

ARAKWAL INDIGENOUS LAND USE AGREEMENT

Schedule G

“Management of National Park”.

1 Establishment of Management Committee

1.1 Constitution of Management Committee

1.1.1 The Minister will within a period of sixty (60) days from the reservation of the Arakwal National Park constitute a special liaison advisory committee as an advisory committee under the NPW Act.

1.1.2 The special liaison advisory committee shall be subject to the provisions of the NPW Act and to the extent that there may be any inconsistency between those provisions and the provisions of this Agreement in relation to the special liaison advisory committee, the provisions of the NPW Act shall prevail.

1.1.3 The parties acknowledge that the Minister may constitute other advisory committees for the Arakwal National Park or for a combination of lands that include the Arakwal National Park.

1.2 Name of Management Committee

1.2.1 The special liaison advisory committee to be constituted in accordance with this Agreement shall be named the “Arakwal National Park Management Committee” (Management Committee).

1.3 Composition of Management Committee

1.3.1 The Management Committee shall consist of the following persons appointed by the Minister:

- (a) three (3) persons nominated by the Arakwal Corporation, who shall be members of the Arakwal Corporation; and
- (b) three (3) officers or employees of NPWS nominated by the Director-General. One of these persons must be a senior officer of NPWS who has a current delegation (with limitations or conditions) under the NPW Act to perform all or any of the powers and functions of the Director-General in relation to the care control and management of the Arakwal National Park; and
- (c) one (1) Byron Shire Councillor who is for the time being a member of the Byron Shire Council Aboriginal Consultative Committee.

1.4 Procedure of Management Committee

1.4.1 The procedure for the calling of meetings of the Management Committee and for the conduct of business at those meetings, subject to this Agreement and the *NPW Act*, shall be as determined by the Management Committee.

1.4.2 Four (4) members of the Management Committee shall form a quorum at any meeting of the Management Committee provided at least two of those members are nominees of the Arakwal Corporation and one is a nominee of the Director-General. Any duly convened meeting at which a quorum is present shall be competent to transact any business of the Committee.

1.5 Decisions of Management Committee

1.5.1 Wherever possible a decision of the Management Committee is to be reached by consensus of the members of the Committee.

1.5.2 A decision supported by a majority of the votes cast at a meeting of the Management Committee at which a quorum is present shall be the decision of the Committee.

1.6 Secretary of Management Committee

1.6.1 The Director-General shall appoint a secretary (the secretary) to the Management Committee.

1.6.2 The costs of the secretary, including remuneration, shall be met by the NPWS.

1.6.3 The secretary may be an officer or employee of NPWS or another person.

1.6.4 The Director-General shall give due regard to the recommendations of the Management Committee with respect to the appointment of the secretary and that appointment may include a member of the Arakwal Corporation if they have sufficient expertise to carry out the functions of a secretary as provided in clause 1.6.5.

1.6.5 The functions of the secretary to the Management Committee shall include:

- (a) convening meetings of the Management Committee in a timely manner and making all necessary arrangements for the attendance of members at the meeting;
- (b) receiving and responding to all Management Committee correspondence in a timely manner;
- (c) maintaining the accounts and records of the Management Committee;
- (d) recording the names of members in attendance and the names of any members absent from each meeting of the Management Committee and in respect of any member absent from a meeting, whether the member was absent without leave of the Committee or without being excused by the Committee;
- (e) taking minutes of the meetings of the Management Committee as instructed by the Committee;

- (f) executing documents on behalf of the Management Committee from time to time as authorised and required by the Committee; and
- (g) other matters relating to the Management Committee as directed by the Management Committee.

2 Role, responsibility and functions of Management Committee

2.1 Recommendations to NPWS

2.1.1 The Management Committee may make recommendations to the Director-General for the Arakwal National Park concerning the care control and management of the Arakwal National Park.

2.1.2 The Management Committee may make recommendations to the Director-General regarding educational and interpretative policies to be adopted by the Director-General and NPWS in relation to the Arakwal National Park.

2.2 Exercise of functions in accordance with Plan of Management

2.2.1 The Management Committee must exercise its functions under this Schedule in accordance with any plan of management in force with respect to the Arakwal National Park under the *NPW Act*.

2.2.2 In exercise of its functions with respect to the care control and management of any part of the National Park Land for which no plan of management is in force under the *NPW Act*, the Management Committee shall consult with and have regard to the advice of the Director-General.

2.3 Reporting

2.3.1 At least once every twelve months the Management Committee shall forward a report in writing to the Director-General containing the following information:

- (a) details of the frequency of meetings of the Management Committee held over the preceding period of twelve (12) months, the members who attended those meetings, the members who were absent from those meetings without leave of the Committee or without being excused by the Committee and other information considered relevant by the Management Committee to be included in the report; and
- (b) such other information as may be requested from time to time by the Director-General and which the Management Committee determines to be appropriate to include in the report.

2.4 Frequency of Meetings

- 2.4.1 A quorum of the Management Committee shall meet a minimum of three (3) times per year on the dates and times and at the locations determined by the Management Committee.
- 2.4.2 A meeting of the Management Committee may be conducted by telephone where the members consider it would be expedient or appropriate to do so or the urgency of the business to be transacted or considered would prevent the members from meeting in person.
- 2.4.3 Any member may at any time request the secretary to the Management Committee to convene a meeting of the members.
- 2.4.4 Whether a meeting should be open or closed is to be determined by the Management Committee.

3 Plan of Management and other Operational Plans

3.1 Preparation of Plan of Management

- 3.1.1 The Director-General shall cause a plan of management to be prepared for the Arakwal National Park pursuant to the *NPW Act*.
- 3.1.2 The Director-General must cause the plan of management to be prepared according to the recommendations of the Management Committee and if the Minister does not adopt those recommendations he must provide the Management Committee with reasons.
- 3.1.3 Without derogating from Part 5 of the *NPW Act*, the plan of management shall provide for the conduct of studies concerning the threat, if any, to threatened or endangered species of animal-life or plant-life by the exercise of rights to hunt or fish or to gather traditional foods in the area of the plan of management, by the Registered Native Title Claimants to the extent that they are able to do so under the law in or in relation to the area or by other indigenous persons before any such rights are exercised, and for the regular monitoring of the exercise of those rights.
- 3.1.4 The parties agree that if such studies are undertaken pursuant to clause 3.1.3 and a recommendation is made as a result of those studies the recommendation to restrict certain activities shall be put to the management committee for its decision on whether it will recommend to the Director-General that the activities should continue.

3.2 Independent Assessment

- 3.2.1 The nominees of the Arakwal Corporation shall have the right to obtain from any person with relevant qualifications or experience an independent assessment of the plan of management prepared for the Arakwal National Park and all other

operational plans, planning and assessment documents, reports, and surveys that impact on the care control and management of the Arakwal National Park.

- 3.2.2 NPWS shall meet the reasonable costs of any such independent assessment up to a maximum amount of \$5,000 in any single financial year upon receipt from the Arakwal Corporation of a fully itemised bill of costs by the person who carried out the independent assessment and a copy of all written instructions (original and supplementary) given to that person, as well as a note containing a summary of any oral instructions given. The NPWS shall not be liable for any additional costs incurred by the nominees of the Arakwal Corporation without its consent.

4 Role and responsibility of National Parks and Wildlife Service

4.1 Recommendations by Management Committee

- 4.1.1 The Director-General and NPWS shall consult with the Management Committee in all matters relating to the care control and management of the Arakwal National Park and shall consider all recommendations made by the Management Committee in relation thereto.

- 4.1.2 The Director-General shall not refuse to adopt, and shall not adopt subject to conditions, a recommendation of the Management Committee concerning the care control and management of the Arakwal National Park without first inviting the Management Committee to make submissions in support of the recommendation and considering any such submissions which are made by the Management Committee within a reasonable time thereafter.

- 4.1.3 In the event that the Director-General decides not to adopt, or decides to adopt subject to conditions, any recommendation of the Management Committee in relation to the care control and management of the Arakwal National Park the Director-General shall give in writing to the Committee reasons for making that decision.

4.2 Independence of Management Committee

The Director-General and the NPWS shall permit the Management Committee to function with the highest level of autonomy and independence available to it under law.

4.3 Regulations

The Minister shall consult with the Management Committee before the making amending or repealing of any proclamations regulations or by-laws in respect of the Arakwal National Park unless proclamations regulations or by-laws apply to all National Parks under the *NPW Act*.

4.4 Funding for the Management Committee

4.4.1 NPWS shall meet the following costs and expenses:

- (a) the costs that are reasonably required for the administration of the Management Committee; and
- (b) any expenses reasonably incurred by members of the Management Committee in the performance of their duties as members of the Management Committee; and
- (c) the reasonable travel and ancillary costs of the members of the Management Committee nominated by the Arakwal Corporation to attend meetings of the Management Committee and in connection with the business of the Management Committee.

5 Insurance

5.1 Management Committee members and others

- 5.1.1 Where Management Committee members or voluntary workers authorised by the Director-General or NPWS voluntarily work on or off the lands on projects pursuant to this agreement those members and workers will be covered under the Treasury Managed Fund against any injury sustained during or arising from that work.
- 5.1.2 The Minister and the Director-General agree that members of the Management Committee will be covered under the Treasury Managed Fund against any personal injury sustained while engaged in official duties both on and off the lands.
- 5.1.3 The Minister agrees that the State will provide indemnity for Management Committee members when acting *intra vires* and in good faith in the discharge of their duties (whether acting individually or collectively).

6 Exemption from fees

- 6.1 The parties agree that members of the Arakwal Corporation and other indigenous persons authorised by the Arakwal Corporation will not be liable to pay entry, camping or any other fees (excluding payment of gas facilities) for use of or access to the lands should any be imposed for the National Park Lands.
- 6.2 The parties agree that such access without fees does not give any rights to use of the NPWS's, goods, plant, machinery or utilities on or for the lands without the express authorisation of the Director-General and that fees and charges may be levied for such use.

7 Restriction on dealings

Except as provided for in this Agreement, the Minister and the Director-General covenant not to grant a lease, licence, easement, or permit in respect of any land

within the Arakwal National Park or otherwise deal with such land under the *NPW Act* (to the extent authorised by the Act) without first notifying the Registered Native Title Claimants and the Arakwal Corporation and giving them an opportunity to comment on the proposed dealing.

8 Access rights

- 8.1 Subject to this Schedule, the *NPW Act* and regulations, a plan of management, section 211 of the *NTA* and to the extent able to be exercised by law or authorised by law, all members of the Arakwal Corporation shall have access to the National Park lands for the following purposes:
- (a) protection and conservation of cultural heritage and areas of cultural significance;
 - (b) the conduct of ceremonies under traditional law or custom;
 - (c) gathering material for traditional medicines, ceremonies and food; and
 - (d) for fishing and hunting purposes.

9. Research and Information

9.1 Cultural Sites

- 9.1.1 The Director-General shall implement a program to identify and record Aboriginal cultural sites within the Arakwal National Park.
- 9.1.2 The program shall be developed and implemented in consultation with the Arakwal Corporation and the Management Committee.
- 9.1.3 The Director-General and NPWS shall keep confidential the nature and location of any sacred site identified and recorded pursuant to this Schedule and, unless otherwise required by law shall not, without the consent of the Arakwal Corporation, disclose any information about the site to persons other than the Registered Native Title Claimants, the Arakwal People and the Management Committee.

9.2 Access to information

- 9.2.1 The nominees of the Arakwal Corporation may request the Director-General to provide them with access to documents or information in the possession of NPWS relating to the Arakwal National Park and the Director-General shall, so far as is reasonably practicable, comply with that request.
- 9.2.2 The Director-General may refuse to give access to any document that is an exempt document within the meaning of the *Freedom of Information Act 1989*, subject to privilege, any privacy laws, or information that was provided to the Director-General in confidence.

10 Employment

10.1 Positions for indigenous persons

- 10.1.1 The Minister and the Director-General shall provide for the appointment under the *Public Sector Management Act 1988* of at least three (3) indigenous persons in the administration or care control and management of the Arakwal National Park.
- 10.1.2 NPWS shall specify as a desirable qualification for the appointment or employment of any indigenous person in the administration or care control and management of the Arakwal National Park that the person be a member of the Arakwal People.
- 10.1.3 NPWS shall request in writing to the Arakwal Corporation to certify in writing whether or not an applicant for appointment to a position with NPWS or for employment by NPWS is a member of the Arakwal Corporation. The Arakwal Corporation shall reply within fourteen (14) days of receiving that request.

10.2 Selection procedures

- 10.2.1 NPWS shall consult with the Management Committee and have regard to the recommendations of the Management Committee about the procedures to be adopted for the selection and appointment of a person to a position with NPWS where the duties and functions of the position shall require the officer to be responsible for or to be substantially involved in the day to day care control and management of the Arakwal National Park.
- 10.2.2 NPWS shall include a person nominated by the Arakwal Corporation as an independent member on any selection committee convened to consider applicants for appointment to a position with NPWS where the duties and functions of the position shall require the officer to be responsible for or to be substantially involved in the day to day care control and management of the Arakwal National Park.
- 10.2.3 NPWS shall consider the suggestions and comments of the Management Committee in relation to the employment of all persons who shall be responsible for or who shall be substantially involved in the day to day care control and management of the Arakwal National Park.

10.3 Cross-cultural awareness

NPWS shall ensure that not later than six (6) months after an officer or employee of NPWS commences duties involving the officer or employee in the administration planning care control and management of the Arakwal National Park, the officer or employee attends a cross-cultural awareness course the broad objectives of which are agreed to by the Arakwal Corporation.

11 Training

11.1 Training outside employment

- 11.1.1 The Arakwal Corporation may establish an Aboriginal Training Program (“the training program”) for the education and skills training of adult indigenous persons in areas relevant to the administration planning care control and management of the Arakwal National Park.
- 11.1.2 The training program may take the form of traineeships to be offered by the Arakwal Corporation in consultation with NPWS to adult indigenous persons to undertake a course of study in a secondary or tertiary educational institution or a course of training in a skills training program approved by NPWS.
- 11.1.3 The traineeships may be awarded by the Arakwal Corporation in such manner and subject to such terms and conditions as the Arakwal Corporation thinks fit.
- 11.1.4 If requested by the Arakwal Corporation, NPWS shall endeavour to secure funds up to an amount of \$150,000 over three years to meet the cost of the traineeships.
- 11.1.5 The funds secured by NPWS for the traineeships shall be allocated by NPWS to the holders of the traineeships in the amounts determined by NPWS in consultation with the Arakwal Corporation.

11.2 Training within employment

- 11.2.1 NPWS shall ensure that indigenous persons employed by NPWS in the administration or care control and management of the Arakwal National Park or whose duties of employment will substantially involve them in the administration or care control and management of the Arakwal National Park receive training in their work.
- 11.2.2 The training of indigenous persons pursuant to this clause may take the form of on-the-job training or attendance at structured internal courses of study provided by NPWS or attendance at an external course of study determined by NPWS in consultation with the Management Committee.
- 11.2.3 The training of indigenous persons pursuant to this clause shall be provided by NPWS at its cost and within the course of employment of the employee.

12 Contractors

12.1 Definition of work

- 12.1.1 In this clause “the work” means a work service or consultancy to be carried out in relation to the Arakwal National Park under a contract or arrangement between NPWS and a person who is not an officer or employee of NPWS.

12.2 Notification of work

12.2.1 NPWS, before tendering for the work or calling for expressions of interest from persons to do the work or entering into any contract with a person to do the work, shall notify the Arakwal Corporation of the proposed work.

12.2.2 The Arakwal Corporation may inform NPWS that it wishes to be engaged to undertake the work or that it does not wish to be engaged to undertake the work but would like to be consulted about the conditions of the proposed tender or expression of interest or the conditions of the proposed contract, as the case may be.

12.3 Engagement of the Corporation

12.3.1 If the Arakwal Corporation informs NPWS that it wishes to be engaged to undertake the work, NPWS shall consider whether, having regard to the nature of the work to be performed, it would be necessary or desirable to directly engage the Arakwal Corporation without competition.

12.3.2 It shall be a relevant consideration for NPWS to take into account in deciding whether or not it would be necessary or desirable to engage the Arakwal Corporation without competition to do the work, that the nature of the work would require access to be given to confidential information about Aboriginal cultural sites within the Arakwal National Park or the work may have an adverse impact on such sites.

12.4 Engagement of other contractors

12.4.1 If the Arakwal Corporation informs NPWS that it does not wish to be engaged to undertake the work but would like to be consulted about the conditions of the proposed tender or expression of interest or the conditions of the proposed contract for the work (as the case may be), NPWS shall consult with the Arakwal Corporation about the conditions and consider any comments and suggestions made by the Arakwal Corporation before inviting tenders or calling for expressions of interest or entering into a contract in relation to the work.

12.5 Restriction on engagement of the Corporation

12.5.1 In the event that NPWS determines to engage a person to carry out the work through a process of competition by tender or by expression of interest and before inviting tenders or expressions of interest NPWS consults with the Arakwal Corporation about the conditions of the proposed tender or expression of interest or the conditions of a proposed contract for the work (as the case may be), the Arakwal Corporation covenants that it shall not tender for the work or express an interest in being engaged to undertake the work or disclose any information about the proposed work to any person and NPWS covenants that it shall not enter into a contract with the Arakwal Corporation to do the work.

13 Commercial Undertakings

13.1 Licences for trade or business

13.1.1 If requested in writing by the Arakwal Corporation, the Director-General shall consider granting a licence to the Arakwal Corporation or a person nominated by the Arakwal Corporation to carry on a trade, business or occupation within the Arakwal National Park.

13.1.2 The Arakwal Corporation shall, in any request made to the Director-General under this clause, give full particulars of the trade business or occupation for which the licence is sought and the conditions subject to which the holder of any licence granted would propose to carry out the trade business or occupation.

13.1.3 The Director-General may request the Arakwal Corporation to provide additional information before deciding whether or not to grant a licence.

13.2 Dispute Resolution

If the Arakwal Corporation are dissatisfied with any decision of the Director-General or the NPWS made in respect of or arising from a recommendation of the Management Committee regarding the Arakwal National Park the Arakwal Corporation must notify the Director-General in writing and if the dispute cannot be resolved by discussions between the parties it shall be referred to mediation in accordance with Schedule H to this Agreement.