

Cape York Region Package: Peninsula Developmental Road Indigenous Land Use Agreement Fact Sheet - September 2017

Summary

The Indigenous Land Use Agreement (ILUA) is an agreement between the State of Queensland (the State), represented by Transport and Main Roads, Traditional Owners (TOs) and the Cape York Land Council (CYLC) as the representative body for the area that allows Transport and Main Roads to manage and undertake infrastructure and development works, such as priority road works on the Peninsula Developmental Road (PDR).

It was registered on the Register of Indigenous Land Use Agreements, with effect from 11 July 2017.

The ILUA allows the State to comply with the *Native Title Act 1993* (Cth) and the *Aboriginal Cultural Heritage Act 2003* (Qld), in relation to various roadworks on the PDR. It also provides benefits for TOs, such as training, employment and economic development opportunities.

The ILUA specifically acknowledges that the TOs have consented to the road works on the PDR, which allows projects to proceed with validity in respect to Native Title.

The ILUA sets out the agreed framework for the management of Aboriginal cultural heritage and an Environmental Management Strategy (EMS) to be implemented during the course of the PDR works.

How does it work?

1. Parties and term

The ILUA is an agreement between representatives of the relevant TOs for and on behalf of the Applicant in the Cape York United Number 1 Claim (QUD673/2014), the State, acting through TMR, and CYLC. The ILUA will continue indefinitely unless otherwise terminated by the parties.

2. PDR works

The ILUA specifically acknowledges that the TOs have consented to various actions of the State associated with the PDR works, including:

- (a) construction, maintenance, operation, upgrade and use of the PDR

- (b) declaration of a State-Controlled Road under the *Transport Infrastructure Act 1994* (Qld)
- (c) various roadworks and accommodation works
- (d) extraction and use of quarry material
- (e) construction of any public works which are necessary / incidental to completion of PDR projects
- (f) access to the land
- (g) the grant of any authority, licence or permit required for the activities mentioned above.

The ILUA allows the PDR works to proceed. Upgrading the PDR is essential to improve access to Cape York and road safety, reduce ongoing road maintenance costs and improve employment, training and business development opportunities for Indigenous and non-Indigenous people.

3. Project Committee

An ILUA Project Committee of up to six TOs and two Transport and Main Roads' representatives will be established. The purpose of the ILUA Project Committee is to monitor the implementation of the ILUA, including the EMS, Indigenous Economic Participation Plan (IEPP) and the Cultural Heritage Management Agreement (CHMA).

4. Environmental Management Strategy

The parties have agreed that the following environmental management and protection principles apply to the PDR projects:

- (a) the State acknowledges its obligation to minimise the impact of the PDR project on the environment (including an appropriate rehabilitation strategy)
- (b) the TOs have responsibilities to their traditional country, including cultural and social rights and obligations to look after the environment, and to maintain links between the environment and their cultural heritage
- (c) the parties have a joint goal of minimising the impact of the PDR projects on the environment, while facilitating the expeditious, flexible and economical



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planning, development and operation of the PDR projects.

5. Indigenous Economic Participation Plan

The IEPP includes the following elements:

- (a) scholarship program
- (b) sub-contracting opportunities
- (c) prequalification and capability building workshops
- (d) prevocational training partnerships
- (e) a transition plan to enable accredited Indigenous businesses to undertake future routine maintenance works on the PDR, post implementation of the current Cape York region package (CYRP).

Under the IEPP, the State agrees to provide coaching to Indigenous businesses identified through the ILUA Project Committee on the necessary requirements to obtain TMR prequalification registration.

Additionally, the IEPP contemplates targeted programs to develop Indigenous business capability in project management overview, contract management, scheduling and estimating, standards and specifications, quality management, document control and compliance processes for road construction.

6. Scholarships

Transport and Main Roads will offer Indigenous scholarships each year until 2019:

- (a) up to four school based scholarships (years 10-12)
- (b) up to two tertiary based scholarships for the length of study (up to four years).

7. Cultural Heritage Management Agreement

The CHMA forms part of the ILUA and contains the processes agreed between the TOs, the State and CYLC for minimising the risk of harm to any Aboriginal cultural heritage in the area of the PDR works.

Compliance with the CHMA satisfies the State's duty of care under the *Aboriginal Cultural Heritage Act 2003* (Qld) when undertaking PDR works.

Specifically, the CHMA provides for:

- (a) a cultural induction workshop for the State's employees and contractors cultural heritage field survey of the area which is subject to the agreement
- (b) monitoring of High Impact Activities (HIAs).

Indigenous Cultural Induction Workshops

The parties have agreed to arrange Indigenous Cultural Induction Workshops for employees and contractors of the State who are engaged to undertake HIAs for the PDR works. HIAs are activities that are reasonably likely to involve vegetation clearance and/or excavation works.

The workshops will be undertaken by TO representatives. They aim to provide the State's employees and contractors with an understanding of relevant aspects of the traditional laws, customs and culture of the TOs for the area.

Field Survey

A cultural heritage or archaeological survey will be carried out, in accordance with the CHMA, by a Field Survey Team to identify, locate and avoid damage to Aboriginal cultural heritage. The team will be comprised of up to five TO representatives who have cultural and traditional knowledge of the survey area and may include an archaeologist. The Field Survey Team will:

- (a) undertake visits to the survey area
- (b) identify and remove, if practicable, any Aboriginal cultural heritage in the survey area and determine any areas to be avoided
- (c) prepare a Field Survey Report which may prescribe conditions and recommendations upon which the State may undertake specific activities associated with the PDR, including identification of areas which require monitoring for HIAs.

Monitoring

Monitoring is the process whereby a TO representative assesses locations within the agreement area where HIAs are being undertaken for the presence of Aboriginal cultural heritage.

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