

Mungumby



Community
Development
Plan

COMMUNITY DEVELOPMENT PLAN

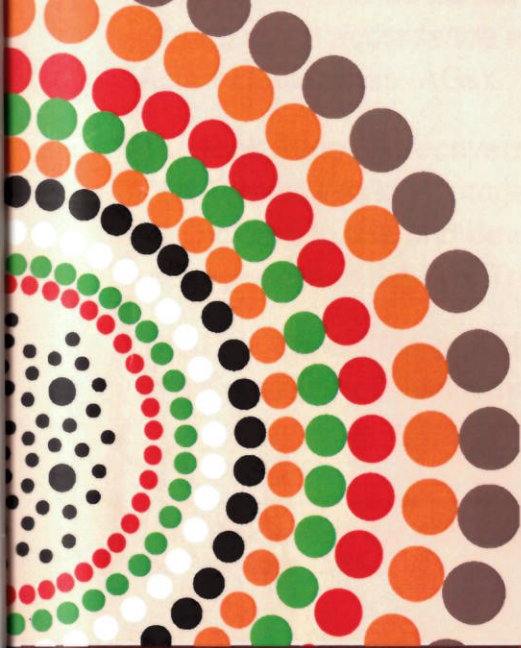
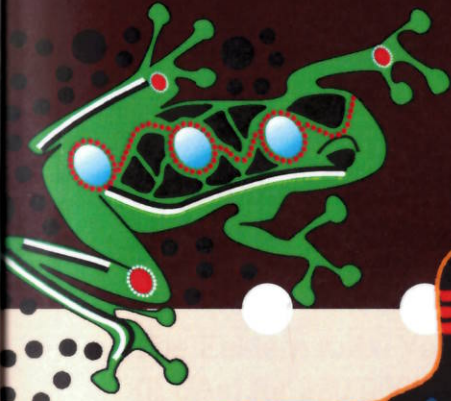
MUNGUMBY

for the

PINK ZONE COOPERATIVE MANAGEMENT AGREEMENT AREA

- PART A AGREEING TO THE COMMUNITY DEVELOPMENT PLAN AND
ACTIVITY GUIDELINES FOR MUNGUMBY
- PART B MAP OF THE AREA.....
- PART C SUMMARY OF COMMUNITY DEVELOPMENT PLANNING PROCESS
- PART D ACTIVITY DEVELOPMENT PLAN.....
- PART E ACTIVITY GUIDELINES.....
- PART F APPENDICES
1. Quadruple Bottom Line Approach to Development
 - (a) Environmental Assessment
 - (b) Cultural Matters
 - (c) Social Factors
 - (d) Economic Aspirations
 2. Planning and Building Regulations
 3. Further Information on the Community Development Planning
Process

Part A



*Agreeing to the
community
development plan
and activity
guidelines*

PART A AGREEING TO THE COMMUNITY DEVELOPMENT PLAN AND ACTIVITY GUIDELINES FOR MUNGUMBY

In 2007 the Federal Court of Australia recognised the Eastern Kuku Yalanji people's Native Title over 126 900ha of Eastern Kuku Yalanji country between the South Mossman River and just north of Black Mountain near Cooktown.

The Eastern Kuku Yalanji people negotiated 15 Indigenous Land Use Agreements (ILUAs) for 230 000ha of their country with the Queensland Government and other parties including the Wet Tropics Management Authority (WTMA). The ILUAs provide for Eastern Kuku Yalanji people to care for and manage, live on and develop economic opportunities in their country (*bubu*).

The Jabalbina Yalanji Aboriginal Corporation (JYAC or Jabalbina) was established as the Registered Native Title Body Corporate (RNTBC) for the Eastern Kuku Yalanji people's Native Title Rights and Interests and as sole grantee of the Jabalbina Yalanji Land Trust, holding 65 000ha of new Aboriginal freehold land. Jabalbina implements the Eastern Kuku Yalanji ILUAs on behalf of Eastern Kuku Yalanji *Bama* and represents their interests.

Under the '*Eastern Yalanji, Queensland and WTMA (Freehold Grants) ILUA*', Eastern Kuku Yalanji people agreed to exercise their Native Title rights and interests on the Pink Zone³ only in accordance with the Cooperative Management Agreement for the Pink Zone (Pink Zone CMA).

The Pink Zone CMA parties, including WTMA, the Prescribed Body Corporate (now Jabalbina RNTBC), Burungu Aboriginal Corporation (BAC), Bana Mindilji Aboriginal Corporation (BMAC) and the State of Queensland, agreed that Eastern Kuku Yalanji native title holders could undertake some activities in the Wet Tropics World Heritage Area (WHA) that would not otherwise be allowed, provided that these activities were carried out in accordance with agreed Community Development Plans (CDPs) and Activity Guidelines (AGs).

The Pink Zone CMA covers about 14 500ha of Aboriginal freehold land within the Wet Tropics World Heritage Area and provides for the Eastern Kuku Yalanji native title holders to use and develop this land in a way that provides for the protection and management of the Wet Tropics World Heritage Area.

The Pink Zone CMA provides that the Applicant (see below) and WTMA may agree to a Community Development Plan to determine where Activities can be undertaken

³ The Pink Zone is that Aboriginal land granted under the *Aboriginal Land Act 1991* that is subject to the Pink Zone CMA.

within the Pink Zone CMA area. It also provides that the parties may agree to an Activity Guideline to provide for how an Activity can be undertaken.

This CDP is for the Mungumby Pink Zone area which is part of the traditional estate of the Kuku Nyungkal Clan of the Eastern Kuku Yalanji native title holders. (See attached location map, Part B).

If development occurs that is not in accordance with a CDP or an activity is not done under the conditions of an Activity Guideline, the Pink Zone CMA would not apply and any such actions would be subject to prohibition under the *Wet Tropics Management Plan 1998*.

This CDP and associated AGs may be varied at any time with the agreement of all parties and reviewed at a time agreed between all the parties. This CDP will be reviewed and updated in the same cycle as the relevant Local Government planning scheme.

The Applicant, being

- Jabalbina Yalanji Land Trust in relation to the rights of the Land Trust within the Agreement Area;

and

- Jabalbina Yalanji Aboriginal Corporation RNTBC in relation to the Native Title Rights and Interests of the Native Title Parties within the Agreement Area (the Pink Zone)

and

- The Wet Tropics Management Authority

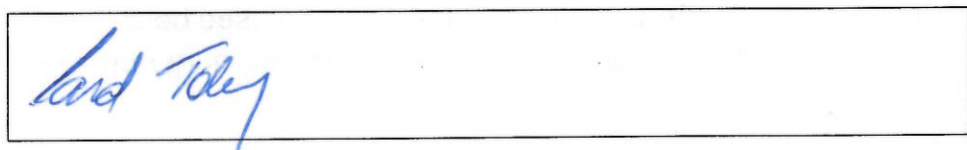
and

- The *Maja-Maja Bubuku* in relation to who speaks for this country

agree to this Mungumby Community Development Plan (including Activity Guidelines) developed in accordance with clause 8 of the Pink Zone CMA.

(a) The *dingkar Maja-Maja Bubuku*:

Signed:



Dingkar Maja-Maja Bubuku representative First Name and Surname:
Carol Nunn

The jalbu Maja-Maja Bubuku:

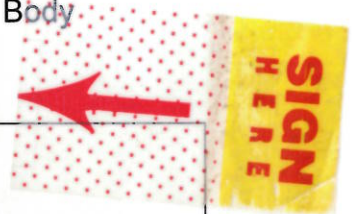
Signed: *Delta Creek Anne L. Nunn*
Carol King Mung Nunn (SIB)
Roderick John Nunn Thomas Nunn

Jalbu Maja-Maja Bubuku representative First Name and Surname:

Roderick Nunn. *Eather Henderson* *Roreen Creek*
~~*Margaret Jack*~~

(b) Jabalbina Yalanji Aboriginal Corporation (the Registered Native Title Body Corporate and Land Trust):

Signed: *[Signature]*
Sandra Houghton



JYAC RNTBC delegate First Name and Surname:

Jason Wachter

Position in JYAC RNTBC:
Chairperson



[Signature]
Sandra Houghton
Jason Wachter

(c) Wet Tropics Management Authority:

Signed: *Andrew Maclean*

WTMA delegate First Name and Surname:

Andrew Maclean

Position in WTMA:
Executive Director

Dated this *26th* of *March* 2012.

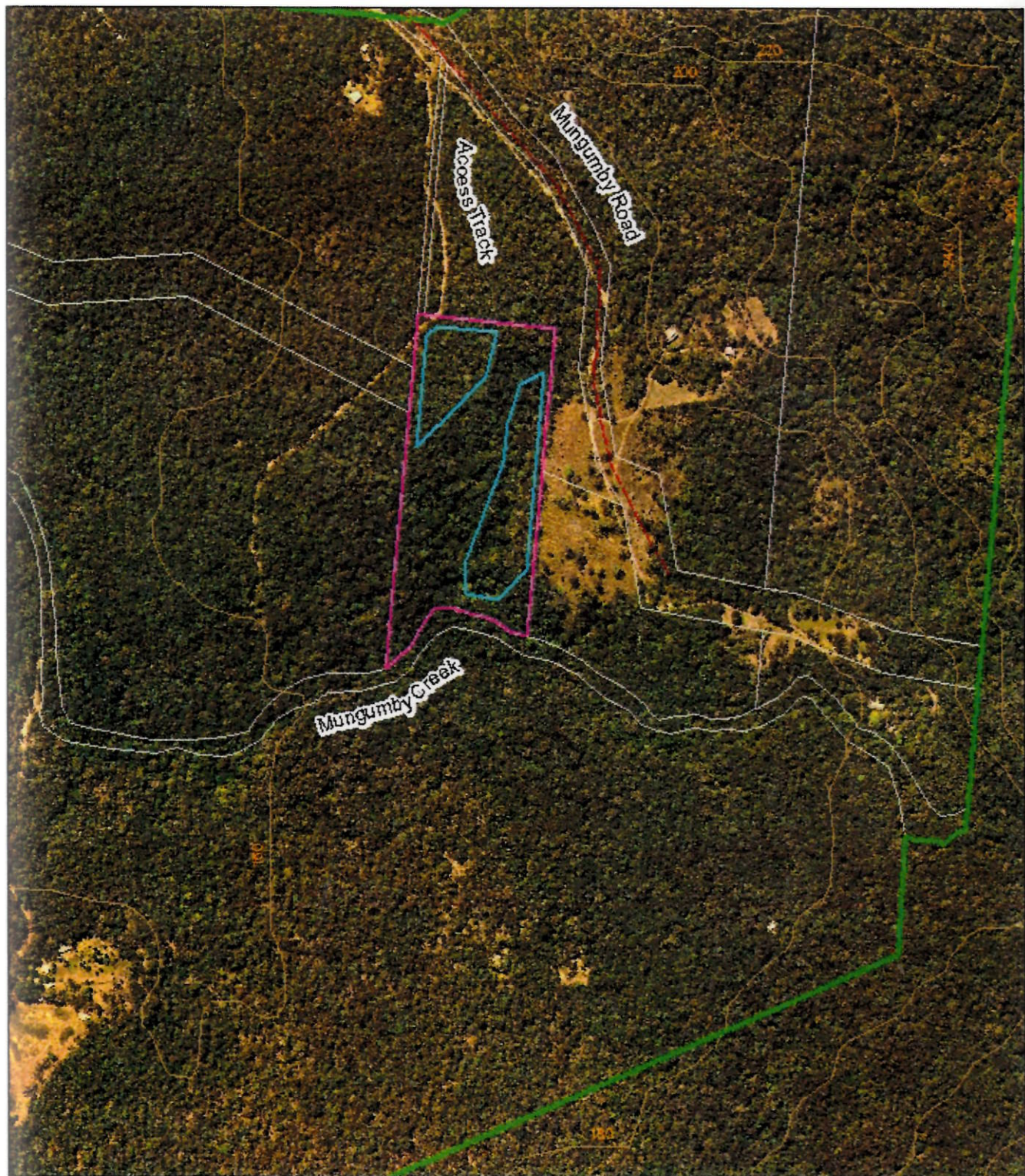
Part B



Map of the Block

These maps set out best areas for building housing and other living related infrastructure after considering the environmental features of the area, including areas set aside for cultural purposes, existing Areas of High Conservation Significance and existing infrastructure. They are referred to as **Good Living Areas**.

MUNGUMBY SOUTH Good Living Areas



Legend

- Aboriginal Land
- Good Living Area
- World Heritage boundary
- Contour 20m interval

N
↑

SCALE 1:8,000

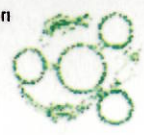
0 40 80 160 240 320
Meters

Scale correct at A4 print size

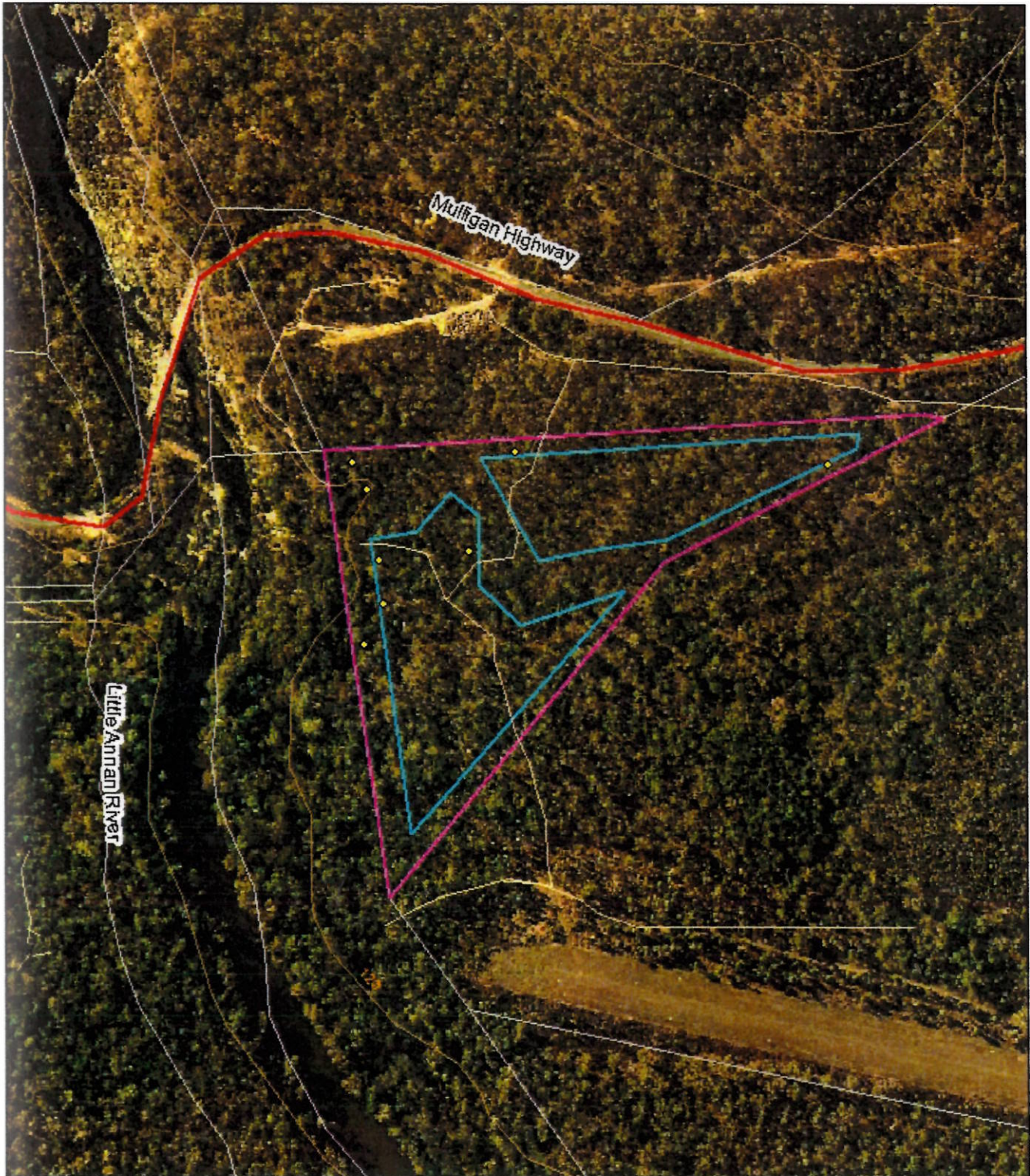
Jabalbina Yalanji Aboriginal Corporation



This drawing is considered a sketch only.
The data come from a variety of sources.
The accuracy of electronically sourced data may not have
been checked by the WET Tropics Management Authority.

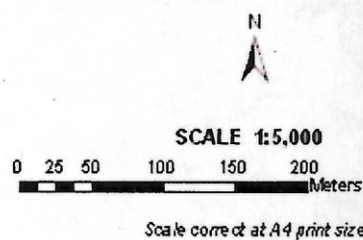


LITTLE ANNAN Good Living Areas

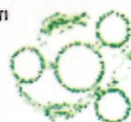


Legend

- ◆ Proposed buildings
- Existing tracks
- ▭ Aboriginal Land
- ▭ Good Living Area
- ▭ World Heritage boundary
- Contour 20m interval



Jabalbina Yalanji Aboriginal Corporation



This drawing is considered a draft.
The data comes from a market, not from me.
The location of each mark is not intended to be used as a boundary, but we have checked it by the Wet Tropics Management Authority.

Map Produced: 9 October 2011
File Path: P:\GIS\Map3\Map3_01_04_2011-12.Ppt\Output\Map3
© Wet Tropics Management Authority



Forest red gum (*Eucalyptus tereticornis*) endangered regional ecosystem on Mungumby South block.



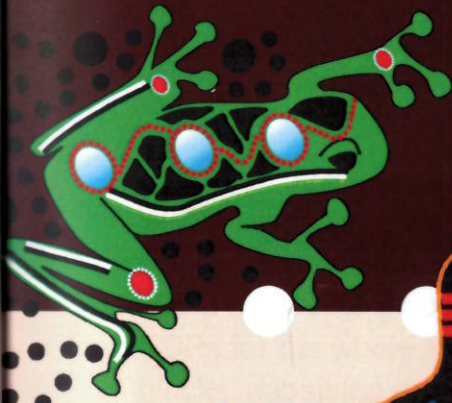
Cultural heritage – possible 'shield' tree.



Molloy red box (*Eucalyptus leptophleba*) / poplar gum (*Eucalyptus platyphylla*) open woodland typical of the Little Annan block.



Part C



*Summary of
community
development
planning processes*

PART C SUMMARY OF THE COMMUNITY DEVELOPMENT PLANNING PROCESS

WTMA and Jabalbina have worked together with Eastern Kuku Yalanji Traditional Owners (collectively the Pink Zone Team) to prepare Community Development Plans (CDPs) to guide *Bama* in moving back to country. Rather than try to prepare CDPs for the whole Pink Zone area involving 16 500 hectares across more than 30 blocks, Jabalbina decided that to begin with CDPs should be prepared for a pilot block from amongst each of all the Clan groups across the Pink Zone. These pilot CDPs would then be used to standardise the process to make it easier when planning for the other blocks.

To make sure that all relevant information was included, the Pink Zone Team considered environmental, cultural, social and economic factors, known as the 'quadruple bottom line' approach.

The team also involved Traditional Owners at all levels of decision-making as a deliberate measure through the CDP development process to empower Traditional Owners to successfully move back on country.

Meetings were held with Clan groups on country and at regional localities throughout the Wet Tropics Area to inform people about the Pink Zone planning and gain their input (through *Bama* Plans and verbal feedback) to prepare the CDPs. Clan Groups provided information about cultural matters, social factors and economic aspirations to contribute to the CDPs. WTMA provided information on the environmental values of the Pink Zone area and had a look on country with *Bama* to find the 'Good Living Areas'. The Pink Zone Team then looked at local government planning schemes to make sure the CDPs could fit in with these.

The CDPs are made up of:

- an agreement (sign off) between the parties (Jabalbina as Land Trust and Registered Native Title Body Corporate on behalf of *Bama*, and BAC or BMAC for their lease areas – and WTMA) (Part A)
- a map of the country (*bubu*) (Part B)
- this summary of the CDP (Part C)
- the Activity Development Plan (Part D)
- a set of Activity Guidelines (Part E), and
- an appendix (Part F) containing additional detailed information about each Part.

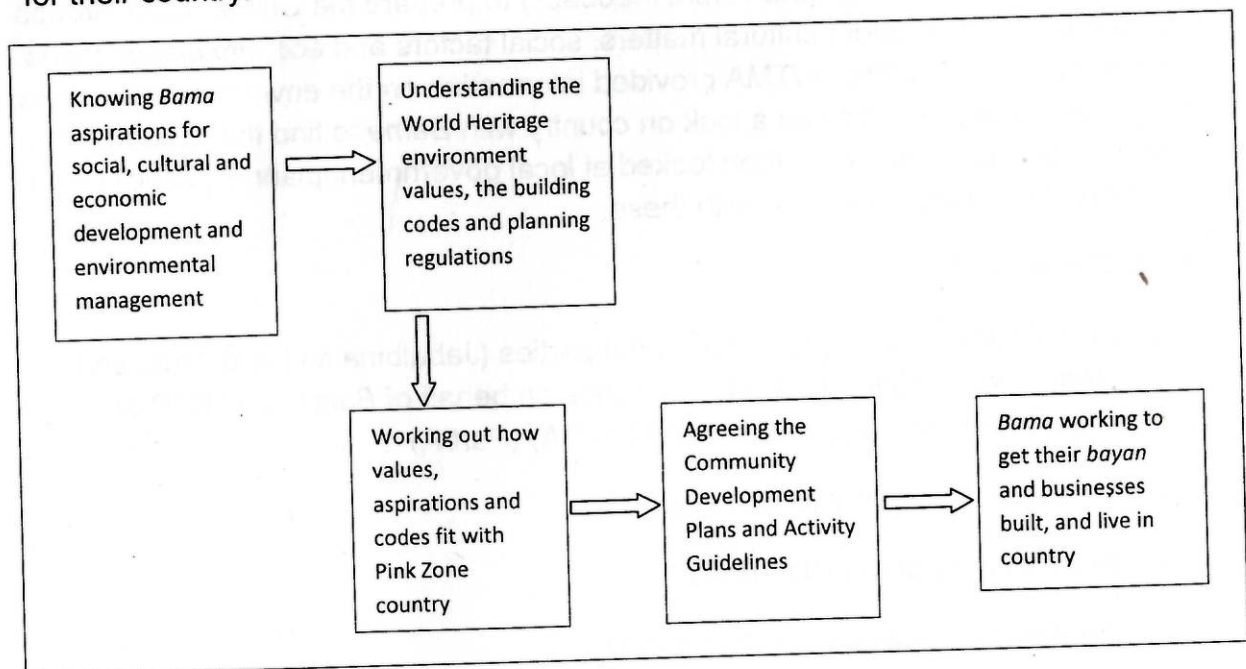
The CDP describes where different types of development can be done on country, while the Activity Guidelines tell you how different activities can be done. Through the CDPs *Bama* show how they will manage and develop their *bubu* so that following generations can continue their culture into the future.

Once the CDP is agreed, Jabalbina works with the relevant local government (Cairns Regional Council or Cook Shire Council) to obtain development approvals under the local Government Council's Planning Scheme so that when *Bama* want to build *bayans* or develop a business on *bubu* each person doesn't have to make a separate Development Application to Local Government.

Bama still have to put in building plans and have the buildings inspected (certified) so that they are safe and so Council can plan for the community services needed.

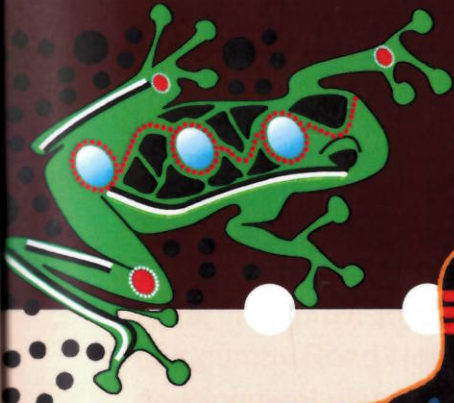
If some Eastern Kuku Yalanji Traditional Owners want to build in the Pink Zone area in a way that doesn't follow an agreed CDP, or in a way that doesn't follow the relevant agreed Activity Guideline, they can still apply to WTMA. WTMA will assess these applications in a way set out in the Pink Zone CMA, which is much the same way WTMA would assess similar applications for activities outside the ILUA area.

This Mungumby Community Development Plan has been prepared in accordance with the Pink Zone CMA to provide for Traditional Owners to use, develop and care for their country.



For more detailed information see Appendix 3.

Part D



*Activity
Development Plan*

PART D MUNGUMBY ACTIVITY DEVELOPMENT PLAN

Development Activities

The Mungumby Road North parcel is inside the Wet Tropics World Heritage Area. The Mungumby Road South and Little Annan parcels are outside the World Heritage Area. The provisions of the Wet Tropics Management Plan apply only to the Mungumby Road North parcel, however it has been agreed to progress community development planning for all blocks in a similar manner to the other World Heritage Area Pink Zone blocks.

The Eastern Kuku Yalanji native title holders have organised their decision making and information sharing system. The native title holders recognise the Pink Zone blocks are for all Eastern Kuku Yalanji, both on and off country, and agree cultural lore that the Bama persons and family groups who speak for country are central. The Mungumby Pink Zone parcels are part of the traditional estate of the descendants of the apical ancestors Jilngarr, Jinamirra, Kubukubu, and Kangkarr, and the Kuku Nyungkal Clan of the Eastern Kuku Yalanji native title holders. Apical ancestor based family groups and Clan working groups and the Jabalbina Board are the key Bama decision making parties in implementing the Community Development Plans.

There are approximately 800 family clan members associated with the Mungumby Pink block and the majority currently live off-country. Many of the Traditional Owners have expressed that they would like to come back to country, but there would need to be a livelihood for them to do this. The Mungumby Pink Zone area is within 30 minutes commuting distance to Cooktown.

The following activities can be undertaken by the Eastern Kuku Yalanji native title holders within the Good Living Areas (refer to map in Part B) and in accordance with Activity Guidelines under this CDP.

Parties note that, under Local and State Government legal requirements, further approvals will be required from Cook Shire Council (see Appendix 2).

Activities can be undertaken by Eastern Kuku Yalanji native title holders if they are:

1. Listed as allowed (exempt from prohibition) under the Pink Zone CMA with no conditions and there is no CDP or AG for that activity;
2. Listed in this CDP as allowed in the Good Living Area (refer to map in Part B) AND they are done in accordance with the Activity Guidelines under this CDP (refer Part E);

3. Agreed under a separate permit issued by WTMA following assessment of an application under Clauses 9-14 of the Pink Zone CMA (refer Part E);

or

4. Agreed by WTMA as having no more than a '*minor and inconsequential impact*' following assessment of an application under Clauses 9-14 of the Pink Zone CMA (refer Part E).

The following activities can be undertaken by the Eastern Kuku Yalanji native title holders only within the Good Living Areas (refer to map in Part B) and in accordance Activity Guidelines under this CDP (refer to Part E).

- A multipurpose facility developed initially on the Mungumby North Pink Zone block to establish a base for Traditional Owners to begin implementation on housing and business enterprises on the Mungumby Pink Zone blocks. The facility will be a communal shed type structure for Traditional Owners to utilise as a multi-purpose building, including an office for their corporation, communal meeting and camping shelter, an arts and crafts studio, possible gallery, information centre and ranger outstation. A smaller lock-up shed is proposed in the same vicinity to use as storage. This area may also be required for residential development in the short to medium-term future.
- Five permanent houses (*bayans*) to be developed on the Mungumby South block when resources are available.
- Development of two houses and a small grocery store and carwash/washdown facility on the Little Annan block. The house structures are proposed for the riverfront side of the block in the western side of the Good Living Area, while the commercial structures will be situated on the north-eastern most corner of the Good Living Area nearest to the highway.
- Camping areas and possibly housing blocks for the Mungumby North Pink Zone will be allocated to *Bama* from other areas in consultation with the Traditional Owners of Mungumby.

Proposed Infrastructure

Proposed houses and ancillary domestic development will require access driveways from the existing access track to the north-west corner of the Mungumby South block.

Water supply to Mungumby South block will be negotiated with the nearby leaseholder for sharing the existing gravity-fed pipes from the Mungumby Falls area. Water will be gravity-fed from below the waterfall that is situated to north-east of the

Mungumby South block into tanks. The Mungumby North block will also need a water source which is proposed to come from the neighbouring leaseholder's existing pipes as above. The water source for the Little Annan block will be pumped from the Little Annan into tanks.

There are access roads into all the proposed blocks. A second access road to the Mungumby South block is proposed off Mungumby Road itself approximately 50 metres east of the Mungumby Creek access road. The Mungumby North block has a partial access track that has been negotiated with the neighbouring leaseholder to access the site of the proposed structure. The Little Annan block has an access track parallel to the river and another running northeast to northwest parallel to the highway just above the Pink Zone area.

The Traditional Owners envisage the multipurpose structure and the Mungumby South houses will be powered from the existing power lines along Mungumby Road. Main power utilities are in close proximity to both of the proposed residential blocks and easily accessible.

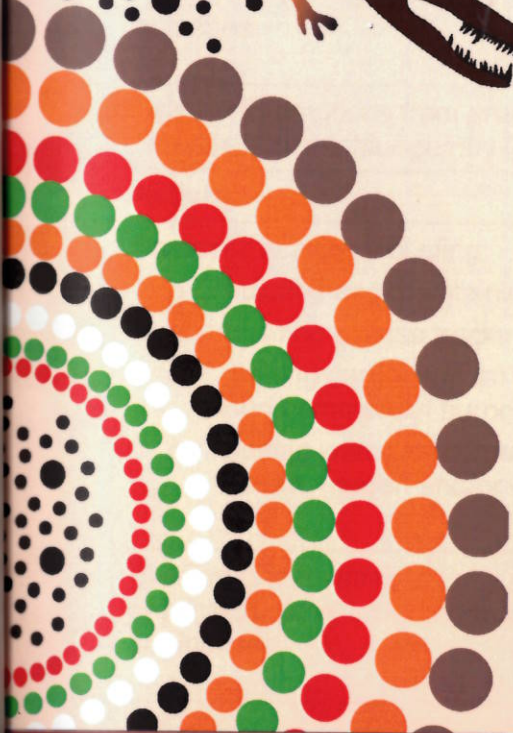
Septic tanks and/or eco-friendly toilets will be needed for each house. A septic system is proposed for toilets in the multipurpose structure. Eco-friendly toilets are suggested for the Little Annan residential structures because of the close proximity to the river system and possible flooding.

Waste and recycling will be the responsibility of the Traditional Owners until such time as the Cook Shire Council provides a waste collection service to the area.

The Mungumby Traditional Owners would propose a cemetery for their clan to be buried on country according to lore and custom. It has not been determined to this date where the cemetery will be located. The possible site suggested was for the Mungumby South block outside the Good Living Area and this will be discussed at a time in the near future.

Vegetation will be cleared around individual house blocks for fire breaks to a width of 1.5 times the height of the tallest adjacent trees in accordance with the clearing permitted for essential management on Indigenous Land under the *Sustainable Planning Regulation 2009*. The Traditional Owners propose to use suitable timbers felled in the clearing process (in accordance with Activity Guideline 4) for building their houses and for any necessary fencing.

Part E



Activity Guidelines

PART E ACTIVITY GUIDELINES

Conditional and Prohibited Activities

The Pink Zone CMA area lies within the Wet Tropics World Heritage Area (WTWHA). Normally within the WTWHA activities such as destroying vegetation, disturbing earth or watercourses (*bana*), keeping certain animals/plants or building a house (*bayan*) are not allowed. However WTMA and Eastern Kuku Yalanji people have agreed in the Pink Zone CMA that Traditional Owners can carry out certain activities so they can live back on country, sometimes subject to conditions.

Conditional activities can be done only in a certain way, eg. as set out in an Activity Guideline, or under permit conditions if a permit is issued by WTMA.

Eastern Kuku Yalanji people agreed to practise their Native Title rights and interests only in the way set out in the Pink Zone CMA.

Schedule 2 of the Pink Zone CMA sets out all the agreed activities and describes if they:

- are allowed unconditionally (ie. without any restrictions eg. traditional customs and practices), or
- can done under a CDP or Activity Guideline (conditional), or
- would need a separate permit from WTMA.

Activity Guidelines

The following Table shows the activities proposed or likely to happen as part of this Community Development Plan and the Activity Guideline that applies to these activities.

Activity	Exemption
Domestic activity, including: <ul style="list-style-type: none">○ building and maintaining <i>bayans</i>,○ building access tracks or driveways,○ making gardens or an orchard (for non-commercial purposes), and○ getting water for domestic use for the house, garden and/or orchard.	Exempt if undertaken in accordance with this Community Development Plan and Activity Guideline for Domestic Activity .
Building and maintaining any other structure or infrastructure, including a shed, power line or pipeline.	Exempt if undertaken in accordance with this Community Development Plan and the Activity Guideline for Building Structures and Infrastructure .

Building and maintaining a road.	Exempt if undertaken in accordance with this Community Development Plan and the Activity Guideline for Constructing and Maintaining Roads.
Destroying a forest product (timber etc) for a domestic activity, land clearing or use in building and maintaining a road or structure	Exempt if undertaken in accordance with this Community Development Plan and the Activity Guideline for Destroying Forest Products for a Domestic Activity, Land Clearing or use in Building or Maintaining a Road or Structure.
<p>The Living-on-<i>Bubu</i> Activity Guideline covers other activities that <i>Bama</i> might want to undertake as part of living on <i>bubu</i>:</p> <ul style="list-style-type: none"> ○ exercising native title rights and interests to use native plants ○ getting rid of undesirable plants ○ keeping domestic dogs and bee keeping ○ exercising native title rights and interests to quarry materials (e.g. rocks, ochre) ○ maintaining houses and other structures, house gardens and orchards, driveways, footpaths and water extraction infrastructure such as pumps, tanks and pipes ○ getting rid of waste material, and ○ emergency activities. 	Exempt if undertaken in accordance with this Community Development Plan and the Activity Guideline for Living on <i>Bubu</i>.
The Areas of High Conservation Significance Activity Guideline identifies areas that would otherwise have been included as National Park but for their small size, on which development should not occur. The guideline also sets out a system to amend the boundaries of these areas if on closer inspection this is considered appropriate.	<p>No exemptions. The Activity Guideline for Areas of High Conservation Significance lists the agreed areas and sets out a system to amend the boundaries of these areas if on closer inspection this is considered appropriate.</p> <p>Note that not all Pink Zone blocks have Areas of High Conservation Significance.</p>

Permits

If *Bama* want to do an activity outside the Good Living Areas in the CDP, or in a different way than set out in an Activity Guideline, they can make a separate application to WTMA through Jabalbina. WTMA will assess any of these applications in the way set out in the Pink Zone CMA, which is similar to the way

WTMA assesses other applications outside the Pink Zone but also needs to consider the traditions, cultures and well-being development of Eastern Kuku Yalanji people.

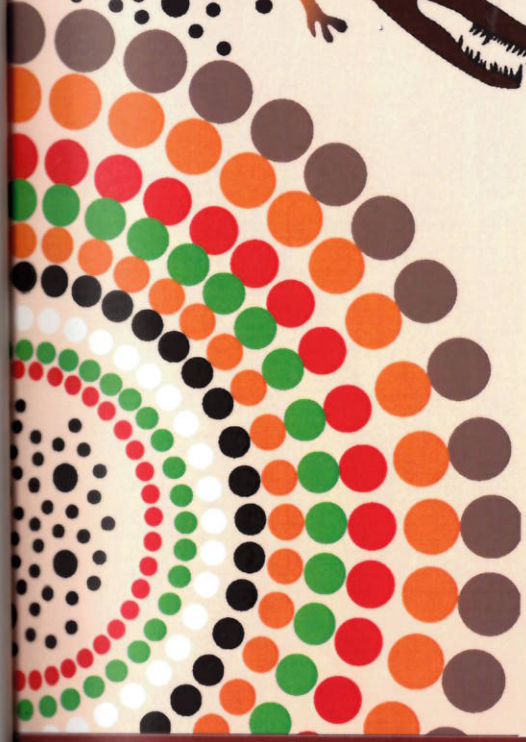
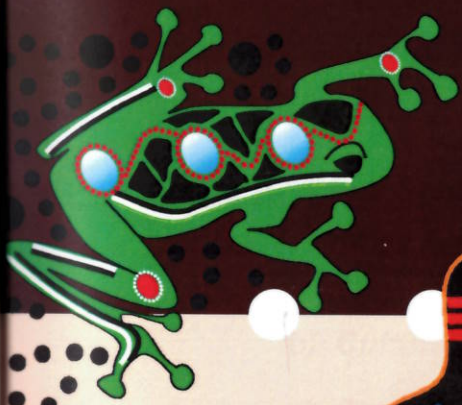
WTMA will advise Jabalbina of any activities which cause no more than a minor and inconsequential impact to *bubu* (vegetation, earth or *bana*) and so can be done unconditionally without any restrictions. Examples would be maintaining gardens or access tracks, driving off a road to avoid an immovable obstacle on the road, bushwalking or camping, taking water from *bana* for personal consumption.

Other activities will require a separate permit from WTMA through Jabalbina. These include:

- Cattle grazing (but only considered outside rainforest areas and on designated grazing areas, Schedule 4 of Pink Zone CMA)
- Planting and managing native trees for commercial forestry on disturbed country
- Collecting seeds for commercial purposes
- Using water for non-domestic irrigation
- Quarrying or taking gravel
- Flying aircraft for commercial purposes below 1000 feet.

Before undertaking activities on the Pink Zone, *Bama* can check with either Jabalbina or WTMA to see if approvals for the activities are needed.

Part F



Appendices

PART F APPENDICES

1. QUADRUPLE BOTTOM LINE APPROACH TO DEVELOPMENT

- a) Environmental Assessment*
- b) Cultural Matters*
- c) Economic Aspirations*
- d) Social Factors*

2. PLANNING AND BUILDING REGULATIONS

3. FURTHER INFORMATION ON THE COMMUNITY DEVELOPMENT PLANNING PROCESS

APPENDIX 1 QUADRUPLE BOTTOM LINE APPROACH TO DEVELOPMENT

Quadruple Bottom Line Development	Matters that were investigated
Environmental Values	<ul style="list-style-type: none"> - Landscape (topography, soil and drainage) - Vegetation and Wildlife - Natural hazard risk (flooding, landslips, bushfire) - Infrastructure (current and potential water supply, access, power and waste management availability) - World Heritage Area, Local and State Government planning instruments - The 'Good Living Areas'
Cultural Values	<ul style="list-style-type: none"> - <i>Bama</i> culture and lore - Native Title - The Traditional Owners who speak for the Country - Places of Significance as identified by <i>Bama</i> - Culture and heritage assessments including land and waters site protection - Aspirations for contemporary cultural maintenance and promotion
Economic Values	<ul style="list-style-type: none"> - Earning a living while living on country – employment - Individual and group aspirations for enterprise development - Whole of government involvement, investment and service provision - Organisation development and improvement
Social Values	<ul style="list-style-type: none"> - How families and communities organise themselves, on country and off-country members, leadership and decision making - Families' living arrangements for the block and subsequent infrastructure requirements - Social services – education, health, housing, emergency, etc - <i>Bama</i> Plans completed by family groups setting out their aspirations over a 20 year timeline for lifestyle and housing and business enterprises - How <i>Bama</i> without Pink Zone areas will be accommodated

a) Environmental Assessment

Environmental considerations include:

- Landscape (topography, soil and drainage)
- Vegetation and Wildlife
- Natural hazard risk (flooding, landslips, bushfire)
- Infrastructure (current and potential water supply, access, power and waste management availability)
- World Heritage Area, Local and State Government planning instruments.

The Process for considering environmental factors in this Community Development Plan

Desktop environmental analysis was undertaken to identify prospective "Good Living Areas". Environmental factors considered included slope, soils, vegetation type, wildlife habitat listings, drainage and susceptibility to flooding. Clause 8.6 of the Pink Zone CMA requires Community Development Plans to identify Areas of High Conservation Significance that would have been dedicated as national park but for their small size and geographic isolation from other protected areas.

Infrastructure needs were considered in environmental analysis desktop mapping, particularly vehicle access, including in wet season conditions. Access to water sources and in some cases electricity, telecommunications and other services were also considered.

Computer mapping of existing roads and structures was undertaken and checked during field visits and through discussion with Traditional Owners.

Desktop mapping identified prospective Good Living Areas with:

- Slopes less than 15%
- Minimal areas of vegetation types classified as 'endangered' or 'of concern' regional ecosystems under the *Vegetation Management Act 1999* (VMA) or DERM biodiversity status.
- Low risk of flooding and no soils or vegetation associated with swamps
- No Areas of High Conservation Significance
- Relatively easy all-season vehicle access or ability to develop relatively easy vehicle access at low cost
- No quarrying leases existing over them.

Prospective Good Living Areas were ground-truthed and confirmed on field visits, and this information was combined with cultural information to identify final Good Living Areas.

Location

The Mungumby Pink Zone consists of 3 parcels of land near the locality of Helenvale approximately 30km south of Cooktown in far north Queensland. Two of these parcels are located along Mungumby Road approximately 2km east of the intersection with the Bloomfield Road. The Mungumby North parcel (Lot 3, SP226636), is 69.3ha in area (Part B, Map 1). It is located in foothills mainly north of Mungumby Road, with a small section on the southern side of the road. This parcel is just over 2km long with a varying width of up to 500m. It is within the Wet Tropics World Heritage Area adjoining the *Ngalba Bulal* National Park (scheduled to be dedicated October 2011) and ordinary freehold land.

The Mungumby South parcel (Lot 2, SP226636) is 8.681ha and is outside the WHA (Map 2). It is located south of Mungumby Road and has frontage to Mungumby Creek as well as adjoining freehold land. It is roughly rectangular in shape and just over 500m long and 200m wide. It is connected to Mungumby Road via an access easement across adjoining private freehold land.

The third parcel, the Little Annan parcel (Lot 157, SP215738), is 9.082ha and is also outside the WHA. It is located about 3km west of the other parcels (Map 3). The western boundary of the parcel adjoins the Annan River, and the Mulligan Highway abuts its northern boundary.

Physical and geology

The two larger blocks are located in the Mungumby Creek valley between Black Mountain/Trevethan Range to north, Big Tableland to the east with Helenvale Hill to the south. The more northerly of the two, the 69.3ha Mungumby North block consists of gentle to steep slopes of the foothills of Trevethan Range; its geology is a mixture of alluvium, colluvium and mudrock over generally shallow soils.

The 8.7ha Mungumby South block consists of alluvial flats between the northern bank of Mungumby Creek and Mungumby Road.

The 9.1ha Little Annan parcel consists of undulating land above the eastern bank of the Annan River, with a small, ephemeral creek crossing its central section.

Vegetation

The higher slopes of the Mungumby North block contain semi-deciduous mesophyll vine forest on granites and rhyolites, of the moist and dry lowlands and foothills (Regional Ecosystem RE 7.12.6a); this regional ecosystem is classified as of concern under the *Vegetation Management Act 1999* (VMA) and DERM's

biodiversity status. A band of the semi-deciduous mesophyll/notophyll vine forest (RE 3.3.2a, least concern under the VMA; of concern DERM biodiversity status) occurs on alluvial soils above the 160m contour on this block. The lower slopes contain Molloy red box (*Eucalyptus leptophleba*) woodland to open-forest, of dry foothills and uplands on granite and rhyolite (RE 7.12.55); this regional ecosystem is 'of concern' (VMA and DERM biodiversity status).

The dominant vegetation of the Mungumby South block is forest red gum (*Eucalyptus tereticornis*) open-forest on well drained lowland alluvial plains (RE 7.3.40); this regional ecosystem is endangered (VMA and DERM biodiversity status). There is also a narrow band of Molloy red box (*Eucalyptus leptophleba*), sometimes with Clarkson's bloodwood (*Corymbia clarksoniana*) and/or grey paperbark (*Melaleuca dealbata*) woodland to open-forest on alluvium (7.3.14a) along the eastern edge of lower block; this regional ecosystem is of concern (VMA and DERM biodiversity status).

Development should ensure that the forest structure of the endangered RE 7.3.40 on the Mungumby South block is retained.

The lower western sections of the Little Annan parcel contain Molloy red box (*Eucalyptus leptophleba*) woodland on riverine levees and floodplains and silver-crowned paperbark (*Melaleuca argentea*, *M. fluviatilis*) open forest fringing the small watercourse traversing the parcel. The higher eastern section of the parcel contains Molloy red box (*Eucalyptus leptophleba*), poplar gum (*Eucalyptus platyphylla*) and shiny-leaved box (*Eucalyptus chlorophylla*) woodland to open woodland on undulating plains (RE 3.3.25/ RE 3.5.26/ RE 3.5.24). All regional ecosystems on the Little Annan parcel are least concern (VMA and DERM biodiversity status).

Wildlife

A number of species of conservation significance may occur on the Mungumby Pink Zone. Parts of the Little Annan block are mapped as essential habitat for the endangered southern cassowary (*Casuarus casuaris*). A number of insects, frogs, reptiles, birds and mammals of conservation significance have been recorded.

These include:

Birds: red goshawk (*Erythrotriorchus radiatus*) (endangered under the *Nature Conservation Act 1992*), southern cassowary (endangered; recorded near the subject land on Big Tableland), Macleay's fig-parrot (*Cyclopsitta diophthalma macleayana*) (vulnerable).

Frogs: waterfall frog (*Litoria nannotis*) (endangered), common mistfrog (*Litoria rheocola*) (endangered), lace-eyed tree frog (*Nyctimystes dayi*) (endangered), dainty nursery frog (*Cophixalus exiguous*) (vulnerable), tapping green eyed frog (*Litoria serrata*) (near threatened); the vulnerable Black Mountain boulderfrog (*Cophixalus*

saxatilis), known only from the Black Mountain locality, may also occur on the Mungumby North block.

Reptiles: gecko (*Nactus galgajuga*) (vulnerable); skink (*Liburnascincus scirtetis*) (vulnerable) from the Black Mountain locality, may also occur on the Mungumby North block.

Bats: bare-rumped sheath-tail bat (*Saccolaimus saccolaimus nudicluniatu*) (endangered), Semon's leaf-nosed bat (*Hipposideros semoni*) (endangered), greater large-eared horseshoe bat (*Rhinolophus phillipiensis*) (endangered), spectacled flying-fox (*Pteropus conspicillatus*) (vulnerable under Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*).

Non-flying mammals: Northern Quoll (*Dasyurus hallucatus*) (endangered), Bennett's Tree Kangaroo (*Dendrolagus bennettianus*) (near threatened).

Insects: Apollo Jewel butterfly.

Pest plants and animals

A number of pest plants are present on the Mungumby Pink Zone parcels. Sicklepod (*Senna spp.*) and Lantana (*Lantana camara*) are Class 2 declared weeds under the *Land Protection (Stock Route and Pest Management) Act 2002* and are present along Mungumby Road. The Class 2 weed *Hymenachne amplexicaulis* is present in Mungumby Creek near the subject land. Feral pigs and feral cats also occur throughout the area.

Environmental risks

Any development, particularly in the Mungumby South block, should retain the forest structure and ensure adequate building set-backs from Mungumby Creek to minimise impact on habitat for resident endangered frogs.

- The Mungumby North block is not generally subject to inundation, although a number of minor watercourses (gullies) traverse it.
- The Mungumby South parcel has frontage to Mungumby Creek, and its southern sections close to the creek may be subject to flooding. Sufficient building set-backs from Mungumby Creek should obviate the potential flooding risk.
- Western and southern sections of the Little Annan parcel are subject to flooding from the Annan River and the creek traversing the land; and buildings will need to be located above flood levels.

- Slopes in preferred living areas on all parcels are gentle and would not be expected to pose a landslide risk.

Woodland communities may be susceptible to fire risk in exceptionally dry years; so fire-breaks should be established and maintained around buildings and infrastructure on all blocks in accordance with VMA allowances.

Existing roads and structures on the Pink Zone block

There are no known structures on the Mungumby Pink Zone parcels.

A vehicle track approximately follows the access easement from Mungumby Road to the Mungumby South parcel and traverses the north western corner of the parcel (Map 1). Rudimentary tracks provide limited access to the Little Annan block from the Mulligan Highway and the neighbouring property. Access to the southern part of the block may be established by re-instating a causeway across the creek.

Existing infrastructure in vicinity of the Pink Zone block

Both Mungumby Road parcels are accessed by Mungumby Road, an unsealed formed road which is subject to short-term wet season flooding due to low level creek crossings. The vehicle track approximately following the dedicated access easement provides access to Mungumby Road from the Mungumby South block. The Little Annan parcel is accessed directly from the sealed Mulligan Highway.

A 22kv powerline runs along Mungumby Road. The main Cooktown high voltage powerline runs adjacent to the Little Annan Block which is also close to where the Helenvale feeder branches from the main supply line – it may be feasible to install transformers to utilise this supply.

Mungumby Creek is permanent where it flows from Big Tableland in *Ngalba Bulal* National Park upstream of the Mungumby Road parcels. Neighbouring properties gravity feed water from the creek. The Annan River is a permanent watercourse adjacent to the Little Annan parcel.

b) Cultural Matters

Cultural considerations in the Community Development Plan include

- *Bama* culture and lore
- Native Title
- The Traditional Owners who speak for the Country, and cultural relationships with other *Bama*
- Places of Significance as identified by *Bama*
- Culture and heritage assessments including land and waters site protection
- Aspirations for contemporary cultural maintenance and promotion.

Lore and law

The Pink Zone Team (Jabalbina and WTMA) working in partnership to progress development of the CDPs, as far as possible identified and worked directly with the individuals, families and Clan groups who speak for country for each of the particular Pink Zone blocks and the respective formal and non-formal Eastern Kuku Yalanji governance structures.

Determining who has the right to speak for country is not always straightforward². In general terms, the right is held by the Traditional Owners of that land and water. For some aspects it may be all the Traditional Owners collectively. Other times it may be just those people who have responsibility for particular sites. Often the question of who has the right to speak for country only arises when there is development. Sometimes it's clear but sometimes, often because of the effects of dispossession and relocation, there is a lack of internal Indigenous regulation. It is known that in traditional settings there is a complex interwoven set of relationships around speaking for country, including interrelationships across gender, marriage lines and roles in the traditional society.

The right to speak for country gathers together a range of rights and invokes a range of obligations. According to traditional lore / law, rights might include

- ownership of the totality of the lands, waters, airspace, flora and fauna
- ownership of all stories, songs, dance, ceremonies and all other 'cultural practices'

² Aboriginal Barrister TonyMcAvoy, Paper on the Right to Speak for Country delivered at the 2nd National Indigenous Land and Sea Management Conference, Cardwell 2008

- right to exercise internal controls on who may access and take resources, and to derive benefit from resources
- right to determine whether any person or persons have breached any law or custom relating to those lands and waters, including the punishment
- obligation to maintain spiritual connectedness to the lands and waters, flora and fauna, and the spiritual beings in and upon the lands and waters, particularly through cultural practice and ceremony
- obligation to observe and respect territorial boundaries and clan estates or runs and interrelationships with other clans, and to maintain and protect the lands and waters and sites and landscapes of particular cultural or spiritual importance
- obligation to use resources in a sustainable manner, and to share benefits from resource use
- obligation to demonstrate respect for Elders, progressively develop knowledge and to teach it
- obligation to not eat certain foods ('totem' or fauna or flora), and to not go to certain sites (those belonging to a particular clan, family, gender, level of seniority to which one does not belong)
- obligation to punish those who breach law or custom
- obligation to defend the citizens, lands, waters and resources and ensure the survival of the nation, clan and family.

The Eastern Kuku Yalanji native title determination process and the resultant ILUA agreements have involved negotiating the internal and external interface of these Native Title rights and interests. Under the Eastern Yalanji, Queensland and WTMA (Freehold Grants) ILUA and the Cooperative Management Agreement for the Pink Zone, Eastern Kuku Yalanji people agreed to limit the practice of their native title rights and interests. And WTMA agreed to have regard to the traditional law and custom of the Eastern Kuku Yalanji people and to the preservation and protection of the Eastern Kuku Yalanji people's way of life, culture and tradition.

From the Determination's negotiation regarding the internal tribal governance processes the Federal Court ruled the following:

The Court has also been invited to note that the traditional laws acknowledged and the traditional customs observed by the Eastern Kuku Yalanji People include the authority as between Aboriginal people as follows:

- a) *to resolve disputes about who is or who is not an Eastern Kuku Yalanji person;*

- b) to determine as between Eastern Kuku Yalanji People what are the particular native title rights and interests that are held by particular Eastern Kuku Yalanji People in relation to particular parts of the Determination Area;
- c) to exclude particular Eastern Kuku Yalanji People from the exercise of particular native title rights and interests in relation to particular parts of the Determination Area; and
- d) to resolve disputes between Aboriginal people concerning native title rights and interests in relation to the Determination Area, with the assistance of native title holders of adjoining area where such assistance is necessary.³

The custodianship passed down from generation to generation over thousands of years has been disrupted in some instances; however in practising the Native Title rights and interests, Eastern Kuku Yalanji people view it only correct that the old ways be preserved as much as possible.

The Traditional Owners who speak for this Country

The Traditional Owners who speak for the Mungumby area of Kuku Nyungkal country are the descendants of the apical ancestors Jilngarr, Jinamirra, Kubukubu, and Kangkarr and hence the Nunn family and the associated Creek, Barry, Henderson families all descended from the Nunn lineage. Consultations with Kuku Nyungkal Eastern Kuku Yalanji native title holders identified the appropriate persons who speak for this country as the descendants of Mundy Nunn, Ruby Nunn, Lily Nunn and Paddy Nunn, including the Nunn family and the Yalanji branch of the Creek family.

According to the Traditional Owners, there are approximately 800 family members associated with the Mungumby area. Carol Nunn is the nominated Elder for this family clan group in consultation with others of her family members.

The Elders of these families agreed during the Native Title Determination / Community Development Plan process that Eastern Kuku Yalanji *Bama* who do not have any Pink Zone CMA area to build on, can request from the Nunn and Creek working group members for a piece of land to build a *bayan* on, with the understanding that according to traditional lore they do not have to right to speak for that *bubu* and will not in the future claim custodianship over it.

Places of Significance as identified by *Bama*

The Mungumby Clan speaking for country covers an area north of Shipton Flats, south of Black Mountain, west of the Trevethan Range and east of Banana Creek in the Helenvale region.

³ Walker on behalf of the Eastern Kuku Yalanji People v State of Queensland [2007] FCA 1907
NATIVE TITLE – Determination for Eastern Kuku Yalanji People: p68

During on-site workshops, family Traditional Owners identified and mapped areas which are culturally suitable for building and areas that are not suitable because of their particular cultural significance. The Traditional Owners intend to develop information to address their sacred areas and determine if these places should be publicised due their sensitive cultural nature.

Certain areas have been designated as 'no-go' areas due to high cultural significance. The family Traditional Owners' wishes are that any other person/s should not enter the site without permission from the Traditional Owners or Custodians of the particular sites as they may become ill in body and spirit, and it is seen as very disrespectful and against traditional lore and custom.

Culture and heritage assessments including land and waters site protection

Traditional Owners have identified walking tracks throughout the Mungumby area linking them with other families, clans and neighbouring groups. These historical traditional walking tracks are evident from the marked trees in the area. Being one of the most northerly clan areas, the Mungumby group's grounds were travelled frequently by neighbouring clan groups as well as neighbouring tribes.

Burial and ceremonial grounds, water courses and areas near to waterways have been identified as sacred areas by the Mungumby Traditional Owners. Some areas are gender specific and are known tourist attractions. The Mungumby Elders and Working Group will discuss how these places can be visited appropriately by the specific genders so as not to breach cultural lore.

Aspirations for contemporary cultural maintenance and promotion

The Traditional Owners' primary aspiration is to return to this country and live on it.

Traditional Owners also intend to establish a cemetery on part of the freehold blocks so that they may be buried on traditional grounds, consistent with traditional lore and maintaining the spiritual connection with land. This site has not been determined but will be decided upon in the future.

c) Economic Aspirations

One of the intents of the Pink Zone Cooperative Management Plan was enabling *Bama* to care for country and to develop lifestyles and businesses. This translates to CDPs taking economic development aspirations and opportunities into account, including making sure that living areas on the Pink Zone connect with opportunities for nearby employment including use of surrounding land, including the Yellow Zone (Aboriginal Freehold – Nature Refuge), Green Zone (National Park) and other tenures.

Economic considerations in the Community Development Plan include

- Earning a living while living on country through being able to participate in the labour market including accessing available employment opportunities
- Individual and group aspirations for small private business and community enterprise development including local services provision
- Whole of government involvement, investment and service provision
- Organisation development and improvement.

Economic assessment of the cost of proposed development has not been included in this community development planning process.

Earning a living while living on country – employment

The Mungumby Pink Zone area is within 30 minutes commuting distance to employment opportunities in Cooktown. Several Kuku Nyungkal Rangers are associated with the Mungumby blocks and are employed through the Kuku Nyungkal Ranger Service at Shipton's Flat, approximately 15 minutes commuting distance away.

Individual and group aspirations for enterprise development

Mungumby Traditional Owners have aspirations to eventually become economically self-sufficient and are in the process of forming a corporation to deal with economic issues regarding their sustainability on country.

More specifically, the Mungumby Traditional Owners have aspirations to:

- Develop relationships with nearby tourist enterprises, including establishing cultural tours to natural and cultural features on the nearby Aboriginal freehold nature refuge as well as arts and crafts, dancing and storytelling. Traditional Owners have recently taken the initiative towards a viable partnership with a nearby tourist accommodation business aimed at giving visitors a genuine 'Indigenous experience'.

- Work locally in natural resource management. The Kuku Nyungkal Ranger Service, based at Home Rule near Rossville, employs a number of Kuku Nyungkal Traditional Owners. The Eastern Yalanji Indigenous Protected Area is currently being established over adjoining national park and Aboriginal freehold nature refuge and may offer additional local employment opportunities.
- Small commercial ventures are planned for the Little Annan block dependent on a feasibility study and the relevant approvals through the appropriate channels. Interest in setting up a small store and a carwash/wash-down station are aspirations of the TOs intending to build on the Little Annan block.

Whole of government involvement and service provision

Jabalbina works to implement the ILUAs involving the Eastern Kuku Yalanji native title holders and Yalanji Aboriginal corporations, Queensland Government, the Wet Tropics Management Authority, Local Government Authorities, Telstra, Ergon and grazing and mining lessees. These ILUAs cover 230 000 hectares and recognise Traditional Owner and other interests, ensure the protection of environmentally and culturally sensitive areas, establish land tenure, and set out use and management arrangements including community development.

The WTMA–Jabalbina Pink Zone Project Team engaged with Eastern Kuku Yalanji *Bama*, Cairns Regional and Cook Shire Councils, the Queensland Department of Local Government and Planning, and Terrain NRM during the development of this Community Development Plan.

Implementing the ILUAs and the Community Development Plans requires the contributions of many external parties. Whole of Government agencies and land management entities need to be involved to ensure that the Community Development Plan and other planning for Eastern Kuku Yalanji *Bama* and country integrates with, and/or complements government policies and programs aimed at improving social, cultural, economic and environmentally sustainable development and wellbeing of the community. Achieving these outcomes requires socially sensitive and capacity development approaches and resources which complement the technical elements of environmental and infrastructure development assessment and planning.

In March 2010 the Government Champions for Wujal Wujal were briefed by the Pink Zone Project Team and were keen to understand how the ILUAs were being coordinated and what economic benefits for Eastern Kuku Yalanji they would produce. The proposal that the Eastern Kuku Yalanji ILUA package be considered as whole-of-government, rather than just the natural resource management agencies, was well received, and needs putting into effect.

d) Social Factors

Social considerations include:

- How families and communities organise themselves, on country and off-country members, leadership and decision making
- Families' living arrangements for the block and subsequent infrastructure requirements
- Social services provision available to people living on the block – education, health, housing, emergency, etc
- *Bama* Plans completed by family groups setting out their aspirations over a 20 year timeline for lifestyle and housing and business enterprises.

***Bama* Planning**

Forms known as "*Bama* Plans" (attached below) were used to record family Traditional Owners' aspirations over a 20 year timeline to use and develop the Aboriginal freehold land for lifestyle and housing and business enterprises.

Bama Plans are a tool aimed at stimulating thought towards turning aspirations into realities. *Bama* Plans can give a good indication of how many Traditional Owner families or groups might utilise the blocks over the life of the community development plan and how they might realise and sustain their aspirations/dreams through economic development or other means of support. The *Bama* Plans indicate how advanced Traditional Owners are in acting on their aspirations and how their plans might benefit themselves, other *Bama* and the wider community. *Bama* Plans can also identify what advice Traditional Owners need from relevant agencies about approval processes required to implement their aspirations. It considers traditional and contemporary protocols for decision-making processes, empowering the Traditional Owners associated with particular Pink Zone blocks to agree or reject applications from others to use or develop the land.

Clan and native title holder governance relationships

The Mungumby Traditional Owners have organised a system of communication internally as well as speaking with the rest of Kuku Nyungkal to develop a means of communication through the representatives of the Working Group.

The descendants of the Nunn apical ancestors are one of the 11 extended families of the Kuku Nyungkal Clan.

Kuku Nyungkal is one of the six clan groups of the Eastern Kuku Yalanji nation. It has neighbouring boundaries with Kuku Buyun to the north, Kuku Bidjidji to the north west, Buruwarra to the south west, Wujalwarra to the south and Jalunwarra to the east and south-east and Western Kuku Yalanji to the west.

Kuku Nyungkal have agreed as a whole that there be nominated representatives, one of each gender, to sit on an overall EKY group to be able to receive and/or disseminate information that may affect Mungumby or other Clan groups. Kuku Nyungkal are considering accepting and agreeing that this overall of Eastern Kuku Yalanji representative group could be the means of relating information inwards and outwards to Jabalbina.

Clan members representing the majority of the *identified* Traditional Owner family groups agreed to prepare a single shared plan for the Mungumby Pink Zone block on behalf of all family groups. The Traditional Owners agreed that the community development planning process would be completed with consensus from the respective Traditional Owners' family group.

Mungumby Clan representatives met with Jabalbina and WTMA staff to discuss options for the community development process on at least twenty occasions consulting at field visits, Clan meetings and electronic media to refine the Community Development Planning.

The Traditional Owners have discussed their aspirations to protect and utilise the land since applying for Native Title, and more recently at these meetings.

Potential areas for building were inspected and mapped using GPS and verbal descriptions during the CDP development process. Meetings were held on-site between Traditional Owners, Jabalbina and/or WTMA staff on 14 August 2010, 28 August 2010, 11 September 2010, and 28 October 2010. Traditional Owners discussed their aspirations to use and develop the land at these meetings, and potential areas for building were inspected and mapped using GPS. The Traditional Owners have discussed their aspirations to protect and utilise the land since applying for Native Title, and more recently at these meetings. Sites were finally selected for all structural sites on the Mungumby North and South and the Little Annan Pink Zone Blocks.

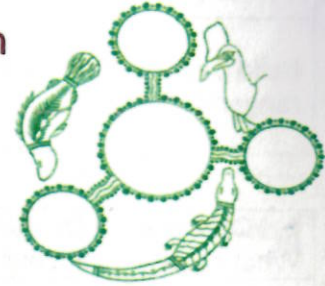
Traditional Owners living on country

Presently, there are no Traditional Owners living within the Mungumby traditional estate boundaries. The Mungumby Traditional Owners from on and off-country intend to initiate building when compliance processes are approved.

Bama Plan from the Traditional Owners for the Mungumby block

Jabalbina Yalanji Aboriginal Corporation

**Bama Plan for Community
Development Planning
(Bama freehold land)**



1. Eastern Kuku Yalanji person/s please fill out as many of your details as possible

What clan group do you belong to?	Jalunwarra <input type="checkbox"/> Buruwarra <input type="checkbox"/> Wujalwarra <input type="checkbox"/> Other <input type="checkbox"/> Please name if other:	Julaywarra <input type="checkbox"/> Kubirriwarra <input type="checkbox"/> Kuku Nyungkal <input checked="" type="checkbox"/>	
Is this plan for you, your family or an organisation? (Please tick one box only)	Me <input type="checkbox"/>	Family <input type="checkbox"/>	Organisation <input type="checkbox"/>
Name of your family clan group	Nunn Family and Creek Family, Kuku Nyungkal Clan Group		
Is your family clan's <i>bubu</i> on a pink zone?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unsure <input type="checkbox"/>		
	If yes, is this where your <i>bama</i> plan is for? Yes <input type="checkbox"/>		
Contact person	Carol Nunn		
Postal address	c/- Wujal Wujal Post Office, Wujal Wujal Qld 4895		
Contact details	Phone number 40608094	Mobile number 0447093103	
	Fax number	Email address ikc@wujal.com	

2. Your Bama Plan

Briefly describe what you want to do? (e.g. build a healing centre, run a tour, build a *bayan* or other plan)

Build *bayans*, have tourist and small businesses on country and manage land through ranger service

3. Community Development Plan

What do you think your plan will look like in 20 years' time? (Consider future family numbers)

5 houses on south block, multipurpose facility, 2 houses, store and carwash on Little Annan block. A cemetery to bury our family members on country.

4. Location of *bubu*

Where is the exact location of the *bubu* you want to develop, build or run activities on? (It would help if you attach a map showing the precise location and a GPS reading)

Mungumby Road on the north side of the Mungumby Creek track and the south side running along the track, and the north east side of the Little Annan River bridge between the turnoff of the Rossville Road in the designated pink zone area.

5. Maja-maja *bubuku*

Identify who speaks for that *bubu* (e.g. clan, families, elders, or other EKY organisation)

Carol Nunn, Shaun Creek

6. Your consultations

Describe how you have consulted the Maja-maja *bubuku*

Who have you talked to?	When and where?	What information did you give about your plans?
Brothers and sisters, cousins and as many family members as possible living on and off country	Over the past 15 years or so in Wujal, Cooktown, any family gatherings	We talked about starting a corporation so we can start working on our business and partnerships so we can build houses on our <i>bubu</i> .
Kuku Nyungkal Working Group	Home Rule, Wujal 2010	Building houses, starting businesses and having ranger service
Hamish Marshal Mungumby Lodge Owner and neighbour	Neighbouring Mungumby Lodge 2009 - 2010	Forming a partnership in tourism and living on country

7. Results of consultation/s

Describe the response of Maja-maja *bubuku* and attach any records, letter or other documents showing their support

Carol Nunn is speaker for this country and has the full support of her family and branches of the Nunn family that she has consulted with so far over the years, she was also party to signing this Bama Plan.

8. Other agencies

What other agencies have you consulted with about your plan? (e.g. Regional or Shire Councils, Department of Housing, Wet Tropics Management Authority etc)

Please give brief a description and attach any relevant documents

Cape York Land Council	Wujal, Rossville, Home Rule, Mungumby late 1990s - 2007	Starting a tourist business and building houses
Jabalbina	Wujal	
Kuku Nyungkal Working Group	Home Rule, Wujal 2010	Building houses, starting businesses and having ranger service
Jabalbina/WTMA	Mungumby, Cooktown, Wujal 2010 - 2011	What and where we want to build, businesses we want to set up, how many people associated with this area, rough idea of sort of structures for houses and other buildings, what time we would like to start building, how we are going to look after our land and sacred sites, what we utilities and services we will need to live on country. Very detailed information from many meetings with
Hamish Marshal	Mungumby Lodge 2009 - 2010	Forming a partnership in tourism and living on country

9. Benefit to Bama

Describe how your plan may benefit EKY *Bama*, especially Elders and future generations

It's good for the Elders to be living back on country and for the young ones to learn from them so that our traditional ways are preserved. It will be good for everyone who goes to live back on bubu, they will be able to look after bubu ourselves and important to pass on to not only Bama but all the tourists as well that we are capable and proud to look after our own country. Hopefully our off-country families, especially the stolen generations can come back and camp on bubu and we can teach them about this country then because they grew up in other areas and don't really know this place or the stories and dances.

10. Plans for *bubu*

Describe your plans in detail and attach any plans you have prepared. If you need more space, write your plans on another page and attach it to this *Bama* Plan form. These plans

could include information about:

- *Level of development planned* – are you going to build something?
- *What the impact may be* – how will the plan affect the *bubu*?
- *Feasibility* – have you done your research? How do you know it will work?
- *Partners* – are there any government or other business mobs involved?

5 houses on the south side Mungumby block; a communal shed on the north side Mungumby block; 2 houses on the Little Annan block with small shop and carwash. A cemetery to bury our people on *bubu*. Work in partnership with Mungumby lodge for tours, dancing, storytelling, art and crafts. Have our own rangers looking after our *bubu*. Have powered houses with other utilities like water and telephones. There is no rubbish pickup so we will have to do that ourselves. Use timber from the trees we clear for the building for the houses or fencing. We will have to use septic or eco-friendly toilets.

11. Your aspirations

Do you know the process for achieving your *Bama* aspirations? (e.g. what approvals are needed for buildings or businesses?)

Yes

Do you need more information or help on what you need to do?

Yes

Do you know how much it is going to cost you to do your *Bama* plan?

No

Do you have the *jungka* or resources to begin your plan or able to get a loan to do it?

No

(If yes, attach a budget if you have one)

When do you want to start doing work on your plan?

(Give an approximate month and/or year you can begin working on your *bayan*, business etc)

Within 12 months of approval

12. Sign and Date

Signed by Carol Nunn, Doreen Creek, Ann Haines, Shaun Creek and Esther Henderson
(Office use only)

Date received by Jabalbina:

Community Development Officer/Planning & Development Coordinator:

APPENDIX 2 PLANNING AND BUILDING REGULATIONS

This Community Development Plan is an important part of the overall process of moving back to Country, because it deals with the Traditional Owner consultation required under the *Native Title Act 1993* and the requirements of the *Wet Tropics World Heritage Protection and Management Act 1993*.

However, there are other laws and regulations that apply to the developments proposed in this Community Development Plan, including *the buildings (houses and sheds), other structures (tanks, fences etc) and driveways, as well as clearing vegetation*. These are either planning regulations (which control what can be built and where it can be built) and building regulations (which control how things can be built). These regulations are mostly dealt with through the Integrated Development Assessment System (IDAS) under the *Sustainable Planning Act 2009*, which is managed by Local Government Councils. This Pink Zone block and CDP is within the Cook Shire Council.

The overall approvals process for the proposed developments under this Community Development Plan is shown in the *Summary of current approvals process for Pink Zone Bubu* flowchart below. A more detailed flowchart of the IDAS system for these can be obtained from Jabalbina or the internet at:

<http://www.dip.qld.gov.au/resources/laws/integrated-planning-ct/IDASflowchart3.pdf>.

The current approvals process is:

1. Community Development Plan is prepared and agreed, including Traditional Owner approval and WTMA approval to build in the Wet Tropics World Heritage Area (proposals not included in the Community Development Plan will need separate Traditional Owner consultation through Jabalbina and separate approval from WTMA).
2. A Development Application is submitted to the Cook Shire Council office. The Council uses a Planning Scheme to assess the application. The Planning Schemes contain Codes with many standards that the application must meet, and the application needs to include information showing how it meets these standards, for example the location of houses (on stable ground away from streams, flood areas, steep slopes and high fire hazard areas), proposed water and power supply and domestic waste and wastewater disposal systems, location of access tracks (including measures to reduce erosion) etc. The Development Application will include site plans, floor plans and elevations (diagrams of how proposed buildings look from each side) and an application fee.

Assessment of the Development Application often takes 6-12 months. The Council will refer the application to government agencies in charge of other relevant regulations, for example:

- Applications involving clearing native vegetation are referred to the Department of Environment and Resource Management (DERM) under the *Vegetation Management Act 1999* (clearing for residential purposes on Aboriginal freehold land is exempt from the Vegetation Management Act)
- Applications are referred to DERM if they are on land within 100m of wetlands (*Environmental Protection Act 1994*), national parks (*Nature Conservation Act 1992*) or marine parks (*Marine Parks Act 2004*)
- Applications that involve quarrying or disturb creeks (for example putting in bridges or causeways) are referred to DERM under the *Water Act 2000*
- Applications next to main roads are referred to the Department of Transport and Main Roads.

The Council and the referral agency can both request more information about the Development Application.

The Development Application is put on public notification.

When a Development Approval is issued, it usually remains current for four (4) years. It will then lapse after 4 years if it has not substantially commenced (i.e. if an approved house is almost finished after 4 years, the approval will not lapse).

3. Applications for Building Work, Plumbing Work and Operational Work (e.g. driveways, causeways) including detailed building plans, are submitted to the Cook Shire Council. The Council will make sure that all buildings and structures meet the relevant Australian and Queensland building codes and standards before issuing building approvals. As all of Eastern Kuku Yalanji *bubu* is subject to cyclone and wet weather affected areas, any building/s will need to meet the relevant standards for this in the building plans.
4. Once the building is under construction, it will need to have inspections passed on the plumbing and electrical installations and a final building inspection completed and passed. Each inspection will require separate administration fees by the Council or approved inspector.

Department of Local Government and Planning, WTMA, Cook Shire Council, Cairns Regional Council and Jabalbina staff are working on a proposed "Bush Living Code" that could be part of Planning Schemes and reduce the approvals process for *Bama* proposing many developments, especially housing.

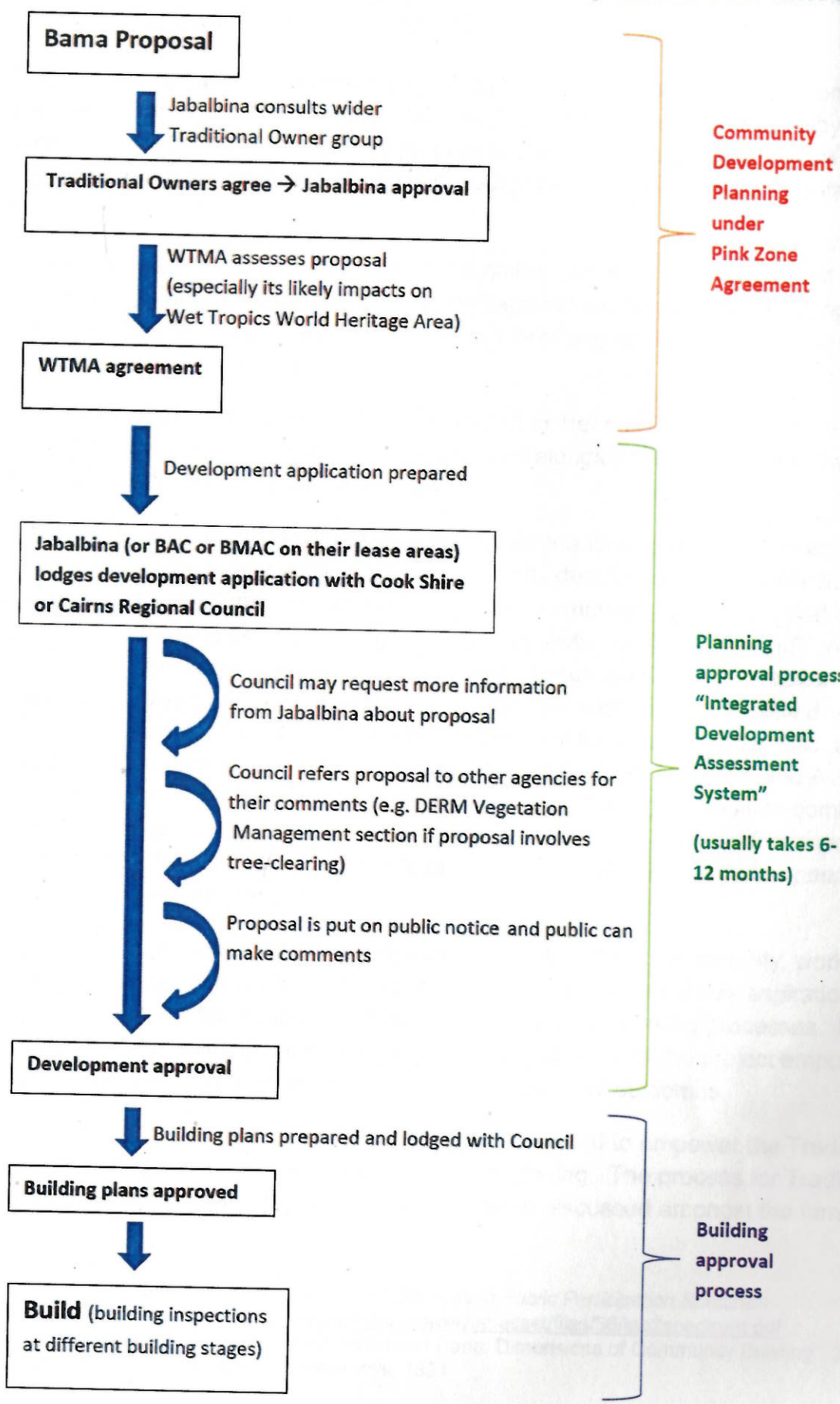
There may also be some laws and regulations that are not included in IDAS or the Community Development Plans.

The Mungumby Pink Zone is within the Conservation Zone under the Planning Scheme for Cook shire (currently being revised to comply with the *Sustainable Planning Act 2009*).

Relevant provisions of the Planning Scheme from Cook Shire include:

- Section 3 – Desired Environmental Outcomes
- 4.1.21-22 – Conservation Zone Code
- 4.3.7 – Natural Hazards Code (provisions relating to bushfire hazard).

Summary of current approvals process for development on Pink Zone Bubu



APPENDIX 3 FURTHER INFORMATION ON THE COMMUNITY DEVELOPMENT PLANNING PROCESS

Community engagement, community development and capacity development approaches are at the heart of the CDP development process undertaken by Jabalbina and WTMA. Further, the process is based on a quadruple bottom line approach to development involving social, economic, environmental and cultural factors

The overall focus is on accommodating the native title rights and interests of the people alongside protection of the world heritage values for country focussing on stronger understandings, values in common, identifying aspirations, and negotiating mutually beneficial ways forward.

This means that consultation and engagement has been undertaken with the Traditional Owners to identify and work with and alongside the Traditional Owners associated with that particular Pink area.

The process combines – as far as possible within the timeframe and resourcing parameters – community engagement, community development and rights based approaches to development. And in particular, community engagement that is not only about informing and consulting, but about involving and empowering⁴. And community development practice that is based on mutual relationship, bottom up authority, participatory style, working with rather than working for, equality driven values, partisan ie. based in the realities of peoples' lives, situation specific, and outcomes focussed on process rather than product (though the CDPs and AGs are clear products). This nature practice is advocated by Gandhian-tradition community development experts Australian Tony Kelly and colleagues⁵ - *people focussed, people centred and people powered to build common ground and gather people together on common ground.*

Kelly et al recommend that, for a successful project involving community, workers include the aspirations of the community and assist in bringing these aspirations into being by involving community at all levels of the decision-making processes. He suggests success lies in the community being the 'drivers' of the project empowering them to take ownership so as to enable more successful outcomes.

The Mungumby community development process aimed to empower the Traditional Owners through active involvement from the beginning. The process for Traditional Owners to move back onto their country has been discussed amongst the family

⁴ Refer International Association for Public Participation *Public Participation Spectrum*
<http://www.iap2.org.au/sitebuilder/resources/knowledge/asset/files/36/iap2spectrum.pdf>

⁵ Kelly, A and S. Sewell, "With Head, Heart and Hand: Dimensions of Community Building", 2nd Edition, Boolarong Publications, Bowen Hills, 1991

groups since they were informed that the Native Title process would allow them to return to allocated areas and remain connected to traditional lands.

The guiding principles for the community development plans

1. Community Development Plans and Activity Guidelines facilitate Eastern Kuku Yalanji people moving back onto and caring for country and improving their wellbeing.
2. Plans are guided by Bama Lore and Culture and give the fullest expression possible to the rights, interests and aspirations of Eastern Kuku Yalanji people.
3. Plans conform with wider community expectations of World Heritage management and will not significantly affect World Heritage values, consistent with the terms expressed within the Eastern Kuku Yalanji ILUAs.
4. Plans consider adjacent lands and waters within the other Green, Yellow and Purple Zone ILUAs area that will be owned or co-managed by Eastern Kuku Yalanji people.
5. Plans consider planning across all other tenures and interests in the region to ensure coordination of interests and to maximise environmental, cultural, social and economic benefits for everybody.
6. Plans include environmental offsets, such as land rehabilitation or habitat restoration measures, for any development impacts.
7. Plans set realistic and achievable foundations for the next 20 years of land use in the Pink Zone so as to provide benefits for ensuing generations.

Rather than a whole of country approach or planning for each individual Pink Zone parcel, it was agreed by Jabalbina and WTMA that a 'block' approach be taken, which means the delivery of CDPs as proposed by Jabalbina to take into account local Eastern Kuku Yalanji clan and family group interests.

CDP planning was based on the quadruple bottom line approach to development involving environmental, cultural, economic and social values.

Bama planning should be an ongoing activity in some areas, beyond the delivery of the CDP.

While some families will start putting their housing, infrastructure and business building aspirations in place, there's likely to be continuing consultation with family *Bama* who live on country (within the CMA area) and off country (elsewhere in regional Queensland and beyond).

Bama consultation and engagement, and capacity development takes time.

Revisiting the Native Title consent determination

After 13 years of negotiations, the Federal Court of Australia recognised the Eastern Kuku Yalanji people's Native Title in 2007, over 126,900ha of Eastern Kuku Yalanji country between Mowbray River to the south and Black Mountain in the north near Cooktown.

In the same year, the Eastern Kuku Yalanji people signed 15 Indigenous Land Use Agreements (ILUAs) with parties including the Queensland Government, Wet Tropics Management Authority (WTMA), local governments, utilities companies and leaseholders over 230,000ha of Eastern Kuku Yalanji country (*bubu*).

The Jabalbina Yalanji Aboriginal Corporation (JYAC or Jabalbina) was established in late 2007 as the Registered Native Title Body Corporate for the Eastern Kuku Yalanji people's Native Title Rights and Interests. Jabalbina is also the sole grantee of the Jabalbina Yalanji Land Trust, which holds Aboriginal Freehold Land transferred as part of the ILUA package. One of Jabalbina's major tasks is implementing the Eastern Yalanji ILUAs on behalf of the Eastern Kuku Yalanji people (*Bama*).

The native title determination package, described by former Premier Peter Beattie as then "*the most significant in Queensland's history*", formally recognises and involves the Traditional Owners in managing

- 73% - more than 165 000ha of *bubu* as Protected Area national park and reserves (Green and Purple Zones)
- 21% - a further 48 000ha of *bubu* returned to *Bama* as Aboriginal Land Act Freehold as Nature Refuge conservation area (Yellow Zone) and
- 7% - 16 500ha of *bubu* returned to *Bama* as Aboriginal Land Act Freehold, on which Eastern Kuku Yalanji people can build business structures and live on country in their own *bayan* that they build (Pink Zone).

Through the native title determination process, parties agreed that *Bama* should be able develop cooperative management agreements in the Pink Zone that allow *Bama*

- to care for country,
- to live on country, and
- to develop lifestyles and businesses

that are in keeping with the values of the Wet Tropics World Heritage Area and with government planning requirements. The aim of the Cooperative Management Agreement for the Pink Zone is for planned community development to get *Bama*

back on country and so that Eastern Kuku Yalanji people can develop their rights and aspirations for their lands.

Most of the Pink Zone is within the Wet Tropics World Heritage Area, and the Eastern Kuku Yalanji people, Jabalbina Yalanji Aboriginal Corporation, Burungu Aboriginal Corporation, Bana Mindilji Aboriginal Corporation, WTMA and Queensland Government have signed the Pink Zone CMA for this area under the *Wet Tropics Management Plan 1998*. The Pink Zone CMA provides for the Eastern Kuku Yalanji people to use and develop this land in a way that provides for the protection and management of the Wet Tropics World Heritage Area.

As the Aboriginal Land Trust and Registered Native Title Prescribed Body Corporate for Eastern Kuku Yalanji people, Jabalbina Yalanji Aboriginal Corporation wants to ensure that Eastern Kuku Yalanji people, and families and clans are fully informed and are able to participate in decision - making related to their rights and interests. JYAC manages the land and the native title rights and interests of all Eastern Kuku Yalanji people. It is estimated that there are approximately 6000 Eastern Kuku Yalanji people living on and off-country. Six clans groups are recognised, each comprising several recognised apical family groups within them.

The Pink Zone CMA provides for the Eastern Kuku Yalanji people and WTMA to agree on Community Development Plans to provide where certain activities can be undertaken within the Pink Zone inside the Wet Tropics World Heritage Area.

Agreed Community Development Plans and similarly agreed Activity Guidelines describe **where** and detail **how** certain activities can be undertaken. These activities include building houses and other domestic buildings, taking timber for these buildings, constructing roads and grazing cattle in areas designated 'grazing areas'. There are no grazing areas within the Mungumby Pink Zone block addressed by this current plan.

CDPs and AGs are negotiated by the Jabalbina Yalanji Aboriginal Corporation and the Wet Tropics Management Authority (WTMA) working with Eastern Kuku Yalanji people to

1. Identify the individual, family, clan and overall aspirations of all Eastern Kuku Yalanji people for social, cultural and economic development in the Pink Zone block
2. Understand the information about local government planning and building regulations that affect development planning on Pink Zone lands
3. Work out how aspirations for country might affect the conservation values of Aboriginal Freehold Land (Pink Zone)

4. Work with local, State and Australian government authorities and WTMA to make sure that community development plans tie in with their statutory plans and regulations for the region, and
5. Set out how the Community Development Plans (and Activity Guidelines) will be put into effect with housing built, infrastructure in place and Eastern Kuku Yalanji people living back on country.

Jabalbina Yalanji Aboriginal Corporation is both the Trustee of the Jabalbina Yalanji Land Trust and the Registered Native Title Body Corporate that holds the land and native title on trust for all Eastern Kuku Yalanji people in accordance with the people's Native Title and Indigenous Land Use Agreement package. The Wet Tropics Management Authority was tasked by Queensland Government to project manage and facilitate the preparation of sustainable CDPs and AGs

During 2010 and 2011, community meetings were held by Jabalbina and WTMA Pink Zone Team with Eastern Kuku Yalanji people to

- Recall the 2007 Eastern Kuku Yalanji native title determination and what the negotiated ILUAs provided
- Share understanding about the Pink Zone Community Development Plan requirements
- Discuss and confirm the intended CDP outcomes, CDP development methods, and the agreed roles of *Bama*, JYAC, WTMA and other parties
- Work out the communication and decision making structures for each Clan and across the Clans
- And to hear issues and interests from *Bama*.

Outcomes from the meetings informed the CDP development process, including

- Need for more people to better understand the 2007 native title determination and the ILUAs negotiated by *Bama*.
- People want to know better about how all the land and waters planning fits together into the overall picture for *bubu* and *Bama*.
- While organisational structures have been decided across JYAC for encouraging stronger *Bama* involvement, everyone is clear about the need for more *Bama* to be more strongly involved and making lasting decisions at family group and Clan levels.
- *Bama* agree the Community Development Plans are consistent with lore and custom, with what the ILUA says and with other relevant laws including protecting World Heritage values and planning and building regulations.

- CDPs take into account land and cultural matters, people's needs to live in country, and economic aspirations ie. environmental, cultural, social and economic development, with a view to the next 20 years.
 - The *Bama* persons and family groups who speak for country are central. Pink Zone blocks are for all families of the Clan, both on and off country; and the needs across all Eastern Kuku Yalanji are considered because Pink Zone areas aren't across all the Clan groups.
 - Apical ancestor family groups, and 6 Clan working groups, and the JYAC Board are the key *Bama* decision making parties in developing and agreeing the CDPs.
-