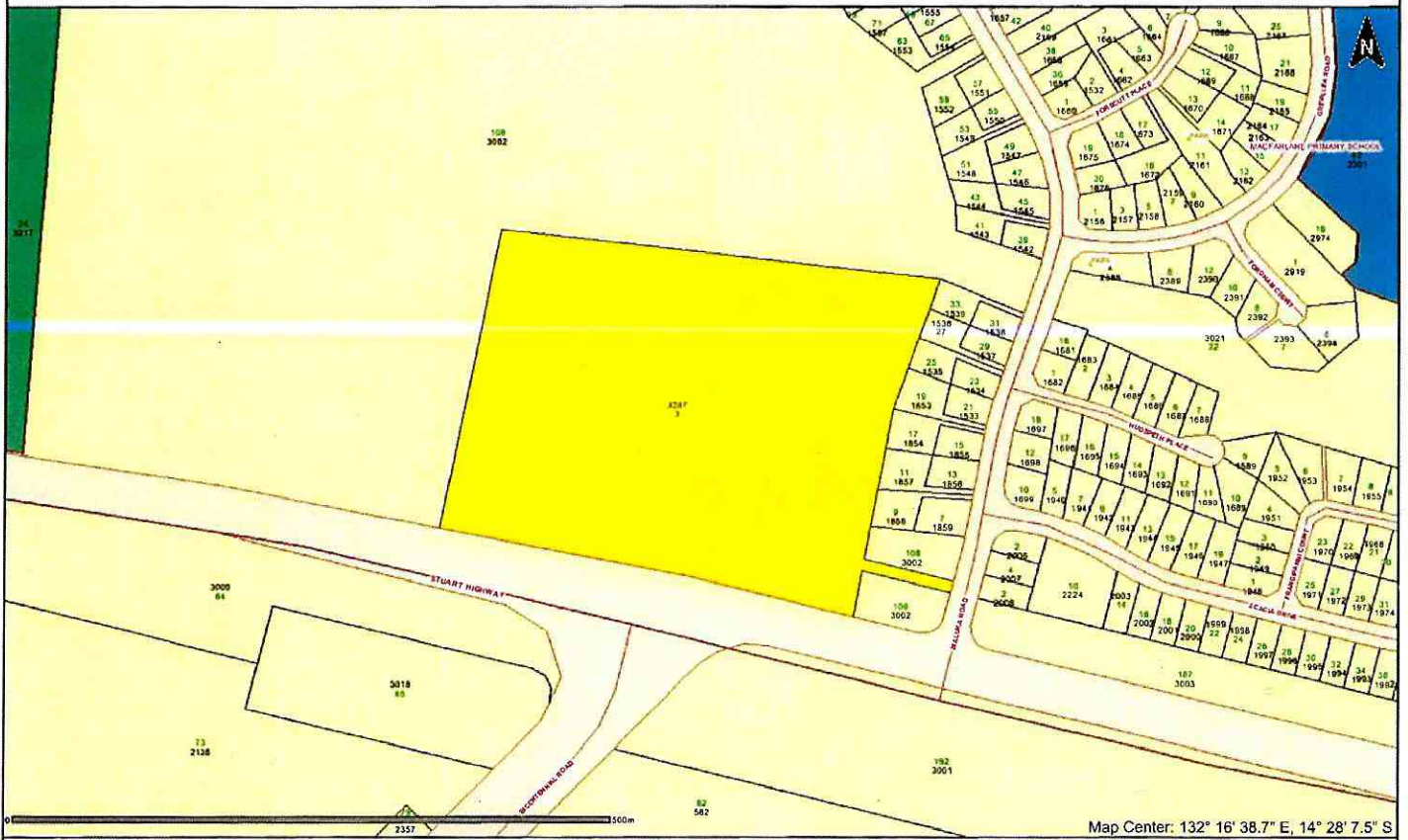
57.1. The provisions of this constitution displace each provision of a Section or subsection of the *Corporations Act* that applies (or would apply but for this rule) to the Company.

57.2 The replaceable rules do not apply to the Company except those which operate as mandatory rules for public companies under the Act.

58. AMENDMENT OF THIS CONSTITUTION

58.1 This Constitution can be amended by a Special Resolution of Members passed at a General Meeting.

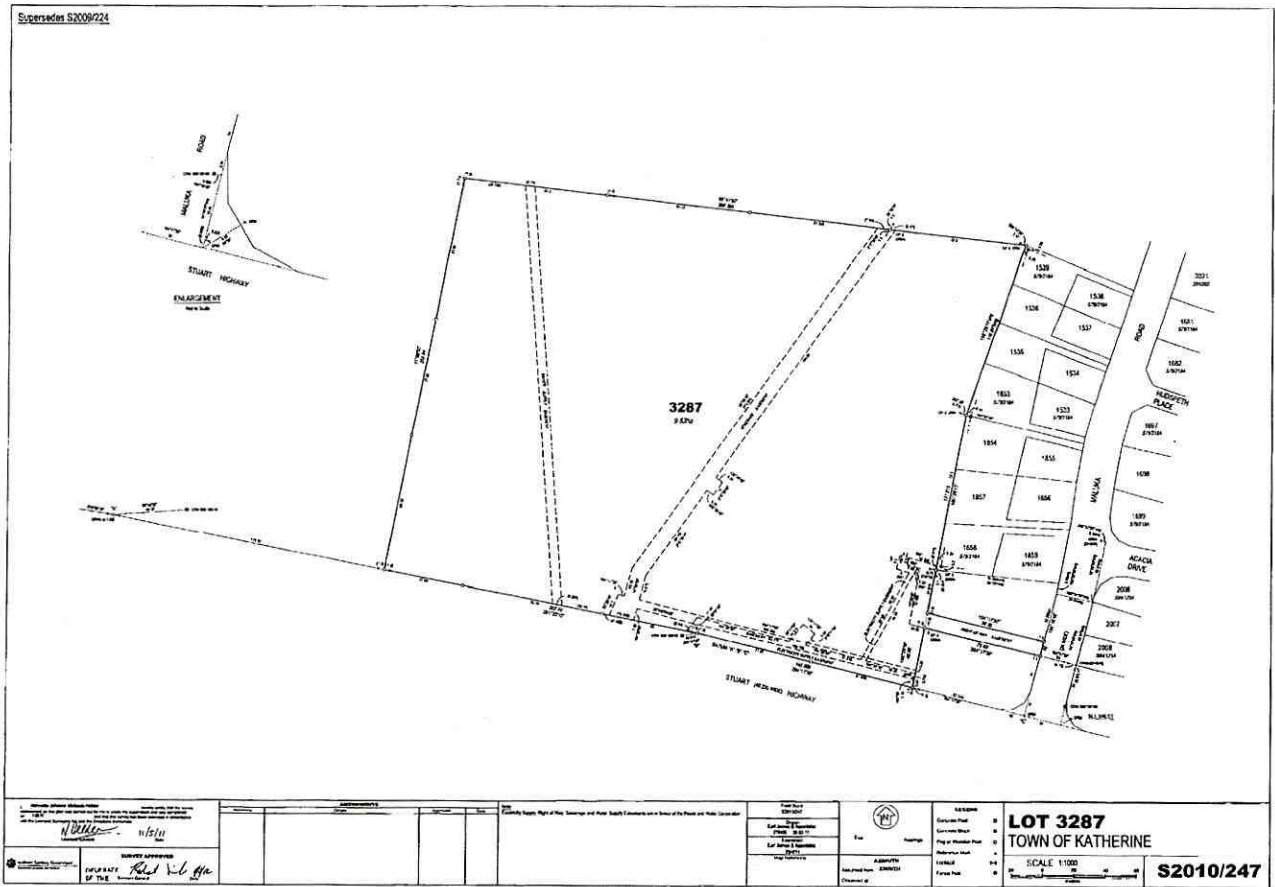
Town of Katherine Lot 3287 (proposed) from Survey Plan S2010/247



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Bottom Left: -14° 28' 16", 132° 16' 19" Top Right: -14° 27' 58", 132° 16' 58" Approximate Scale: 1:4,100 Datum: GDA 1994
Data for information purposes only - accuracy not guaranteed
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Map Center: 132° 16' 38.7" E, 14° 28' 7.5" S

Survey Plan S2010/247



Native Title Act 1993

Indigenous Land Use Agreement

Northern Land Council Certification of Application for Registration

Whereas application is to be made for registration of the attached Indigenous Land Use Agreement relating to areas of land within the area for which the NLC is the representative Aboriginal/Torres Strait Islander body;

Certification (s.203BE (1)(b))

- (1) Pursuant to paragraph 203BE(1)(b) of the *Native Title Act 1993*, the NLC hereby certifies the attached application for registration of the Agreement as an indigenous land use agreement.

Statement of Opinion (s.203BE (6)(a))

- (2) The NLC is of the opinion that the requirements of paragraphs 203BE(5)(a) and (b) of the *Native Title Act 1993* have been met, namely that:
- (a) all reasonable efforts have been made to ensure that all persons who hold or may hold native title in relation to land or waters in the area covered by the Agreement have been identified; and
 - (b) all the persons so identified have authorised the making of the Agreement.

Reasons for Opinion (s.203BE (6)(b))

- (3) The NLC is of the opinion set out in paragraph (2) above for the following reasons:
- (a) The NLC has provided representation to the Native Title Parties for the purposes of the *Native Title Act 1993* in relation to applications for determination of native title and in relation to matters relating to this Agreement, and
 - (b) For such purposes (and other matters), the NLC has undertaken substantial anthropological, archival, historical, archaeological and field research.
 - (c) This representation and anthropological research has included detailed consideration of the system of traditional laws and customs which operates in the area subject to the Agreement, including the composition of the traditional land-owning groups, and the identification of the traditional decision making processes.
 - (d) The NLC has conducted meetings with the Native Title Parties regarding the Agreement.



A/ **CHIEF EXECUTIVE OFFICER**

Date: 4.10.12



NATIONAL NATIVE TITLE TRIBUNAL

Application Information and Extract from the Register of Native Title Claims

Application Information

Application numbers: Federal Court number: NTD6002/99
 NNTT number: DC99/2

Application name: Katherine

Registration history: Registered from 29/11/1999.

NNTT map attached.

Register Extract (pursuant to s.186 of the *Native Title Act 1993*)

Application filed with: Federal Court of Australia

Date application filed: 25/05/1999

Date claim entered on Register: 29/11/1999

Applicants: Mr Gary Manballoo, Ms Amy Marrapunyah, Ms Ivy Brumby, Ms Jessie Brown, Ms Julie Williams, Ms Marie Dowling, Ms Rhoda Brumby

Address for service: Sue Meaghan
 Northern Land Council
 PO Box 42921
 CASUARINA NT 0811
 Phone: (08) 89205128
 Fax: (08) 89205251

Additional Information:

Not Applicable

Area covered by the claim:

(a) The area covered by the application:

The land and waters subject to this application are located principally within the boundary of the Municipality of Katherine in the Northern Territory (except for Northern Territory Portions 782, 786, 1797 and 4702 which are located outside that boundary) being:

(i) vacant crown land

Lot / Northern Territory Portion No.

1. Lot 0496
2. Lot 0498
3. Lot 0499
4. Lot 1022
5. Lot 1023
6. Lot 1024
7. Lot 1025
8. Lot 1026
9. Lot 1027
10. Lot 1028
11. Lot 1029
12. Lot 1030
13. Lot 1031
14. Lot 1032
15. Lot 1033
16. Lot 1104
17. Lot 1105
18. Lot 1106
19. Lot 1107
20. Lot 1108
21. Lot 1132
22. Lot 1165
23. Lot 1226
24. Lot 1349
25. Lot 1370
26. Lot 1890
27. Lot 1918
28. Lot 1938
29. Lot 1983
30. Lot 2135
31. Lot 2301
32. Lot 2302
33. Lot 2350
34. Lot 2357
35. Lot 2411
36. Lot 2414
37. Lot 2415
38. Lot 2416
39. Lot 2417
40. Lot 2418
41. Lot 2518
42. Lot 2519

43. Lot 2675
44. Lot 2676
45. Lot 2677
46. Lot 2678
47. Lot 2920
48. Lot 2946
49. Lot 2995
50. Lot 2996
51. Lot 2997
52. Lot 2998
53. Lot 2999
54. Lot 3000
55. Lot 3001
56. Lot 3002
57. Lot 3003
58. Lot 3004
59. Lot 3005
60. Lot 3006
61. Lot 3007
62. Lot 3008
63. Lot 3009
64. Lot 3010
65. Lot 3011
66. Lot 3012
67. Lot 3013
68. Lot 3014
69. Lot 3015
70. Lot 3016
71. Lot 3018
72. Lot 3019
73. Lot 3020
74. Lot 3025
75. Lot 3139
76. Portion 1455
77. Portion 3568
78. Portion 4095
79. Portion 4108
80. Portion 4109
81. Portion 4323
82. Portion 4473
83. Portion 4700
84. Portion 4702
85. Portion 4750
86. Portion 4799
87. Katherine River, as delineated on the maps attached to this application, proceeding in a south-westerly direction, from the southern boundary of Northern Territory Portion 1455, to the boundary of the Municipality of Katherine.

(ii) the following Reserves:

- (A) Reserve No. 1372 granted to the Conservation Land Corporation for recreation purposes, and consisting of Lot 502, Lot 1115 and Northern Territory Portion 1302;
 (B) Reserve No. 1157 granted to the Conservation Land Corporation for scenic purposes, and consisting of Northern Territory Portion 782; and

(iii) Special Purpose Lease No. 559 granted to the Conservation Land Corporation for conservation purposes, consisting of Northern Territory Portions 786 and 1797.

The areas within the external boundaries that are excluded from the claim area are as follows:

(b) Any areas within those boundaries that are not covered by the application.

Subject to Schedule L of this application, any area in relation to which a previous exclusive possession act under section 23B of the Act has been done, is excluded from this application.

Schedule L: Pursuant to section 47B of the Act, any extinguishment of the native title rights and interests in vacant Crown land covered by the application, by the creation of any prior interest in relation to the area, must be disregarded.

Persons claiming to hold native title:

Mr Gary Manballoo, Ms Amy Marrapunyah, Ms Ivy Brumby, Ms Jessie Brown, Ms Julie Williams, Ms Marie Dowling, Ms Rhoda Brumby, The native title claim group comprises the Dagoman Aboriginal people, and decendants of the Dagoman Aboriginal group, more particularly described in paragraph 3, being persons who, according to acknowledged traditional laws and observed customs, are traditionally connected with the area described in Schedule B (the application area) through:

- (a) spiritual, religious and physical associations;
- (b) biological, classificatory or adoptive descent through the four grandparental lines of father's father, mother's father, father's mother and mother's mother;
- (c) non-descent based connections such as personal and historical connections or possession of knowledge; and
- (d) processes of succession., The native title claim group holds a communal native title in the application area, from which rights and interests derive., The native title claim group consists of those persons as are descended from any of the following Dagoman ancestors:

Darryl Ibambulya, Nancy Piljirr, Dodger, Rosie, Barandilla, Ngalgoyma, Kalyani, Polly Waramburr, Yingejgejba, Yibamuuja, Roger, Yinyelkba, Ngal-Maran Jorrolam Ngal-Bethburt, and Ngal-Jorrdokda.

Registered native title rights and interests:

The following Native Title Rights & Interests were entered on the Register on 29/11/1999:

1. The native title rights and interests claimed include the following:

- (a) to possess, occupy, use and enjoy the application area to the exclusion of all others;
- (b) to speak for and to make decisions about the use and enjoyment of the application area;
- (c) to reside upon and otherwise have access to and within the application area;
- (d) to control the access of others to the application area;
- (e) to use, enjoy and manage the resources of the application area;
- (f) to control the use and enjoyment of others of the resources of the application area;

- (h) to maintain and protect places of importance under traditional laws, customs and practices in the application area;
- (i) to maintain, protect, prevent the misuse of and transmit to others their cultural knowledge, customs and practices associated with the application area;
- (j) to determine and regulate membership of, and recruitment to, a landholding group

(a) their native title rights and interests are subject to all valid and current laws of the Commonwealth and the Northern Territory; and

(b) the exercise of their native title rights and interests might be regulated, controlled, curtailed, restricted, suspended or postponed by reason of the existence of valid concurrent rights and interests in others by or under such laws.

3. Subject to Schedule L of this application, in relation to an area previously subject to a non-exclusive possession act (pursuant to s23F), the applicant does not claim that native title rights and interests confer possession, occupation, use and enjoyment to the exclusion of all others, if:

- (a) the previous non-exclusive possession act was an act attributable to the Commonwealth; or
- (b) the act was attributable to a State or Territory and a law of the State or Territory has made provision as mentioned in s23I of the Act in relation to the act

4. All native title rights and interests listed in paragraph 1 above exist (and existed) throughout the whole of the application area.

5. The native title rights and interests are held communally by all members of the native title claim group, albeit that:

- (a) the capacity of individuals to exercise the rights and interests will vary according to a variety of circumstances, for example age, gender, and physical and mental capacity;
- (b) some families of the native title claim group are associated with specific portions of the application area; and
- (c) by traditional laws and customs, responsibility for the application area is exercised by different individuals in different ways.

Schedule L:

1. Pursuant to section 47B of the Act, any extinguishment of the native title rights and interests in vacant Crown land covered by the application, by the creation of any prior interest in relation to the area, must be disregarded.

Register attachments:

1. Regional Map - "Katherine Native Title Determination Application", Attachment A of the Application, 1 page - XLGE, Attached 25/05/1999.
2. Maps - "Katherine Native Title Determination Application", Attachment B of the Application, 4 pages - A3, Attached 25/05/1999.
3. Inset Maps - "Katherine Native Title Determination Application", Attachment C of the Application, 10 pages - A4, Attached 25/05/1999.

Note: The Register may, in accordance with s.188 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.