Byron Shire Council and Bundjalung of Byron Bay Arakwal Corporation Memorandum of Understanding DRAFT Review 2018





INTRODUCTION

The Arakwal Memorandum of Understanding (MoU) was formally adopted in 2013. The MOU follows from the 1998 Heads of Agreement between Byron Shire Council and the Arakwal People.

The MOU recognises the status of the Bundjalung of Byron Bay Arakwal people as traditional owners as established through the Native Title Act and processes. The purpose of this agreement is to establish a clear process and timetable for the delivery of priority projects identified in this MOU.

The discussions during the development of the Arakwal MOU considered Council's business, Bundjalung of Byron Bay Arakwal People business, and how we do business together. Through this process we aim to identify the best way for the two organisations to work together for mutual benefit and the benefit of the wider community.

The intention of this MOU is to ensure a successful strategic partnership between the Byron Shire Council and the Bundjalung of Byron Bay Arakwal People.

Council formed the Arakwal MoU Advisory Committee to identify and implement the priority projects for each 12 month period.

The time frame for the MoU was five years and is now due for review.

1. Culture and Heritage

Council will work in partnership with the Bundjalung of Byron Bay Arakwal People to ensure preservation of cultural practices, traditional sites, significant places and expressions of cultural identity.

1.1 Culture and Heritage: Guiding Principles
1.1.1 Cultural Protection and Revitalisation

- 1.1.2 Access to land
- 1.1.3 Sharing Information
 1.1.4 Environmental Protection and Education

1.2 Culture and Heritage: Specific Project	Time Frame	Project Implementation Actions	Recommendations for further Actions
1.2.1 Arakwal Language Revitalisation Council to advocate for, and support the development of, an Arakwal language revitalisation program under the direction of the Arakwal.	2014 2015/2016 2016/17 2018	Council renamed the Byron Regional Sports centre with an Arakwal name – the Cavanbah Centre Singing Up Country Language Project developed with Arakwal and Tweed Byron Local Aboriginal Land Council (TBLALC) with a number of outcomes. Language resources developed led by Arakwal, the Bundjalung Language Nest and TBLALC steering committee including posters and colouring books. Arakwal and other Aboriginal artists from the local community employed to create work. Council supported the Bundjalung Language nest and attended public meetings towards having Bundjalung languages taught in Byron Shire Schools Council supported local young Bundjalung woman to be trained through the TAFE certification program to teach Bundjalung Language at OSPS	Dual naming of public spaces
1.2.2 Ti Tree Lake (Taylors Lake) This area is one of the most significant sites to the Arakwal people. It is their objective to have this area protected as an Aboriginal site. Arakwal would like to protect this area from all forms of tourism and development. Arakwal have requested that, as a matter of priority, any developments regarding zoning, consultation with other community groups, proposed developments, tourism operators and Council, consider the cultural significance of this area. Further, that Council provide transparent information to Arakwal on any matters relating to the Ti Tree Lake areas, especially in regard to proposed developments on or around the area.	2015 2015 2018	Council rejected the Development application from the Owners of the Broken Head Quarry to develop 30 houses on the site. Council defended this action in the NSW Land and Environment Court based on the site being of significant cultural significance to the Bundjalung of Byron Bay Arakwal people. This MoU was the basis of this legal action. Council worked closely with Arakwal and other Aboriginal stakeholders to defend the decision to reject the proposed development and won in the land and Environment Court. NPWS requested that Council partner in the implementation of the Ti Tree Lake Plan of Management. Staff took this PoM to the MoU Committee for endorsement. Council committed to a number of the projects allocated in the PoM. Council sent a letter to NPWS committing to the project. Council staff met with NPWS to identify areas for signage and fencing. Closure of Taylors lake Road was also discussed. NPWS put this project on hold. Jali Land Council CEO requested keys to Council bollards around the Ti Tree Lake. Council refused access to these keys based upon this MoU. The matter was referred to Arakwal and NTS Corp.	Council continues to assist with the protection of this site and provide transparent information to Arakwal on any matters relating to the Ti Tree Lake areas, especially in regard to proposed developments on or around the area.
1.2.3 Access to monitor important Aboriginal sites on private land The development of a process that allows the Arakwal some level of access to monitor important sites on private land. Arakwal have identified some legislative changes which make it an offence to knowingly damage or destroy Aboriginal sites.	2015 – ongoing 2017	Council worked with the Arakwal MoU to develop a toolkit to assist property owners and developers to identify sites and objects and what steps to take to assist with the protection of Aboriginal sites. This was reviewed by Everick consultants and the Byron Shire Aboriginal Cultural Heritage Study Steering Group in 2017. Council worked with Byron Shire Aboriginal Cultural Heritage Study Steering Group to develop a statement in response to public interest in an important site on private land. This statement reaffirms Councils commitment to not comment and to support the traditional owners and Local Area Land Councils to lead in the management and protection of Aboriginal Cultural Heritage matters.	This publication will be referred to the Aboriginal multi stakeholder group – The Byron Shire Aboriginal Cultural Heritage Advisory Committee for final approval for release to community and placement of Councils website
1.2.4 Ongoing Cultural Heritage Management and Land Management Rights The development and implementation of a process to ensure ongoing recognition/consultation with Arakwal once Native Title Claims are granted and resolved that ensure ongoing Cultural Heritage Management and Land Management Rights.	2018	Council formed a new multi stakeholder committee with Arakwal and LALCS to provide ongoing consultation on Aboriginal Cultural Heritage Management and land management. Council staff have developed internal processes regarding consultation with Arakwal and other Aboriginal Stakeholders in relation to land management, Council have a developed a notification process in response to the use of Council managed Crown lands. Arakwal have a seat on the Byron Shire Council Heritage Committee.	This committee to continue to meet quarterly Appropriate tailored training to provided to key staff in the implementation of consultation processes, notification processes and sites identification and protection processes

1.2.5 Council support of important cultural events Council to support important Indigenous cultural events including NAIDOC Week, Reconciliation Week and Survival Day. This support is to include provision of events, funding and the waiving of Council related fees.	2013-2018	Council staff have continued to support cultural events and contributed to the expansion of these events.	Council to continue to support important Indigenous cultural events including NAIDOC Week, Reconciliation Week and Survival Day. This support is to include the provision of events, and increasing funding and the waiving of Council related fees.
1.2.6 Tourism Arakwal to be consulted with on the licensing/tendering for tourism operators and screening in relation to cultural heritage.	2015 2013-2018	Director of Corporate and Community Services worked with Arakwal on the licensing/tendering for tourism operators and screening in relation to cultural heritage. Council staff work closely with Arakwal in identifying tourism and events operators who are misusing and appropriating Aboriginal Culture or their own gain.	

2. Participation in Governance

Council to involve representatives of the Bundjalung of Byron Bay Arakwal People in Council decision making process on matters concerning Arakwal Country, People and business.

- 2.1 Participation in Governance: Guiding Principles2.1.1 Representation and Self Determination2.1.2 Consultation

- 2.1.3 Responsiveness
 2.1.4 Inclusion

2.2 Participation in Governance: Specific Projects	Timeframe	Project Implementation Actions	Recommendations for further Actions
2.2.1 Participation in Committees Council to ensure representation on Council Advisory Committees, Project Reference Groups and Steering Committees with dedicated Arakwal positions on relevant forums.	2013 - 2018	Arakwal have sitting fees to participate in the Arakwal MoU Advisory Committee and the Byron Shire Aboriginal Cultural Heritage Advisory Committee. Arakwal have seats on the Byron Shire Heritage Committee, Public Art Committee, Tourism Committee, Mullumbimby Hospital Public Reference Group	Council to provide sitting fees as per the Attorney General Award for Arakwal representatives on other committees to enable Arakwal participation.
 2.2.2 Consultation processes for development applications and other matters in regards to public lands Development of clear processes in regard to consultation and engagement with Arakwal on development applications and other planning mechanisms in lands within the Byron Shire. Development of frameworks for ongoing consultation processes. 	2013 2015/16 2017 2018	All planning mechanisms and processes in Council were reviewed and recommendations on a new process were reported to Council. These were adopted and referred back to the Aboriginal Projects Officer for implementation. Funding was applied for through Office of Environment and Heritage to undertake a Aboriginal Cultural Heritage Study for Byron Shire Sites and objects identification resource created by Council with Arakwal MoU Committee Byron Shire Council Aboriginal Cultural Heritage Study – recommendations from the study form part of the consultation process Council resolved that all planning and land based projects be referred to Aboriginal stakeholders at the beginning of project planning for consultation Council created the Byron Shire Aboriginal Cultural Heritage Advisory Committee to consult on develop applications and projects affecting country	Develop clear notification process Work with staff to maximise participation on the Byron Shire Aboriginal Cultural Heritage Advisory Committee Ensure resources and timeframes are provided to relevant Arakwal and other Aboriginal stakeholders to provide Aboriginal Heritage Impact Statements in land based projects across Council Implement further stages of the Byron Shire Aboriginal Cultural Heritage Study.

3. Cultural and Economic Development

Council advocates and supports the opportunities for cultural and economic development for the Bundjalung of Byron Bay Arakwal People.

- 3.1 Cultural and Economic Development: Guiding Principles
 3.1.1 Indigenous Employment Strategies
 3.1.2 Housing
 3.1.3 Public Art

- 3.1.4 Cultural Centre
- 3.1.5 Cultural Tourism

3.2 Cultural and Economic Development: Specific Projects	Timeframe	Project Implementation Actions	Recommendations for further Actions
3.2.1 Indigenous Employment Strategies Council to develop and implement an Indigenous Employment Strategy. Council are a key employment provider in the local community and the strategic employment of indigenous staff has huge benefits to the local community.	2013-2014	Meetings were held between Council staff including Council's Human Resource Manager and Arakwal CEO to identify opportunities to increase Aboriginal Employment at Council. The following opportunities were identified: -procurement strategy -specialist contracts -service contracts -workforce plan. 3% of Councils workforce identify as Aboriginal and Torres Strait Islander, the NSW Local Government benchmark is 2%	Council to commit to a target number of identified positions and traineeships and support strategies, Council managers to undergo Cultural Intelligence training to enable improved cultural safety in the workforce, Work with employment agencies to develop opportunities Key priority moving forward
3.2.2 Arakwal Cultural Centre Council to continue to support the development of the Arakwal Cultural Centre and assist with applications for funding. This project has been carried forward from the 1998 Heads of Agreement.	2015	The Bundjalung of Byron bay Aboriginal Corporation (Arakwal) conducted a scoping workshop on Monday 17th August 2015. The Corporation owns Lot 452 DP 48493 and were transferred of Lot 451 from NSW Government from the Minister. Council worked with the CEO of the Arakwal Corporation regarding zoning issues.	Council to continue support for this project. Councils role is to support Arakwal's lead in this project.
3.2.3 Public Art Opportunities Council to encourage the development of public art opportunities to allow opportunities for Arakwal people to have artistic and cultural expression. The July 2012 Public Art Policy Guidelines and Criteria state: "Art is an important expression for Indigenous people and provides an opportunity for them to reflect on their heritage as a way of ensuring Indigenous culture is continued. Indigenous public art provides professional art opportunities topowerfully express this continuation of culture and an opportunity for the Byron Shire community to acknowledge and celebrate its cultural heritage. Byron Shire Council acknowledges the traditional owners of Byron Shire, the Bundjalung of Byron Bay-Arakwal Bumberlin people. Council also acknowledges the people and the wider Bundjalung Nation and their connection to the land. Opportunities for artists from the Bundjalung of Byron Bay-Arakwal Bumberlin people will be fairly represented in displays of public art throughout the Shire. Council will work closely with the traditional owners	2015 2016 2017 2018	Council worked with Byron Community Centre and Arakwal to create a mural in the centre Arakwal artwork included in the signage created for the Whale Trail Council worked with Arakwal to create a murals around the Byron Visitors Information Centre Arakwal contracted to create public art work for the Railway Park upgrade	

3.2.4 Arakwal Room at the Byron Bay Library The Byron Bay Library site, situated in the Sandhills Estate in Byron Bay, formed part of the Crown Reserves claimed under Native Title by the Bundjalung of Byron Bay Arakwal people. The support of the Arakwal elders enabled the Crown Land to be transferred to Council for the purposes of a library site. The library site and an additional 1.65 hectares of land (comprised in Lot 441 DP 800268) were intended to be transferred to Council through negotiations of Indigenous Land Use Agreement 2. Council is to continue to provide the Arakwal Room at the Byron Bay Library (as negotiated under Indigenous Land Use Agreement 2).	2014 2018	Byron Library opened. Council staff curated photographic exhibition for the Arakwal Room at the library. Arakwal have full and ongoing access to the 'Arakwal Room' at the Byron Library.



4. Caring for Country

Council recognises the significant commitment of the Bundjalung of Byron Bay Arakwal People in Caring for Country and maintains a partnership to consult and cooperate in achieving ecologically sustainable conservation.

- 4.1 Caring for Country: Guiding Principles4.1.1 Caring for Country: Understanding Arakwal Priorities4.1.2 Environmental Protection
- 4.1.3 Planning and Development processes 4.1.4 Cultural Awareness and Training

4.1.4 Cultural Awareness and Training 4.1.5 Managing the Impacts of Tourism on Arakwal people, land and culture 4.1.5 Managing the Impacts of Tourism on Arakwal people, land and culture				
4.2 Caring for Country: Specific Projects	Timeframe	Project Implementation Actions	Recommendations for further Actions	
4.2.1 Caring for Country The development of a working definition of Caring for Country for application over all divisions of Council. Council to use available policy frameworks and regulatory mechanisms to support Arakwal to protect and care for Country.	2013	A workshop was held with Councillors and management with Arakwal to develop the following statement: Byron Shire Council working with the Bundjalung of Byron Bay (Arakwal) People Byron Shire Council recognises the significant commitment by the Bundjalung of Byron Bay Arakwal People to Caring for Country. It acknowledges the integral role played by the traditional owners, past and present, in the maintenance of law and custom that sustains the environment and people of the Byron Shire. The Council is committed to facilitating the renewal of cultural practice on Country and promoting the role of traditional owners as custodians and knowledge holders for Country within the Byron Shire. Byron Shire Council recognises that Caring for Country includes: traditional owners being on (living on, visiting) Country; using Country in traditional ways; practicing culture on Country: nourishing and being nourished by Country; maintaining spiritual and ancestral connections; teaching how to care for and act respectful towards Country; keeping Country clean and healthy. Byron Shire Council is committed to maintaining an environment that is used and enjoyed in an ecologically sustainable way. It is committed to a partnership that supports the management of land use that is aligned with the Bundjalung of Byron Bay Arakwal Peoples' objectives in Caring for Country. A poster was designed containing the statement for printing and distribution.		
Arakwal have identified ongoing concerns regarding important environmental and cultural wetland sites and have requested that Council rectify existing drainage issues in Byron Bay. This matter is carried over from the original 1998 Aboriginal Heads of Agreement and involves objectives from point 3 of the Agreement, Aranga Development and Paterson Street water runoff into Cibum Margill swamp. The Corporation is also concerned that polluted water currently runs from the Cowper Street drainage system onto Main Beach. A solution that has been identified is the construction of a wetland, filtration system, or artificial wetland at the Cowper Street drainage system onto Main Beach. Council and Arakwal Corporation to work in partnership to obtain funding to implement solutions to these ongoing issues.	2014 2016 - 2018 2017 - 18 2017-18	Council staff worked with Arakwal to develop a range of water education resources as part of World Wetlands Day and World Water Day Council redirected Council's storm water systems on Lawson Street away from Clarkes Beach midden. Council commenced recycling Byron Stormwater projects redirecting water from main beach in Byron Bay. Council commenced restoration work for the Belongil catchment area including water monitoring Council obtained funding and a license in the crown reserve to revegetate land in the Sandhills estate adjacent to the drain area at Cowper Street. Council have engaged Arakwal's bush regeneration team to undertake the work and have incorporated bush tucker planting into the area. Council developed the Sandhills Estate Environmental Protection and Improvement Project Plan Council propose to rehabilitate the open stormwater channels that flow through the Sandhills Estate, as well as general native revegetation of the Sandhill Estate	Continue to work with Arakwal to rehabilitate and protect wetlands and to provide education about the importance of wetlands in the broader community.	
4.2.3 Byron sewerage treatment plant at Tallow Creek The decommissioning of the Byron sewerage treatment plant (Tallow Creek). The Arakwal are concerned about the potential redevelopment of this land. It is a very important site to Arakwal and the area includes burial sites as well as other areas of significance. Arakwal	2018	Council ran a tender process for the future use of this land. Arakwal were consulted in this process.		

have requested to be involved in the planning process for any redevelopment at this site.			
4.2.4 Cultural Awareness Training Cultural awareness induction for all staff and Councillors through Arakwal's website, with stage two training for relevant staff to include Native Title and other relevant land management issues and specifically developed training packages for relevant staff.	2013 14 2016-17 2018	Cultural awareness training package including Arakwal's website and council internal documents referring to other Aboriginal stakeholders developed Training packaged rolled out across the organisation and included in induction process Council developed Byron Shire Council and Indigenous Stakeholders – Aguide to Statutory Relationships which outlines the legal obligations of staff under the Native Title Act and Land Rights Act and other relevant legislation. This guide will be presented to relevant staff as part of training regarding Native Title Stage two of the training developed for relevant staff approved by management and council to include to be delivered in 2019. Identified training needs through Stage 2 include Consultation: understanding the structure of stakeholders and timeframes required to consult with stakeholders. Planning: Predicative mapping regarding culturally sensitive areas and areas where there are increased likelihood of disturbing sites Aboriginal Cultural Heritage Impact Statements and Surveys Notification processes Front line out door workers Sites and objects identification and reporting OEH delivered Empowers staff Protects sites Cultural Safety in the work place Employment support for Indigenous people Workplace that is culturally safe for Aboriginal People Baanam training for Managers to support and retain Indigenous Staff Cultural Intelligence	Continue delivery of Stage Two training.
4.2.5 Tourism Council and Arakwal to work in partnership to monitor and manage the impact of tourism on Arakwal Country and cultural heritage.	2013-2018	Arakwal were allocated a seat on the Tourism Advisory Committee	

5. Social Justice and Community Development

Council and Arakwal to work together to create and support a healthy, vibrant, strong and resilient Aboriginal and Torres Strait Islander community.

- 5.1 Social Justice and Community Development: Guiding Principles
 5.1.1 Development of Social and Cultural Capital
 5.1.2 Housing and homelessness
 5.1.3 Closing the Gap, improving health of Indigenous Community
 5.1.4 Eco/Cultural Tourism Opportunities for Arakwal People

5.2 Social Justice and Community Development: Specific Projects	Timeframe	Project Implementation Actions	Recommendations for further Actions
5.2.1 Housing at Ironbark Avenue	2013-2016	Councils supported this project through the waivering of fees associated with development applications and expedited applications	
Council to continue support for the development through to occupation of the	2017	Houses occupied by Arakwal family members	
Ironbark Avenue housing project. This project was progressed through the 1998 Heads of Agreement and continues to be a	2017- 18	Council and Arakwal working to restrict access to the road reserve and remove illegal campers from the area. Arakwal propose bush tucker planting and large boulders to block access for parking and illegal campers to the road reserve adjacent to the houses.	
priority for the Arakwal.	2018	Council to resolve drainage issues at Ironbark Avenue	
5.2.2 Aboriginal social, economic and community development projects	2014-2018		Continue
Arakwal and Council to work in partnership on Aboriginal social, economic and community development projects that have positive outcomes for the wider community.	2016-2018	Council begin a initiative to work with Aboriginal community members to start the Aboriginal Service Coalition – including Tweed Byron Local Area Land Council, Arakwal, Mullumbimby and District Neighbourhood Centre, Tweed Byron Community Transport and others. Coalition meet fortnightly to address the lack of services delivering housing, employment, education and health services in the Byron Shire. Coalition is working with funding agencies to service map who is supposed to be delivering services. Mullumbimby Neighbourhood Centre has offered free use of space for services to deliver from. Council staff report outcomes of the work of the Aboriginal Services Coalition to Arakwal MoU for feedback.	
Arakwal have identified that community safety and social issues in Byron Bay are having direct and broader impacts on their families and communities, notably drug and alcohol use, law enforcement, housing, employment, education and health.	2010-2018	Council Stall report outcomes of the work of the Aboriginal Services Coalition to Arakwai Moo for feedback.	
5.2.3 Sandhills Estate Arakwal to continue support for the residual	2013-2018	Council staff liaise with the Department of Lands to acquire the residual land in Sand hills estate. Council are advised that NSW Aboriginal Land Council has registered a Land Claim over the area. Council in discussions with	
land in the Sandhills Estate intended for transfer during negotiations of	2014 2010	TBLALC's about the status of the claim.	
Indigenous Land Use Agreement 2. This land to be developed in consultation with Arakwal for civic and community uses.	2016-2018	Council develop Byron Bay Town Master Plan which includes a plan of management for the area.	

5.2.4 Aboriginal Housing Council and Arakwal to work in partnership to develop local networks and work with regional networks to advocate for increased Aboriginal housing options within Byron Shire.	2015-18	Council begin a initiative to work with Aboriginal community members to start the Aboriginal Service Coalition – including Tweed Byron Local Area Land Council, Arakwal, Mullumbimby and District Neighbourhood Centre, Tweed Byron Community Transport and others. Housing identified as priority service needed for Aboriginal community. Housing forum scheduled for 2019	Continue
5.2.5 Aboriginal Health Council and Arakwal to work in partnership to develop local networks and work with regional networks to advocate for Aboriginal health service provision in Byron Shire. This may include an outreach service at existing community and neighbourhood centres, health promotion services and brokerage services.	2014 2015-2017 2015 2016- 2018	Council hosted North Coast Area Health's consultation for the development of the 5 Year Aboriginal Health Plan Council work with Community health services to host Close the Gap Day – Community Services Expos Council begin a initiative to work with Aboriginal community members to start the Aboriginal Service Coalition – including Tweed Byron Local Area Land Council, Arakwal, Mullumbimby and District Neighbourhood Centre, Tweed Byron Community Transport and others. Aboriginal Services Coalition work with Bullina, Bugulweana - Local Area Health Disctrict and Primary Health Network to create a program of outreach services based at the Mullumbimby and District Neighbourhood Centre.	Continue
Council to monitor the negative impacts of tourism on Arakwal people, lands and culture while identifying opportunities for Arakwal to benefit from tourism. The Arakwal have asked Council to consider how Arakwal can provide assistance to Council, for example, in dealing with Crown lands, in partnerships to obtain funding to undertake environmental, tourism, arts, community and social projects, the development of training etc. The Arakwal Memorandum of Understanding Advisory Committee see this process as an avenue for Byron Shire Council to establish itself as a leader in indigenous community development.		The Arakwal Corporation were involved in the initial consultation for the Byron Visitor Centre (BVC) refurbishment. This included how best to represent our aboriginal culture and heritage in Byron Shire. Arakwal assisted with the footpath mural and completed the design, painting and sealed the project. In addition, digital content was also provided for the website and digital screens within the centre. Arakwal also attended the media launch.	

