

## SCHEDULE 5

### EXTRACTS OF THE WESTERN CAPE COMMUNITIES CO-EXISTENCE AGREEMENT DATED 14 MARCH 2001

#### 1. DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

When used in this Agreement, including the Recitals, the following terms will have the following meanings unless the subject or the context otherwise requires:

| Term                                   | Meaning   |
|--|---|
|  | ...   |
| <b>Additional Native Title Parties</b> | The applicants in Non-conforming Applications or Conforming Applications in respect of any part of the ILUA Area who as at the Commencement Date have not signed this Agreement.  |
|  | ...   |
| <b>Associate</b>                       | An employee, servant, agent or contractor of, or person providing or receiving goods or services to or from, Comalco, a Related Body Corporate of Comalco, a person having any right or interest in relation to any Comalco Interest that is derived from, or granted by, Comalco (for example, a sublessee of part of ML 7024), or a person exercising rights with the permission or authority of Comalco and includes a Comalco Contractor. |
| <b>Aurukun Community</b>               | Aboriginal people who are ordinarily resident in or around the Shire of Aurukun.  |
|  | ...   |
| <b>Claim</b>                           | In relation to any person, a demand, claim, action, proceeding, damage, loss, cost, expense or liability incurred by or to or made or recovered by or against the person, however arising and whether present, unascertained, immediate, future or contingent.  |
| <b>Claim Area</b>                      | The land the subject of a Conforming Application.   |
| <b>Comalco</b>                         | Comalco Aluminium Limited (ACN 009 679 127).  |
| <b>Comalco Act</b>                     | The <i>Commonwealth Aluminium Corporation Pty. Limited Agreement Act 1957</i> (Qld).  |
| <b>Comalco Activities</b>              | Any activity or operation authorised, reasonably contemplated, permitted or required by the Comalco Interests and includes the Weipa Operations.  |

| Term                     | Meaning  |
|--------------------------|--|
| <b>Comalco Agreement</b> | <p>The agreement between Queensland and Comalco referred to in s 2 of the Comalco Act, as varied from time to time pursuant to s 4 of that Act.</p> <p>...</p>   |
| <b>Comalco Interests</b> | <p>Each of the following as they relate to the ILUA Area:</p> <ul style="list-style-type: none"> <li>(a) the Comalco Act;</li> <li>(b) the Comalco Agreement;</li> <li>(c) the Mining Leases;</li> <li>(d) various property interests held by Comalco now or, as of right pursuant to any other interest listed in paragraphs (a)-(c) and (e)-(l) of this definition, in the future (for example, SPMPLs) located inside the boundaries of ML 7024;</li> <li>(e) land within the ILUA Area leased by Comalco from the Ports Corporation;</li> <li>(f) any area of land within the ILUA Area over which Comalco has any continuing right or interest and which land has been excised from ML 7024 (since its grant), including Other Interests;</li> <li>(g) any area of land (not subject to a Mining Lease) on which Comalco or an Associate has a right to place plant, facilities, infrastructure or property in connection with the Weipa Operations (for example, the wharves and related structures at Lorim Point, Humbug Point and Evans Landing);</li> <li>(h) any past act (as the term is defined in the NTA), or any Pre-Existing Right-Based Act the basis for which is the Comalco Act or the Comalco Agreement or any other Comalco Interest and which is conferred on Comalco;</li> <li>(i) any right of Comalco under the Comalco Act or the Comalco Agreement to obtain a further right or interest;</li> <li>(j) any right or interest of Comalco under any law in connection with any other Comalco Interest;</li> </ul> |

| Term                          | Meaning   |
|-------------------------------|---|
|                               | <p>(k) any other right or interest that Comalco is entitled to exercise, or have granted to it, in accordance with or as permitted by this Agreement; and</p> <p>(l) any right of renewal, extension, regrant or replacement of the Comalco Interests, and the renewals, extensions, regrants and replacements so obtained.</p> <p>...</p>  |
| <b>Communities</b>            | <p>Each of the following:</p> <p>(a) the signatories to this Agreement other than Comalco, Queensland and CYLC;</p> <p>(b) Possible Native Title Holders (including the Native Title Parties);</p> <p>(c) Traditional Owners;</p> <p>(d) members of the following Aboriginal peoples, traditional owner groups, associations and communities (which are believed to comprise all the Aboriginal communities with traditional or historic connections to lands within the ILUA Area) and Aboriginal communities in the vicinity of such lands:</p> <p style="padding-left: 40px;">(i) the Aurukun Community;</p> <p style="padding-left: 40px;">(ii) the Mapoon Community;</p> <p style="padding-left: 40px;">(ii) the Napranum Community; and</p> <p style="padding-left: 40px;">(iii) the New Mapoon Community; and</p> <p>(e) all other Aboriginal persons who ordinarily reside in and around the land the subject of the Mining Leases.</p> |
| <b>Conforming Application</b> | <p>A claimant application made or to be made pursuant to this Agreement by a Native Title Party or other applicants on behalf of a Traditional Owner Group for a Model Determination to part of the ILUA Area and certified by CYLC pursuant to s203BE of the NTA, a pro forma for which appears as Schedule 13.</p> <p>...</p>   |
| <b>CYLC</b>                   | <p>Any entity that is determined to be a representative Aboriginal body under the NTA for any part, or all, of the ILUA Area, which at the Commencement Date is Cape York Land Council Aboriginal Corporation.</p> <p>...</p>   |

| Term                            | Meaning   |
|---------------------------------|---|
| <b>Designated Minerals</b>      | <p>Bauxite and kaolin and does not include minerals that are subsequently designated pursuant to clause 1 of the Comalco Agreement.</p> <p>...</p>  |
| <b>Hindering Action</b>         | <p>An act or omission of a Traditional Owner Group or a Traditional Owner or any person on their behalf which causes or contributes to, directly or indirectly, the cessation of the registration of this Agreement or the non-registration of this Agreement (whichever is relevant).</p> <p>...</p>   |
| <b>ILUA</b>                     | <p>An indigenous land use agreement (area agreement) under subdivision C, division 3 of part 2 of the NTA to which the Native Title Parties are parties as registered native title claimants, applicants or proposed applicants in relation to areas totalling the ILUA Area, but a reference to a separate ILUA is taken to be a reference to such an agreement to which the Native Title Parties are the registered native title claimants, applicants or proposed applicants to the “Claim Area or such other area within the ILUA Area determined by Comalco” as referred to in clause 2.5.1.</p> |
| <b>ILUA Area</b>                | <p>The land within the area shown on the map in Attachment 1, subject to the area being decreased under clauses 2.5 or 5.5.</p>   |
| <b>ILUA Area B</b>              | <p>The area marked as area B in the plan of the ILUA Area.</p> <p>...</p> <p>...</p>  |
| <b>Mining Leases</b>            | <p>ML 6024 (formerly ML 3), ML 7024, any other mining lease (or lease that is ancillary to mining) granted to Comalco in accordance with the Comalco Act and the Comalco Agreement and any renewal, extension, regrant or replacement of any of them within the ILUA Area.</p>  |
| <b>Model Determination</b>      | <p>A native title determination in favour of a Native Title Party in the terms of the draft determination set out in Schedule 1.</p> <p>...</p>   |
| <b>Native Title Application</b> | <p>An application, claim or proceedings in relation to native title (including any application claiming native title or seeking a native title determination), whether under the NTA or otherwise.</p>  |

| <b>Term</b>                       | <b>Meaning</b>   |
|-----------------------------------|--|
| <b>Native Title Parties</b>       | <p>Those Possible Native Title Holders who:</p> <ul style="list-style-type: none"> <li>(a) are authorised, in accordance with s251A of the NTA, by the Possible Native Title Holders in each of the Traditional Owner Groups to make and sign this Agreement as an ILUA on behalf of each of the Traditional Owner Groups;</li> <li>(b) pursuant to obligations contained in this Agreement:           <ul style="list-style-type: none"> <li>(i) either are or will be the applicants in Conforming Applications; or</li> <li>(ii) must endeavour to procure other applicants to amend their Non-conforming Applications to render them Conforming Applications; and</li> </ul> </li> <li>(c) have signed this Agreement on the Commencement Date namely:           <ul style="list-style-type: none"> <li>(i) the current registered native title claimants; and</li> <li>(ii) authorised signatories for each Traditional Owner Group,</li> </ul> </li> </ul> <p>being those persons named in Schedule 16; and</p> <ul style="list-style-type: none"> <li>(d) from their respective dates of signing, those Additional Native Title Parties who sign this Agreement pursuant to clause 2.4.5.</li> </ul> <p>...</p> |
| <b>New SP MPL</b>                 | <p>Any SP MPL granted or purported to be granted, on or after 23 December 1996, or to be granted in the future, for any land within the Weipa Township.</p> <p>...</p>   |
| <b>Non-conforming Application</b> | <p>A claimant application which is:</p> <ul style="list-style-type: none"> <li>(a) made on behalf of a Traditional Owner Group;</li> <li>(b) not a Conforming Application; and</li> <li>(c) made before the registration of this Agreement.</li> </ul>   |
| <b>NTA</b>                        | <p><i>Native Title Act 1993 (Cth).</i></p>   |
| <b>Other Interests</b>            | <p>Any SP MPL granted for any land within the Weipa Township and any title into which it may have been converted, whether held by Comalco or not.</p> <p>...</p>   |

| <b>Term</b>                              | <b>Meaning</b>  |
|--|---|
| <b>Parties</b>                           | <p>Comalco, the State of Queensland, CYLC and each other person signing this Agreement, every member of the Communities and all persons to whom s24EA(1)(b) of the NTA applies.</p> <p>...</p>  |
| <b>Ports Corporation</b>                 | <p>The Ports Corporation of Queensland.</p>   |
| <b>Possible Native Title Holders</b>     | <p>All persons who hold or may hold native title in the ILUA Area.</p>  |
| <b>Pre-Existing Right-Based Act</b>      | <p>Has the meaning in s24IB of the NTA, and to the extent they are not covered by that definition, includes the acts under the Comalco Act or the Comalco Agreement as they relate to the ILUA Area which are listed in Schedule 12.</p> <p>...</p> |
| <b>Procedural Requirements</b>           | <p>The procedural rights (as that term is defined in s253 of the NTA) set out in s241D of the NTA but excluding those relating to compensation.</p> <p>...</p>  |
| <b>SBML 1</b>                            | <p>Special Bauxite Mining Lease 1 granted pursuant to the Comalco Act and the Comalco Agreement.</p>  |
| <b>Short Term Non-registration Event</b> | <p>Where there has been a Hindering Action relating to the non-registration of this Agreement and this Agreement has not been registered within 12 months from the Commencement Date.</p> <p>...</p>  |
| <b>SPMPL</b>                             | <p>A Special Perpetual Mining Purposes Lease granted or to be granted pursuant to clause 27 of the Comalco Agreement.</p> <p>...</p>  |

| Term                            | Meaning   |
|---------------------------------|---|
| <b>Traditional Owner Groups</b> | <p>The native title claim groups of the ILUA Area on whose behalf Conforming Applications have been made or are required to be made pursuant to the obligations in the Agreement, namely:</p> <ul style="list-style-type: none"> <li>(a) the Alngith People;</li> <li>(b) the Anathangayth People;</li> <li>(c) the Ankamuthi People;</li> <li>(d) the Peppan People;</li> <li>(e) the Taepadhighi People;</li> <li>(f) the Thanikwithi People;</li> <li>(g) the Tjungundji People;</li> <li>(h) the Warrangu People;</li> <li>(i) the Wathayn People;</li> <li>(j) the Wik and Wik-Way Peoples; and</li> <li>(k) the Yupungathi People.</li> </ul> |
| <b>Trustee</b>                  | <p>The trustee of the WCCT.</p> <p>...</p>  |
| <b>Weipa Operations</b>         | <p>The activities and operations carried on and things done, from time to time, by Comalco or an Associate:</p> <ul style="list-style-type: none"> <li>(a) within the ILUA Area pursuant to or in connection with any of the Comalco Interests; or</li> <li>(b) outside the ILUA Area, but which relate to the matters referred to in (a) including shipping cargo and minerals to and from the ILUA Area and use of the Port of Weipa or any other port within the ILUA Area and shipping channels.</li> </ul> <p>...</p>  |

## 1.2 Interpretation

In this Agreement, including the Recitals, except to the extent that the subject or the context otherwise requires:

1.2.1 the following terms have the meanings respectively assigned to them in the NTA:

1.2.1.1 applicant;

1.2.1.2 claimant application;

1.2.1.3 native title claim group;

1.2.1.4 registered native title claimant;

- 1.2.1.5 representative body;
- 1.2.1.6 native title;
- 1.2.1.7 native title group;
- 1.2.1.8 native title holder;
- 1.2.1.9 native title rights and interests; and
- 1.2.1.10 for the purposes of any provisions in this Agreement concerning native title or native title rights and interests:
  - 1.2.1.10.1 land; and
  - 1.2.1.10.2 waters.
- 1.2.2 a reference to Aborigines, Aboriginal People or Aboriginals is a reference to Aboriginal peoples as defined in s253 of the NTA;
- 1.2.3 reference to any legislation or to any provision of any legislation includes any modification or re-enactment of, or any legislative provision substituted for, and all legislation and statutory instruments issued under, such legislation or such provision and includes the corresponding legislation in such other State or Territory of the Commonwealth of Australia as may be relevant from time to time;
- 1.2.4 words (including words defined in this Agreement) denoting the singular number include the plural and vice versa;
- 1.2.5 words importing natural persons (where appropriate) include corporations, firms, unincorporated associations, partnerships, trusts and any other entities recognised by law and vice versa;
- 1.2.6 words denoting any gender include all genders;
- 1.2.7 words “written” and “in writing” include any means of visible reproduction of words in a tangible and permanently viable form;
- 1.2.8 reference to a “right” includes an entitlement, remedy, discretion and power;
- 1.2.9 reference to “interest” includes any estate or interest, legal or beneficial, and whether real or personal;
- 1.2.10 reference to “permit” includes consent to, authorise and allow;
- 1.2.11 reference to “valid” includes having full force and effect and reference to “invalid” includes not having full force and effect;
- 1.2.12 reference to a “People” in the list of the Parties on page 1 of this Agreement is



a reference to the Native Title Parties for those People, as detailed in the definition of Native Title Parties in clause 1.1;

1.2.13 reference to a “native title determination” means a native title determination as defined in s 225 of the NTA;

1.2.14 reference to “registration” in relation to applications for native title determinations refers to registration on the Register of Native Title Claims and in relation to this Agreement refers to registration on the Register;

1.2.15 when referring to native title, “affects” has the same meaning as in s227 of the NTA;

1.2.16 when referring to native title or native title rights and interests, a “surrender” takes place on the later of:

1.2.16.1 immediately after the registration of this Agreement; or

1.2.16.2 the event on the occurrence of which the Parties have agreed the surrender is to occur,

and means a surrender of those native title rights and interests to Queensland;

1.2.17 reference to “consent” to an act after the Registration Date by the Communities or the Native Title Parties means that the Communities or the Native Title Parties also give that consent from the Commencement Date by virtue of the operation of this Agreement at common law;

1.2.18 if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing;

1.2.19 reference to anything (including a right, obligation or concept) includes each part of it;

1.2.20 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;

1.2.21 reference to a Schedule or an Attachment is a reference to a schedule or attachment to this Agreement;

1.2.22 reference to a sub-clause is a reference to the sub-clause of the clause in which it appears, reference to a paragraph is a reference to a paragraph of the sub-clause in which it appears and reference to a sub-paragraph is a reference to a sub-paragraph of a paragraph in which it appears;

1.2.23 reference to a document or agreement, or provision of a document or agreement, is to that document, agreement or provision as novated, supplemented, varied or replaced from time to time;

- 1.2.24 a recital, schedule, annexure or a description of the Parties forms part of this Agreement;
- 1.2.25 a reference to any party to this Agreement or any other document or arrangement or other party identified in this Agreement or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns and agents;
- 1.2.26 a reference to a Minister, Department, authority, body or person includes the Minister, Department, authority, body or person for the time being performing the functions performed by the Minister, Department, authority, body or person at the Commencement Date;
- 1.2.27 unless otherwise stated, a reference to “dollars” or “\$” is to Australian currency;
- 1.2.28 a reference in the body of this Agreement or in a Schedule to a clause is a reference to a clause in the body of this Agreement or that Schedule, respectively;
- 1.2.29 ...
- 1.2.30 where under this Agreement, Comalco commits to discriminate positively in favour of Aboriginal persons, Comalco will use its best endeavours to obtain such authorisations, if any, as may be necessary to allow it to lawfully discriminate in the manner outlined in this Agreement but Comalco's commitments are only activated once Comalco has obtained those authorisations;
- 1.2.31 a reference to “relevant Traditional Owner Groups” is to those Traditional Owner Groups whose Claim Areas include the land to which the operation of a provision applies and if there is uncertainty as to their identity those nominated by the Co-ordinating Committee;
- 1.2.32 a reference to land is to be taken to be also a reference to waters;
- 1.2.33 ...
- 1.2.34 “extension” refers to an extension of term; and
- 1.2.35 consents in this Agreement when given on behalf of a native title holder are deemed to have been authorised in accordance with s251A of the NTA.

### **1.3 Headings**

The headings in this Agreement are for the purpose of more convenient reference only and will not form part of this Agreement or affect its construction or interpretation.

## **1.4 Parts of agreement applying to Queensland**

### **1.4.1 Queensland will not be:**

1.4.1.1 bound by any obligations under this Agreement expressed to be obligations of a Party or the Parties; and

1.4.1.2 entitled to exercise any rights under this Agreement expressed to be a right of a Party or the Parties,

unless they are expressly stated to apply to Queensland. Further, Queensland is not entitled to rely on any acknowledgment in this Agreement unless it is expressly stated to be for the benefit of Queensland.

1.4.2 Queensland is bound by, entitled to exercise rights under, and receives the benefits of clauses 1, 2 (but it is not bound by any provisions, including clauses 2.3.11, 2.4, 2.7, 2.8, 2.9 and 2.11.1, to the extent those provisions require it to accept the terms of the Model Determination or its operation), 4, 5, 11.4, 19, 20, 21, 22 and 26 to 46 inclusive and the corresponding schedules.

## **1.5 Interpretation for Native Title**

1.5.1 Despite any other provision of this Agreement, the provisions of this Agreement which deal with the co-existence of native title and the Comalco Interests, the Other Interests, or the performance of the Comalco Activities on any land the subject of SBML 1 when it was originally granted apply only to those parts of the ILUA Area where native title was not extinguished by:

1.5.1.1 the enactment of the Comalco Act in 1957, the making of the Comalco Agreement, or the grant of SBML 1; or

1.5.1.2 any other rights or interests granted pursuant to the Comalco Act, the Comalco Agreement or SBML 1; or

1.5.1.3 any other legislation,

and nothing in this Agreement compromises the rights of any Party to contend that native title has been extinguished, either fully or partially, in all or any part of the ILUA Area but Comalco will only contend such extinguishment if any member of the Communities or any person on their behalf makes a Claim contending that native title survives to:

1.5.1.4 the Designated Minerals within or taken from the Mining Leases; or

1.5.1.5 New SPMPLs or Other Interests.

1.5.2 Neither Comalco nor any other Party may rely on the surrenders or extinguishments referred to in clauses 2.2.3 and 2.2.4 in any court proceedings:

1.5.2.1 prior to the Registration Date in relation to surrenders within clause 1.2.16.1; and

1.5.2.2 prior to the date of surrender in relation to surrenders within clause 1.2.16.2 except for the specified purposes of the surrender,

except in proceedings relating to the enforcement of this Agreement or any native title determination or claimant application to the extent that it relates to the ILUA Area.

1.5.3 Where this Agreement states that the native title rights and interests have “no effect”, it means that the traditional rights and interests comprising native title are not able to be enjoyed or exercised but, where applicable and subject to the other provisions of this Agreement, the Communities are able to exercise the rights given to them under the NTA, such as the right to negotiate<sup>1</sup> and the right to be consulted about various activities.

1.5.4 Where this Agreement provides that native title rights and interests have “no effect” in relation to the Comalco Interests or the performance of the Comalco Activities, but “again have effect”, the Communities have no cause of action against Comalco:

1.5.4.1 for the lawful performance of the Comalco Activities; and

1.5.4.2 for things lawfully done under the authority of the Comalco Interests,

regardless of whether the Comalco Activities could have been done in a manner which would have had a lesser effect on the native title rights and interests, either temporarily or permanently.

...

## **2. NATIVE TITLE**

### **2.1 Agreement Procedures**

2.1.1 The Communities are making this Agreement as occupants and residents of western Cape York Peninsula and, to the extent that they hold or may hold native title, they have authorised the making of this Agreement for the purpose of it constituting an ILUA for the whole of the ILUA Area, and as separate ILUAs as contemplated under clause 2.5.

2.1.2 The Parties agree that this Agreement is to be registered as one ILUA or separate ILUAs.

<sup>1</sup> The “right to negotiate” procedures are set out in subdivision P, division 3 of part 2 of the NTA.

## 2.2 Acknowledgments of Past Matters and Present and Future Consents

The Parties make the following acknowledgments and agree to the stated effects of the acknowledgments and, subject to this Agreement, give the stated consents.

2.2.1 The Comalco Interests, the Other Interests, and the performance of the Comalco Activities to the Registration Date are valid. If any of the Comalco Interests and Other Interests, or the performance of any of the Comalco Activities, have ever been invalid to any extent, the Parties agree to their validation, and that they are taken to be valid and always to have been valid.

2.2.2 On the enactment of the Comalco Act in 1957, the making of the Comalco Agreement, or the grant of SBML 1, any native title rights which may have existed yielded to the extent of any inconsistency between them and the Comalco Act, the Comalco Agreement, the conferral of any of the Comalco Interests and the performance of the Comalco Activities, whether done before or after the Registration Date. The yielded native title rights therefore do not and would not affect, by preventing, inhibiting, restricting, or otherwise qualifying, the conferral of the Comalco Interests or the performance of the Comalco Activities in any way at any time.

2.2.3 In relation to Other Interests and New SPMPLs:

2.2.3.1 at the times of the grants, or purported grants of any Other Interests or any New SPMPLs prior to the Registration Date; and

2.2.3.2 at the time of the grants of any New SPMPLs after the Registration Date,

native title has been, or will be, whichever is relevant, extinguished to the land the subject of the grants, and any that has otherwise survived or would otherwise have survived, is surrendered with that intention. The Communities consent to the grant of any New SPMPLs after the Registration Date.

2.2.4 In recognition of the benefits Comalco and Queensland has agreed to make available to the Communities under this Agreement and the position Comalco is adopting regarding the possible survival of native title to the ILUA Area, to allay doubt, if any native title rights presently subsist to all, or a portion of, the Designated Minerals either presently within, or previously taken from, the Mining Leases, those native title rights are surrendered with the intention that they be extinguished. The effect of this clause applies notwithstanding any decision of any Court regarding the extinguishment or otherwise of native title in minerals generally. The Communities will not contend the existence or survival of native title to any of the Designated Minerals, or a portion of the Designated Minerals as resources taken from the Mining Leases, either presently within, or previously taken from, the Mining Leases, from the enactment of the Comalco Act in 1957, the making of the Comalco Agreement, or the grant of SBML 1. Comalco and Queensland may plead this clause in bar to any Claim brought by the Communities, any member of the Communities or any person on or for their behalf, so contending the existence

or survival of native title to the Designated Minerals. The Communities by entering into this Agreement consent to Comalco or Queensland becoming a party in any matter where such a Claim is made.

- 2.2.5 For resources taken by Comalco under the authority of the Comalco Interests from the ILUA Area (other than the Designated Minerals), the Communities' native title rights and interests do not include a right to a portion of those resources. However to allay doubt, if any native title rights and interests comprise those rights, the Communities waive any entitlement to enforce those native title rights which may have arisen on or before the Commencement Date as against Comalco or Queensland and agree not to exercise such rights after the Commencement Date against Comalco or Queensland.
- 2.2.6 The Communities consent to all acts conferring upon Comalco any of the Comalco Interests listed in subparagraphs (c), (d) and (g) to (l) inclusive of the definition of "Comalco Interests" in clause 1.1 after the Registration Date and the performance of the Comalco Activities, regardless of whether those acts affect, or would but for this Agreement, affect native title.
- 2.2.7 If, but for this Agreement, Procedural Requirements would have applied to the conferral of a Comalco Interest, Comalco must perform those Procedural Requirements as if they still applied.
- 2.2.8 In relation to the Ports Corporation, the Communities consent to, after the Registration Date:
  - 2.2.8.1 the vesting or grant of any land within the ILUA Area to the Ports Corporation; and
  - 2.2.8.2 the conferral on the Ports Corporation or Comalco of all rights necessary to enable:
    - 2.2.8.2.1 the grant of the Comalco Interests, including the grant of any such interest by the Ports Corporation; and
    - 2.2.8.2.2 Comalco to perform the Comalco Activities,and nothing in this clause is intended to preclude the application of any law concerned with the protection of Aboriginal cultural heritage or environmental protection.
- 2.2.9 After the Registration Date, the Communities consent to the shipping of goods in and out of Weipa, and to any other points in the Comalco Interests near or adjacent to the sea or any waterway, but only pursuant to the Comalco Interests or for the performance of the Comalco Activities and nothing in this clause is intended to preclude the application of any law concerned with the protection of Aboriginal cultural heritage or environmental protection.

## 2.2.10 Public Services for Weipa Township

2.2.10.1 The Communities consent to:

2.2.10.1.1 the construction, operation, use, maintenance or repair of; and

2.2.10.1.2 the conferral of rights or interests on any person with respect to

facilities (including but not limited to the facilities listed in Schedule 2) for public purposes in Weipa Township.

2.2.10.2 For the purposes of Queensland, the Director-General, Department of Natural Resources and Mines will be responsible for the administration of this clause.

## 2.3 Acknowledgments – Present and Future Matters

The Parties also make the following acknowledgments and agree to the stated effects of the acknowledgments.

2.3.1 Subject to this Agreement, Comalco is entitled to exercise all rights and interests conferred by the Comalco Interests and to perform the Comalco Activities lawfully in the manner Comalco, in its absolute discretion, deems fit and without incurring any liability to the Communities.

2.3.2 The Comalco Activities constitute activities for the purposes of s44H of the NTA.

2.3.3 Comalco is entitled to exercise a right to exclude any persons from those parts of the ILUA Area required by Comalco in exercise of the rights conferred by the Comalco Interests, the performance of the Comalco Activities, or this Agreement from time to time for operational, safety or security reasons or as required by any law.

2.3.4 For the areas where Comalco exercises a right to exclude persons:

2.3.4.1 any native title rights and interests are wholly inconsistent with the performance of the Comalco Activities and the exercise of rights under the Comalco Interests and may not be exercised by the Communities for the duration of the inconsistency;

2.3.4.2 despite any invitations or licences given by Comalco to others to enter those areas, Comalco's right to exclusive possession includes an entitlement to exclude all others from those areas; and

2.3.4.3 the native title rights and interests will continue to exist in their entirety but will have no effect in relation to the exercise of rights

under the Comalco Interests or the performance of the Comalco Activities.

2.3.5 For the areas where Comalco does not exercise a right to exclude persons as acknowledged in this Agreement:

2.3.5.1 where any Comalco Interest or the performance of any Comalco Activity is partly inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests, the native title continues to exist in its entirety but the native title rights and interests have no effect on the exercise of rights pursuant to the Comalco Interests or the performance of the Comalco Activities to the extent of any inconsistency; and

2.3.5.2 to the extent that the native title rights and interests are not inconsistent with the Comalco Interests or the performance of the Comalco Activities, the native title rights and interests are exercisable to their full extent in respect of the ILUA Area.

2.3.6 After land ceased or ceases to be subject to the Comalco Interests, native title rights and interests again had effect or can again have effect to the extent possible having regard to the effect of the Comalco Interests and the performance of the Comalco Activities. This clause is not intended to limit the operation of ss 47, 47A or 47B of the NTA.

2.3.7 Despite the acknowledgments by the Communities in clause 2.2, to the extent that native title rights and interests continue to exist, the interaction between them and the Comalco Interests and the performance of the Comalco Activities is as described in this Agreement.

2.3.8 Subdivision P, division 3 of part 2 of the NTA<sup>2</sup> is not intended to apply, and does not apply, to any of the acts consented to or supported in this Agreement including to the renewal, regrant, extension or replacement of the Mining Leases, the grant of any Comalco Interests, or any alterations to any “right to mine” (as the term is used in subdivision P) resulting from environmental requirements, after the Registration Date.

2.3.9 Subject to clause 2.3.10, Comalco has the right (subject to obtaining any necessary Government approvals) to permit (including by way of lease, sublease, licence, delegation, assignment, invitation, or any other dealing) third parties to do any or all of the following:

2.3.9.1 exercise any of the rights conferred by the Comalco Interests or this Agreement;



2.3.9.2 perform the Comalco Activities; or

2.3.9.3 enter and remain on any area of the Comalco Interests for any purpose related to the maintenance or promotion by Comalco of its business interests, and

in exercising the rights described in this clause, Comalco will be mindful of the cultural sensitivities of the Communities.

2.3.10 In permitting third parties to carry out the activities referred to in clause 2.3.9, Comalco must require the third parties to abide by the provisions of this Agreement which would apply to Comalco if it was carrying out the activities, including the provisions dealing with cultural heritage. Comalco will remain liable to the Communities for the performance of Comalco's obligations under this Agreement by such third parties as though the acts or omissions of such third parties were the acts or omissions of Comalco.

2.3.11 Subject to this Agreement and the rights under the Comalco Interests, the native title rights and interests to the ILUA Area that might be possessed by the Possible Native Title Holders for the duration of the Comalco Interests are as specified in Order 3 in the Model Determination.

2.3.12 In relation to the ILUA Area, until the termination of the Comalco Interests the native title rights and interests of the Possible Native Title Holders do not confer possession, occupation, use and enjoyment of the land of any part of the ILUA Area to the exclusion of all others.

## **2.4 Registering this Agreement as an ILUA**

2.4.1 In addition to all other effects that this Agreement may have at law, it constitutes an ILUA, and by execution of this Agreement, the Parties agree to its registration and to take the following steps as applicable to each of them.

2.4.1.1 As soon as practicable after the Commencement Date, the Native Title Parties who are not applicants in relation to any part of the ILUA Area at the Commencement Date will either:

2.4.1.1.1 lodge Conforming Applications in which they are the applicants; or

2.4.1.1.2 procure applicants from their respective Traditional Owner Groups to lodge Conforming Applications,

so that, subject to clause 2.4.1.2 and to the extent permitted by law, all parts of the ILUA Area are subject to Conforming Applications.

2.4.1.2 As soon as practicable, but in any event no later than 6 months after the Commencement Date, the Native Title Parties who are applicants in relation to any part of the ILUA Area at the Commencement Date

or who have been Additional Native Title Parties will either amend their claimant applications, in respect of the ILUA Area, to render them Conforming Applications or withdraw that part of their claimant application, in respect of the ILUA Area, and lodge Conforming Applications in accordance with clause 2.4.1.1.

2.4.1.3 A failure by a Native Title Party to comply with clause 2.4.1.2 will be deemed to give rise to a Determination that there has been a Short Term Non-registration Event and Comalco may exercise its rights under clause 2.6.3.1 accordingly.

2.4.1.4 The Native Title Parties must use their best endeavours to procure:

2.4.1.4.1 the applicants in any Non-conforming Applications to amend their Non-conforming Application to render them Conforming Applications; and

2.4.1.4.2 any Additional Native Title Parties who become registered native title claimants to sign and agree to be bound by the terms of this Agreement.

2.4.1.5 The Native Title Parties will ensure that the applicants have, in accordance with s251B of the NTA, proper authorisation for the making of their Conforming Applications.

2.4.1.6 If a Conforming Application is not registered on the Register of Native Title Claims, then the Native Title Parties must use their best endeavours to ensure that the claimant applications made on behalf of their respective Traditional Owner Groups are registered on the Register of Native Title Claims, including by making such amendments, as agreed by Comalco, as may be necessary for registration; providing such material in support of the amended application as the Registrar or the Federal Court may require; and making such application to the Federal Court as may be necessary to achieve registration.

...

2.4.1.11 The Communities will not object to the registration of this Agreement, will use their best endeavours to have an objector withdraw any objection to registration of this Agreement and, once this Agreement is registered, will not apply to any Court, under the NTA or otherwise, to have this Agreement removed from the Register.

2.4.1.12 CYLC and the Communities will each use their best endeavours to ensure that this Agreement remains registered.

2.4.1.13 Notwithstanding clause 2.4.1.1 but subject to clause 2.4.1.14, the Native Title Parties will not be required to lodge a Conforming Application for ILUA Area B.

2.4.1.14 If a person other than a Native Title Party or an applicant authorised by a Traditional Owner Group lodges a claimant application that includes any part of the ILUA Area, then the Native Title Parties, who are the Possible Native Title Holders for that part of the ILUA Area, must, as soon as practicable after the claimant application is made, lodge or procure the lodgement of, on behalf of their Traditional Owner Group, a Conforming Application in relation to that area in accordance with this clause 2.4.1.

...

2.4.5 The Parties acknowledge that some Additional Native Title Parties might agree to be bound by the terms of this Agreement after the Commencement Date. The Parties agree to the amendment of this Agreement:

2.4.5.1 by the addition of the names of those Additional Native Title Parties in Schedule 16; and

2.4.5.2 the signing of this Agreement by those Additional Native Title Parties,

without the necessity for the Parties, other than the Additional Native Title Parties whose names are being added, to sign the amendment. On signing this Agreement as amended in accordance with this clause 2.4.5, an Additional Native Title Party is bound by, entitled to exercise rights under, and receives the benefits of this Agreement from the date of signing.

## **2.5 Separate ILUAs for Separate Areas**

2.5.1 For the purposes of s199C of the NTA and despite anything else contained in this Agreement or any rule of law to the contrary:

2.5.1.1 subject to clause 2.5.2, this Agreement may be registered as a separate ILUA for each Claim Area or such other area within the ILUA Area determined by Comalco after consultation with CYLC and Attachment 1 will be amended accordingly; and

2.5.1.2 for each such separate ILUA a reference to "ILUA Area" will be taken to be a reference to that Claim Area or such other area within the ILUA Area determined by Comalco after consultation with CYLC.

2.5.2 Although this Agreement embodies what may become a number of separate ILUAs (see clause 2.5.1), Comalco may, for convenience, exercise its rights or perform its obligations as if all such ILUAs were the one agreement. The performance by Comalco of its obligations or the exercise of its rights as

described under this Agreement will be deemed to be the performance of obligations or the exercise of rights for all of the ILUAs referred to in clause 2.5.1.

2.5.3 If at any time:

2.5.3.1 it appears to Comalco that it is likely that a native title determination will be made; or

2.5.3.2 a native title determination is made,

in relation to any part of the ILUA Area (referred to in clause 2.5 as the “**Relevant Part**”) in favour of any Aboriginal person not a party to, or bound by, this Agreement (referred to in this clause 2.5 as the “**New Native Title Holder**”) which will cause s199C(1)(b) of the NTA to apply:

2.5.3.3 then Comalco is entitled to notify the Native Title Registrar that the ILUA Area is reduced by the Relevant Part and does not include, and is taken not to relate to, the Relevant Part (and if the native title determination is made as contemplated in clause 2.5.3.2, the notification will be deemed to have been given); and

2.5.3.4 CYLC and the Communities will use their respective best endeavours to ensure that the New Native Title Holder:

2.5.3.4.1 adopts and enters into this Agreement as a Native Title Party; and

2.5.3.4.2 makes the appropriate applications to the Federal Court under s199C(1A) of the NTA seeking an order that the Federal Court not remove the details of this Agreement from the Register or, if removal is inevitable, only the minimum area possible.

2.5.4 During any period of time that this Agreement is not registered over a Relevant Part upon the Register under clause 2.5.3, then the provisions of this Agreement (other than clauses 1, 2, 3, 4, 16, 17, 18, 19, 20, 21, 22, 24, 27 and 31 through to 46 (inclusive) and the related Schedules and Attachments) will cease to apply to the Relevant Part during the relevant period.

2.5.5 If this Agreement is (or its details are) removed from the Register, and the New Native Title Holder declines to become a party to this Agreement, or it is reasonably clear, from the circumstances, that the holder does not wish to become a party to this Agreement, the Parties will use their best endeavours to ensure that this Agreement is again registered in respect of the ILUA Area except for the Relevant Part, and for the purposes of this Agreement:

2.5.5.1 “ILUA Area” is taken to exclude the Relevant Part;

2.5.5.2 (for the avoidance of doubt) clause 2 will, to the extent practicable, apply again.

...

## **2.11 Commitments related to clause 2**

2.11.1 Except where it is allowed by this Agreement, no Party may at any time:

2.11.1.1 make a Claim in relation to the ILUA Area or the subject matter of this Agreement (whether a part of any application or other proceedings in a court, tribunal, arbitral body or other judicial or semi-judicial forum) that any matter or thing is contrary to a Model Determination or any other provision in clause 2; or

2.11.1.2 commence or prosecute any Native Title Application in connection with the ILUA Area other than a Conforming Application.

2.11.2 Unless otherwise agreed in writing by the Parties, the Communities must not, at any time, take any action to:

2.11.2.1 except as contemplated by clauses 5.4, 5.6, 11.1 and 11.2, seek the conversion of the underlying tenure of any land the subject of any Comalco Interest into Aboriginal Land;

2.11.2.2 except as contemplated by clauses 5.4, 5.6, 11.1 and 11.2 and the Weipa Township Agreement, seek any other grants of freehold or leasehold title within the ILUA Area which would impede, interfere with or prejudicially affect any of Comalco's rights or interests under the Comalco Interests or this Agreement; or

2.11.2.3 commence or prosecute any claim or other legal action relating to cultural heritage in connection with the land the subject of the Comalco Interests, except in accordance with clause 27.

2.11.3 If any Party (other than Comalco or Queensland) materially breaches the condition referred to in clause 2.11.1, Comalco may, at its discretion (and without limiting its other rights) oppose any Native Title Application in so far as it relates to that Party in any manner it sees fit (including by contending that native title to or part of, the ILUA Area has been extinguished).

## **2.12 Warranties by the Communities**

The Communities represent and warrant to Comalco that:

2.12.1 the native title groups (other than CYLC), on whose behalf the Native Title Parties have been authorised to sign this Agreement, in respect of all parts of the ILUA Area have been identified and are as identified in the:

...; and

2.12.2 the members of each of the Traditional Owner Groups to make Conforming Applications in respect of all parts of the ILUA Area have, in accordance with s251A of the NTA, properly authorised the making of this Agreement.

...

## **2.14 NTA Authorisation**

2.14.1 The Parties acknowledge that, but for this Agreement, certain activities may nevertheless be permitted by provisions of the NTA (other than by subdivision C, division 3 of part 2 of the NTA).

2.14.2 If a Government proposes to do any of the things the subject of the sections referred to in s24AA(4)(e), (f) and (i) of the NTA, in relation to the ILUA Area and those things directly relate to the Comalco Interests or the performance of the Comalco Activities, then such things are consented to, valid and permitted under and covered by this Agreement.

## **3. SUPPORT FOR COMALCO INTERESTS AND COMALCO ACTIVITIES**

### **3.1 General support**

3.1.1 The Communities agree to, and support, Comalco's having and obtaining the Comalco Interests and the performance of the Comalco Activities.

3.1.2 The Communities will support the grant, from time to time, to Comalco of such Government approvals and authorisations in the future that are necessary for the performance of the Comalco Activities or as may be required for Comalco Activities. The Communities are not required to incur any expense in the performance of their obligations.

3.1.3 If after the Commencement Date, Comalco lawfully acquires any new rights or interests in relation to the ILUA Area (including after, where relevant, following any processes under the NTA), the Communities agree to support such rights as if they were part of the Comalco Interests under this Agreement.

3.1.4 Comalco, or any of its Associates, may carry out any act or activity, directly or indirectly, permitted or supported by clauses 3.1.1 and 3.1.2 as of right and without any payment to any other Party under this Agreement.

### **3.2 Specific Support**

3.2.1 The support contemplated in clause 3.1 includes, subject to this Agreement, requirements that the Communities will:

3.2.1.1 support the same or similar activities carried out in parts of the Comalco Interests not previously used (for example, mining in, or transportation or access over, new areas) and construction of plant,

facilities and infrastructure for the performance of the Comalco Activities;

- 3.2.1.2 as an alternative to ML 6024, consent to the grant of any interests that may be necessary for Comalco for access to or to transport materials between the areas of land the subject of ML 7024 which are north and south of the Embley River and to enable the construction of any infrastructure required for that access or transportation; or
- 3.2.1.3 if required, consent to any extensions, renewals or replacements of ML 7024 or ML 6024,

even though such rights and interests may, notwithstanding the provisions of this Agreement, be Pre-Existing Right-Based Acts.

- 3.2.2 Nothing in this clause 3 is intended to preclude the application of any law concerned with the protection of Aboriginal cultural heritage or environmental protection.

### **3.3 Support for Gas or Energy Supply**

- 3.3.1 Subject to the payment under clause 3.3.2, the Communities consent to the grant of any rights over the ILUA Area necessary to enable the supply of gas to the Weipa Operations and to lay any related gas pipelines or provide any storage installations and other facilities and these rights must:
  - 3.3.1.1 be substantially similar to the rights granted over native title rights and interests for the provision of gas spur pipelines in Cape York but outside the ILUA Area (for example the gas spur lines from the proposed PNG/Queensland Gas pipeline);
  - 3.3.1.2 have a substantially similar effect on native title rights and interests as those referred to in clause 3.3.1.1 and any compensation referred to in clause 3.3.2 will be substantially similar to that paid for the effect on native title rights and interests of the grant of the provision of gas spur pipelines in Cape York but outside the ILUA Area.
- 3.3.2 The nature of the rights, their effect on native title rights and interests and any compensation will be agreed by Comalco and the Co-ordinating Committee following consultation with the relevant Traditional Owner Groups. The amount of compensation must be paid to the Trustee and applied in accordance with this Agreement.
- 3.3.3 If the Co-ordinating Committee and Comalco cannot agree on the amount referred to in clause 3.3.2 within a reasonable time, then either may give the other notice that there is a Dispute. Clause 27 will apply to the Dispute subject to the dispute being determined by the person whom the Co-ordinating Committee and Comalco agree has, under other agreements, determined, or been appointed to determine, the amount payable as compensation for the effect on native title rights and interests of the grant of similar rights within

Cape York but outside the ILUA Area. Where they cannot agree on the appointment or there is no such person, then the appointment will be made by the President of the Institute of Arbitrators.

### **3.4 Change in circumstances**

The commitments of the Parties under this Agreement (in particular, clauses 2 and 3) are intended to provide long-term benefits for the Parties, even if the law or circumstances change over time. Without any limitation:

- 3.4.1 the commitments continue even if, for some reason at some time in the future, any of the Parties obtain further rights or interests or new rights or interests are given to any of the Parties (for example, by future legislation), in relation to the ILUA Area; and
- 3.4.2 if the Parties obtain further or new rights or interests in relation to the ILUA Area that, if exercised, might hinder or impede the rights of any other Party, the Parties agree to exercise those rights in a way that is consistent with this Agreement.

...

## **10. THIRD PARTY ACCESS TO AND ACTIVITIES ON THE MINING LEASES**

### **10.1 Towns upon ML7024**

The Native Title Parties and the Communities acknowledge that the following activities may be conducted on any part of any ML7024 Town for purposes of or incidental to a town:

- 10.1.1 residential, commercial, industrial, municipal, airport, road, transportation, social, tourist, sporting, recreational, health, educational, charitable, community and other similar purposes; and
- 10.1.2 activities typically conducted by or for residents, and their invitees, of similar sized towns elsewhere in Queensland.

### **10.2 Infrastructure**

10.2.1 The Communities agree to public use of the following infrastructure within the Mining Leases:

- 10.2.1.1 roads intended for public use, aerodromes, airports, bridges and other transport related infrastructure in existence as at the date of this Agreement, which (for the avoidance of doubt) includes the Weipa-Mapoon Road, the Weipa-Coen Road (where it joins the Peninsula Development Road at the boundary of ML7024), the Weipa-Aurukun Road and the Weipa Aerodrome; and



10.2.1.2 any infrastructure of the kind referred to in clause 10.2.1 established upon any of the Mining Leases in the future.

10.2.2 Comalco will consult with the Co-ordinating Committee and the Co-ordinating Committee or its authorised representative must consult with the relevant Traditional Owner Groups about any proposal by it to establish infrastructure of the kind referred to in clause 10.2.1.

### **10.3 Permit System**

10.3.1 The Parties acknowledge the existence of the permit system for access by tourists and residents of ML7024 Towns for sporting, recreational, community or similar purposes to parts of the ILUA Area, compiled by Comalco with the assistance of the Aurukun Shire Council, Napranum Aboriginal Council, Marpuna Corporation (now Mapoon Aboriginal Council), Alspac and the Weipa Citizens Advisory Committee. The Co-ordinating Committee will review the Permit System as soon as practicable but in any event within 6 months of the Commencement Date.

10.3.2 Comalco will, to the extent it is reasonably able to do so, assist the Communities to implement the Permit System.

10.3.3 Comalco will not authorise the establishment or use of any camp site for sporting, recreational, community or similar purposes on the Mining Leases other than those camp sites governed by the Permit System, without the consent of the Co-ordinating Committee. The consent of the Co-ordinating Committee may only be given after it has consulted with the Traditional Owner Groups who are traditional owners of the land on which the camp site is to be established or used.

10.3.4 The Permit System may be amended by the Co-ordinating Committee from time to time, provided the amendment has been consented to by the relevant Traditional Owner Groups and each of the relevant Councils and, to the extent it applies to the ILUA Area, Comalco. Such consent by Comalco will not be unreasonably withheld having regard to the Comalco Interests and Comalco Activities.

10.3.5 Comalco will not (other than for safety or in an emergency) authorise, under the Permit System, the discharge of firearms or the lighting of campfires.

10.3.6 The Permit System, its operation and any obligations of Comalco in relation to the Permit System, are subject to any rights of access or use or any right to carry out activities authorised by the operation of clauses 2.3.9, 10.1, 10.2 and 10.4 or the principles referred to in them.

10.3.7 The Co-ordinating Committee and Comalco may agree on the roads within the Mining Leases that are not to be used by the public as contemplated under clause 10.2.1 but which are to be subject to the Permit System eg tracks or

roads to Outstations or Significant Aboriginal Sites or areas that have been surrendered from the Mining Leases in accordance with clauses 5.1 or 5.2.

...

## **10.5 Avoidance of doubt**

For the avoidance of doubt:

10.5.1 nothing in this clause 10 affects any Parties' rights elsewhere in this Agreement; and

10.5.2 the Parties acknowledge that Comalco cannot control any use a third party might make of any part of the Mining Leases if that third party's right to enter or be upon the land, use or occupy it or erect any buildings or structures or make any other improvements is lawfully authorised, independently of Comalco, for example:

10.5.2.1 by or under the Mineral Resources Act 1989, any other statute relating to mining or any other law; or

10.5.2.2 under any permission given by the Minister for access across ML7024 pursuant to clause 56(a) of the Comalco Agreement.

...

## **19 BENEFITS PROVIDED BY COMALCO AND QUEENSLAND**

### **19.1 No other Benefits**

19.1.1 The benefits provided by Comalco and Queensland under this Agreement are in full satisfaction of:

19.1.1.1 any and all payments or benefits that may be or may have been, payable or provided, and any other right, under any laws (including common law, equity or statute) about the enjoyment by Comalco (or any Associate) of the Comalco Interests, or the performance of the Comalco Activities; and

19.1.1.2 any claims, under any laws (including common law, equity or statute), that may be made by any native title holders, or any person on their behalf, against Queensland, Comalco, or its predecessors in title, or any person acquiring property from Comalco, on the basis of any derogation of their rights or interests in relation to the land the subject of the Comalco Interests or the effect of the performance of the Comalco Activities.

19.1.2 Clause 19.1.1 includes amounts that might otherwise have been, or become, payable under the NTA, Native Title (Queensland) Act 1993 (Qld), Racial Discrimination Act 1975 (Cth), the Aboriginal Land Act 1991 (Qld), the

Mineral Resources Act 1989 (Qld), the Acquisition of Land Act 1967 (Qld), any other relevant legislation and any new legal principles established from time to time (including by the decisions of any court or tribunal).

19.1.3 The Communities and each member of the Communities and CYLC release Queensland, Comalco and its Related Bodies Corporate from any Claim in relation to the Comalco Interests or the performance of the Comalco Activities.

## **19.2 Protection of Benefits**

If any person, other than the members of the Communities who are bound by this Agreement:

19.2.1 is able to establish that they have native title rights or interests in relation to any part of the ILUA Area and, as a result, is entitled to payment or provision of benefits or compensation from Queensland or Comalco (whichever is relevant) (directly or indirectly) under any law (including common law, equity or statute) including any payment for interference with such rights or interests; or

19.2.2 they are entitled to damages against Queensland or Comalco (whichever is relevant) on the basis of any derogation of the rights or interests of a native title holder,

Queensland or Comalco (whichever is relevant) may elect to suspend (in whole or in part) its obligation to make the payments or contributions under this Agreement until the amount that would have been paid but for the suspension is equivalent to any such payment, contribution, provision of benefits or damages and its costs in defending any action by the person asserting those rights or interests.

## **19.3 Benefits to Possible Native Title Holders**

In addition to the benefits which Comalco has agreed to make available under other provisions of this Agreement, CYLC acknowledges the receipt of the sum of \$1.00 paid by Comalco and \$1.00 paid by Queensland on the Commencement Date which is to be held in trust by CYLC on behalf of all Possible Native Title Holders.

...

**ATTACHMENT 1**  
**ILUA AREA**  
**(Clause 1.1 of Agreement)**

The map showing the ILUA Area follows the ILUA Area description below. To the extent of any inconsistency, the written description prevails over the area indicated on the map.

**ILUA AREA DESCRIPTION**

The ILUA Area is comprised of the following areas:

1. all land and waters within the ML 6024 Area and the ML 7024 Area but subject to the removal of particular areas from the ILUA Area from time to time as specifically provided in this Agreement;
2. the land and waters of Albatross Bay and the rivers and creeks running into it (below the high water mark) from the Territorial Sea Baseline of Albatross Bay eastward to the most easterly of:
  - (a) the coastline;
  - (b) the western boundary of ML 7024;
  - (c) the north-western boundary of ML 6024;
  - (d) in the Mission River, longitude 141° 59' 30.5",but excluding any areas within the Shire of Aurukun as shown on Plan SC 211;
3. the land and waters of Port Musgrave and the rivers and creeks running into it (below the high water mark) from the Territorial Sea Baseline of Port Musgrave easterly along the Ducie River to the boundary of ML 7024 and southerly along the Wenlock River to the boundary of ML 7024;
4. the land and waters within the Weipa Township boundary irrespective of whether the land and waters are also within ML 7024;
5. the following lots outside of the Weipa Township boundary which have been surrendered from ML 7024 but which are generally located within the area defined by the outer boundaries of the ML 7024 Area:
  - (a) Lot 342 on MP 36486;
  - (b) Lot 22 on MP 32268;
  - (c) Lot 15 on SP 116851 (WP 7);
  - (d) Lot 29 on SP 116854 (WP 18);

- (e) Lot 17 on SP 116853 (WP 12);
  - (f) Lot 2 on MP 26144 (WP 6);
  - (g) Lot 25 on MP 26155 (WP 15);
  - (h) Lot 37 on MP 30227 (WP 23);
  - (i) Lot 39 on MP 30554 (WP 26); and
  - (j) Lot 30 on MP 30144 (WP 21); and
6. ILUA Area B which is the land and waters extending 3 nautical miles from the coastline or the Territorial Sea Baseline as applicable between:
- (a) latitudes 12° 54' 23.0" South and 11° 57' 24.2" South (between Port Musgrave and Cullen Point);
  - (b) latitudes 12° 34' 26.2" South and 13° 11' 28.3" South (between Duyfken Point and Ina Creek); and
  - (c) latitudes 11° 13' 35.3" South and 11° 18' 24.8" South (off the Vrilya Point Area),

irrespective of whether the land and waters are also within ML 7024.

**ILUA AREA MAP**

