

GROOTE ARCHIPELAGO

LOCAL DECISION MAKING AGREEMENT

SCHEDULE 3.6

– Local Government Implementation Plan



Anindilyakwa
Land
Council



Made by the NORTHERN TERRITORY GOVERNMENT
and the ANINDILYAKWA LAND COUNCIL.





1 Preliminaries	2
2 Objectives	4
3 Parties to the Implementation Plan	4
4 Overview of Local Government in the Groote Archipelago	6
5 Strategies and associated actions to achieve the outcome	9
6 Government Policies and reforms that may impact the Implementation Plan	13
7 Risk Management	13
8 Review of the Implementation Plan	13
9 Anindilyakwa Future Aspirations	13
10 Signing	14

Images supplied by the Anindilyakwa Regional Network

1 | Preliminaries

- (a) This Implementation Plan is a Schedule to the Groote Archipelago Local Decision Making Agreement (the LDM Agreement) signed by the Northern Territory (NT) former Chief Minister on behalf of the NT Government and the Chairperson and Chief Executive Officer (CEO) of the Anindilyakwa Land Council (ALC) on 14 November 2018 and should be read in conjunction with the LDM Agreement.
- (b) The objectives of the LDM Agreement include:
- i. identifying the services and priorities which the Anindilyakwa people wish to have control over and to take responsibility for; and
 - ii. committing NT Government agencies and, where agreed in Implementation Plans, NT Government owned corporations, to collaborating with the ALC including sharing information, to agree on how this control will be achieved.
- (c) To achieve its objectives, Section 8 of the LDM Agreement contains an Implementation Framework which acknowledges that any transfer of responsibility to the Anindilyakwa people (through agreed entities) for a priority service delivery area:
- i. will recognise and meet regulatory, legislative and Commonwealth requirements;
 - ii. may need to take a staged approach in order to ensure a successful transition over a period of time;
 - iii. will be supported by an agreed NT Government financial commitment in accordance with Clause 4(h) of the LDM Agreement;
 - iv. will be captured in agreed Implementation Plans and, where appropriate, legally binding agreements between the ALC and the NT Government; and
 - v. will be monitored and evaluated for progress and performance using a transparent, consultative and participatory approach that promotes the resolution of emerging issues as they arise.
- (d) Clause 4(h) of the LDM Agreement acknowledges that the NT Government will continue to provide proportionate allocations to the Groote Archipelago, consistent with allocations made to other remote communities in the Northern Territory.
- (e) Parties to this Implementation Plan recognise there will be stakeholders who will be engaged in various actions outlined in this Plan. These stakeholders include:
- i. East Arnhem Regional Council (EARC) which provides local government services and delivers a range of Northern Territory Government and Commonwealth Government funded programs in the Groote Archipelago;
 - ii. Local Government Association of the NT (LGANT)
 - iii. Australian Government including the National Indigenous Australians Agency, Department of Infrastructure, Transport, Regional Development and Communications, Department of Health and Aged Care and other relevant agencies;
 - iv. GEMCO (which operates the Groote Eylandt manganese mine and township of Alyangula and is a key stakeholder in the transition to economic independence of the Groote Archipelago when the GEMCO mine closes in 6-10 years' time);
 - v. Other Anindilyakwa-owned organisations that are actively involved in delivery of services to the Anindilyakwa people; and
 - vi. Northern Territory Electoral Commission

-
- (f) Schedule 1 to the LDM Agreement provides that each Implementation Plan deliver the outcomes for each priority Service Delivery Area. This implementation plan identifies the broad steps and timelines to achieve the establishment of the Groote Archipelago Regional Council (GARC). A work plan that has key performance indicators and milestones is being developed by the Constituting Member of the Prospective GARC (the Member), with input from key stakeholders.
 - (g) The priority Service Delivery Area which is the subject of this Implementation Plan is Local Government and it was decided by the members of the Local Government Transition Committee (EARC, ALC and NT Government) that the Implementation Plan would follow the Northern Territory Government's funding commitment to proceed with the Local Government LDM Agreement priority. An initial funding commitment for transition and establishment costs was provided as part of the 2023-24 NTG budget, with further financial commitments expected to follow in subsequent budgets.
 - (h) The purpose of this Implementation Plan is to set out how the parties to this Implementation Plan will work together, and with identified key stakeholders, to achieve the outcome for Local Government as set out in the LDM Agreement and its Schedules.
 - (i) The outcome sought is that parties will work together to support the establishment of a regional council in the Groote Archipelago as aspired to in the LDM Agreement.
 - (j) The service delivery model in the LDM Agreement encompasses excising the Groote Archipelago region from the EARC's boundary area and the establishment of a new regional council for the Archipelago under the Local Government Act 2019 (the Act).
 - (k) Consultations on the outcome of restructuring the EARC and establishment of a new regional council were conducted across all nine communities within the EARC's area. The EARC, by resolution, and community leaders consulted, were clear that they supported the change providing that there is no detriment to the services which the Yolngu communities receive from the restructured EARC.
 - (l) This Implementation Plan outlines the high level commitments, process, actions and timelines required for the establishment of a new regional council in the Groote Archipelago under the Act. Support will also be offered to EARC through a separate process.
 - (m) This Implementation Plan has been developed with consultation and input from relevant NT government stakeholders. The ALC, in signing this Implementation Plan, warrants that it has undertaken the necessary consultations with the Anindilyakwa Traditional Owners to obtain their consent to enter into the Implementation Plan.
 - (n) The Implementation Plan will commence on signing by all Parties and will cease when the Agreement concludes unless otherwise agreed by the Parties.
 - (o) This Implementation Plan may be varied at any time by written agreement between the Parties.



2 | Objectives

- (a) The objectives of this Implementation Plan are to:
- i. Support the successful establishment of the GARC, including ensuring it has the necessary financial and non-financial support to provide sustainable services into the future. This includes:
 - a. Establishment actions for the prospective council
 - b. Supporting a successful general election for the prospective council within the Groote Archipelago region
 - c. Formal commencement of a regional council with elected member representation
 - d. Commitment of financial and other support by the NT Government to allow the on-going delivery of core services
 - ii. Support the fair and equitable transfer of assets, human resources, contracts, agreements and other resources, and the transition of agency services currently provided by East Arnhem Regional Council to the Groote Archipelago communities to agreed services providers and/or the GARC.
 - iii. Set out the proposed process for the consideration of the future local government services for the mining township of Alyangula.

3 | Parties to the Implementation Plan

- (a) The Parties to this Implementation Plan include the NT Government, represented by the Department of the Chief Minister and Cabinet (CM&C), the ALC, and the Member for the Prospective GARC.
- (b) While not Parties to the Implementation Plan, EARC, the Anindilyakwa Royalties Aboriginal Corporation (ARAC), the National Indigenous Australians Agency (NIAA) and LGANT have been engaged in consultations to date concerning the agreed outcomes and strategies.



“ Services delivered by East Arnhem Regional Council in Groote Archipelago include Environmental and Waste services, Council Controlled Asset Maintenance and Management (including council buildings, roads, parks, gardens, footpaths, playgrounds, shelters, cemeteries and transport hubs), Aged care & disability, Children and Youth Services, Veterinary and animal control and community night patrol. ”



4 | Overview of Local Government in the Groote Archipelago

4.1. Current overview of Local Government in Groote Archipelago

- (a) EARC was formed in 2008 as a result of NT Government's reform of local government, and introduction of the Local Government Act 2008 (the 2008 Act). The EARC's boundary was drawn to incorporate an area of land across the Arnhem region, as well the entire Groote Archipelago, excluding the mining towns of Nhulunbuy on the Gove Peninsula and Alyangula on Groote Eylandt, which remain unincorporated areas.
- (b) EARC has 14 democratically elected members representing its 6 Wards. The Council Wards, the communities they represent, and the current number of councillors for each of the Wards is as follows:

Ward	Communities	Councillor Representation
Anindilyakwa Ward	Milyakburra, Umbakumba & Angurugu	2
Birr Rawarrang Ward	Ramingining	2
Gumurr Gattjirrk Ward	Milingimbi	2
Gumurr Marthakal Ward	Galiwinku	3
Gumurr Miwatj Ward	Gunyangara & Yirrkala	3
Gumurr Miyarrka Ward	Gapuwiyak	2

- (c) Operationally, EARC's headquarters are based in Nhulunbuy with some corporate services being delivered from their Darwin office. A service delivery centre is located in all its communities.
- (d) Services currently delivered by EARC in the Groote Archipelago include:
- Environmental and Waste Services
 - Council controlled asset maintenance and management (including council buildings, roads, parks, gardens, footpaths, playgrounds, shelters, cemeteries and transport hubs)
 - Aged care & disability, as well as children's services (including Youth, Sport and Recreation)
 - Veterinary and animal control
 - Community night patrol

4.2. History of local government in Groote Archipelago

- (e) Before the 2008 reform, three community government councils operated within the Groote Archipelago region, in the communities of Angurugu, Umbakumba and Milyakburra.
- (f) Given the Anindilyakwa cultural boundaries and island (or geographical) nature of the Archipelago, it is recognised that a Shire (or Local Government Council) could have been established to match the ALC Groote Archipelago geographic area, consistent with the Tiwi Islands.
- (g) For the Traditional Owners of the Groote Archipelago, the 2008 local government reform left Anindilyakwa communities feeling disempowered and diminished.
- (h) As the peak representative body of the Traditional Owners on the Groote Archipelago, the ALC has strongly advocated since 2008 for the Anindilyakwa people to take back control of local government.



-
- (i) Establishment of the GARC represents a return to local community control of local government services for Anindilyakwa and other community residents residing in the Groote Archipelago. This includes local service delivery, community representation, local jobs, and the ability for Anindilyakwa communities to make decisions about matters affecting their lives.

4.3. Steps taken towards establishing a new Groote Archipelago Local Government

- (j) On 14 November 2018, the NT Government and ALC signed the Groote Archipelago LDM Agreement.
- (k) While the NT Government provided in-principle support for the establishment of a new regional council in the Groote Archipelago, it noted the need to undertake a detailed assessment and analysis of legal and financial considerations. These considerations included; transition costs; division of existing funding; future viability of the EARC and a newly formed regional council, and other elements including the impacts to Commonwealth funded services.
- (l) Consistent with these requirements, an Assessment and Analysis Report (AAR) was prepared in 2019 which outlined the processes and estimated costs the NT Government would need to consider in establishing a new council and support the ongoing financial viability of the new council and EARC.
- (m) The AAR also summarised outcomes of community engagement sessions that were held across EARC's nine communities. Yolŋu and Anindilyakwa communities were supportive of a new regional council, but requested further information on financial and service implications.
- (n) On 30 September 2020, NT Government approved the development of a draft Implementation Plan under the LDM Agreement and the establishment of a Transition Committee (the Committee) to oversee the progress of the assessment report and the financial considerations.
- (o) The Committee was established in 2020, comprising representatives from the EARC, ALC and chaired by CM&C, with LGANT and NIAA invited to support the Committee.
- (p) The Committee met six times between November 2020 and February 2022 and requested the cost estimates in the AAR Report be updated given the time that had elapsed since 2019. A Financial Assessment Report (FAR), was then prepared by CM&C, which included revised estimates of establishment costs and additional supplementary funding required by EARC and the new council to support their financial viability.
- (q) The Committee also agreed to conduct a new round of community consultations. These took place in November 2021, with Yolŋu and Anindilyakwa community members continuing to support the establishment of a new council and a smaller EARC. Yolŋu communities emphasised the need to ensure there was no deterioration in service standards for those areas that continued to be part of EARC.
- (r) In December 2021, the EARC made a formal resolution that it supported the establishment of the new council subject to the confirmation of funding to ensure continuity of capacity, service delivery levels and sustainability across the East Arnhem Region; and that the NT Government prepare a report assessing the financial implications of incorporation of Nhulunbuy into the EARC boundary.
- (s) The FAR was finalised in March 2022 following a review of veracity of information and cost estimates by Deloitte Financial Advisory Pty Ltd in October 2021.
- (t) In June 2022, the NT Government endorsed the establishment of a prospective council and noted a member of the prospective council will be appointed under the Act. These were important initial decisions before making a final decision on whether to create a GARC.
- (u) In August 2022, the Minister for Local Government exercised his powers under the Act by establishing the prospective regional council and appointing a member of the prospective council (the Member) via a Gazette Notice. A key role of the Member was to enter into discussions with the EARC, the ALC, NT Government and Commonwealth Government funding bodies

regarding their respective financial and non-financial contributions to support the new council establishment process; and to prepare a report to help the NT Government make an informed decision on the level of financial commitment that would be required to establish a financially and operationally viable new regional council. In December 2022, the Member submitted his report to NT Government, which provided:

- i. an update of the transition and establishment costs identified in the FAR for the new regional council based on engagement with EARC and ALC;
 - ii. an opinion on the future viability of the new regional council, identified risks and unresolved issues; and
 - iii. the estimated level of funding required from the NT Government for transition and establishment of a functional local government council, and to support the financial viability of the new council over the next four years.
- (v) In March 2023, as part of the 2023-24 Budget, the NT Government endorsed the establishment of a new council as per the Groote Archipelago LDM Agreement and approved funding in 2022-23, 2023-24 and 2024-25 for transition and initial establishment costs.
- (w) This decision now enables the Member to undertake the work necessary to establish a regional council in the Groote Archipelago, and to assist the further assessment of the on-going funding required to achieve its financial viability.
- (x) Under the Act, the Member has full power to transact any business or do anything else as if the prospective council were the council for the local government area. However, the EARC will continue to operate in its current structure and cover services in the Groote Archipelago until such time as the results of the local government elections are declared for the new council.
- (y) The prospective council is constituted by the Member until the prospective council officially becomes a full Regional Council. The prospective council becomes the Regional Council after the general election results are declared for the council for the local government area.



5 | Strategies and associated actions to achieve the outcome

5.1. Financial commitments towards establishment and restructure

- (a) As part of Budget 2023-24, NT Government has committed \$3 million of funding for 2022-23, 2023-24 and 2024-25 for transition and capital costs to support the establishment process of the new GARC, and to support the EARC's costs related to restructuring its business.
- (b) Anindilyakwa Royalties Aboriginal Corporation (ARAC) has committed to:
 - a. providing \$1.5 million to the prospective council as its contribution towards establishment costs on behalf of the Anindilyakwa Traditional Owners; and
 - b. offering to transfer, where appropriate, agreed community development programs and services (for example, Waste Management, Law, Justice and Community Safety, Animal Management and Youth, Sport and Recreation) and associated assets, human resources, and funding to the new council which, if combined with existing council programs, is intended to remove unnecessary duplication, realise operating efficiencies, bolster service delivery, and increase employment opportunities within local government.

5.2. Actions to establish the Groote Archipelago Regional Council

- (a) The Member will work in the best interests of the new council and cooperatively and collaboratively with the Groote Archipelago community and key stakeholders, including EARC, ALC, ARAC, NT Government and Commonwealth Government in the council establishment process.
- (b) In line with the Closing the Gap priority reforms and Local Decision Making principles, CM&C and the ALC will support the establishment of a Local Advisory Committee inviting representation from Angurugu, Umbakumba and Milyakburra communities, and from other persons with applicable skills and experience, to provide guidance and advice on matters relevant to the establishment of the new regional council (Local Advisory Committee).
- (c) CM&C will continue to convene and support the Transition Committee at least bi-monthly to oversee and ensure a collaborative and constructive approach is taken to the establishment of the new Regional Council and restructure of the EARC.
- (d) The Member's role is to set up the business elements of the new regional council which includes, but not limited to finalising negotiations on the transfer of:
 - assets and liabilities
 - land tenure and leases
 - commercial contracts and activities
 - governance arrangements
 - staffing structures
 - agency agreements
 - enterprise arrangements
 - operational arrangements
- (e) The Member will work with the EARC and other stakeholders to negotiate and enter into final agreements around the splitting and transfer of service delivery elements for the prospective GARC. These matters will include (but are not limited to);
 - i. Transfer of human resources and associated employee entitlement balances
 - ii. An assessment and transfer of property, plant, building, road, equipment and other assets;
 - iii. Splitting and transfer of cash balances;
 - iv. Transfer of contractual agreements including grant agreements outsourced service delivery agreements and leasing arrangements; and
 - v. Policies and systems for operational requirements, such as rates and charges, procurement and payroll.

-
- (f) The Member can employ key council staff such as an interim CEO to establish the operational elements of the new council while the Member finalises contract negotiations and agreements with funding bodies and other parties.
- (g) The Member may seek support from key stakeholders such as the Local Advisory Committee, ALC, CM&C, the NT Electoral Commission and LGANT to undertake community consultations regarding the electoral representation to determine the number of elected members that will constitute the council, and with the establishment of wards in relation to the new regional council area.
- (h) If wards are to be established for the new council area, the following will need to be determined:
- i. Number of wards
 - ii. Boundaries of ward/s
 - iii. The name of each ward (if applicable)
 - iv. The number of members to be elected for a particular area.



5.3. General Election for the Prospective Council

- (a) The Member will work with key stakeholders such as the Local Advisory Committee, CM&C, ALC, the NT Electoral Commission and LGANT to:
 - i. Confirm and announce election dates, proposed for the first half of 2024.
 - ii. Develop resources to promote the elections to Anindilyakwa communities. This includes consideration of education programs, customised presentations, information sessions, as well as plain English communications.
- (b) Election results will be declared by the NTEC as soon as practicable after elections are held.
- (c) On the date the NTEC declares the results of the election:
 - i. The new GARC officially commences its operations;
 - ii. newly elected members commence their roles and responsibilities under the Act;
 - iii. the Member's appointment officially ends; and
 - iv. EARC's boundary officially changes to exclude the Groote Archipelago region.
- (d) It is anticipated that, based on the above timeframes, the GARC will be in a position to commence its operations by the first half of 2024.

5.4. Ongoing support towards establishment of Groote Archipelago Regional Council

- a) An assessment of the GARC's financial requirements, to allow it to have sufficient funding to deliver sustainable core services in the Groote Archipelago will be undertaken by the Member who will advise CM&C.
- b) This assessment will be used by CM&C to seek any additional funding required to support GARC's ongoing financial viability having regard to principle 4(h) of the LDM Agreement.

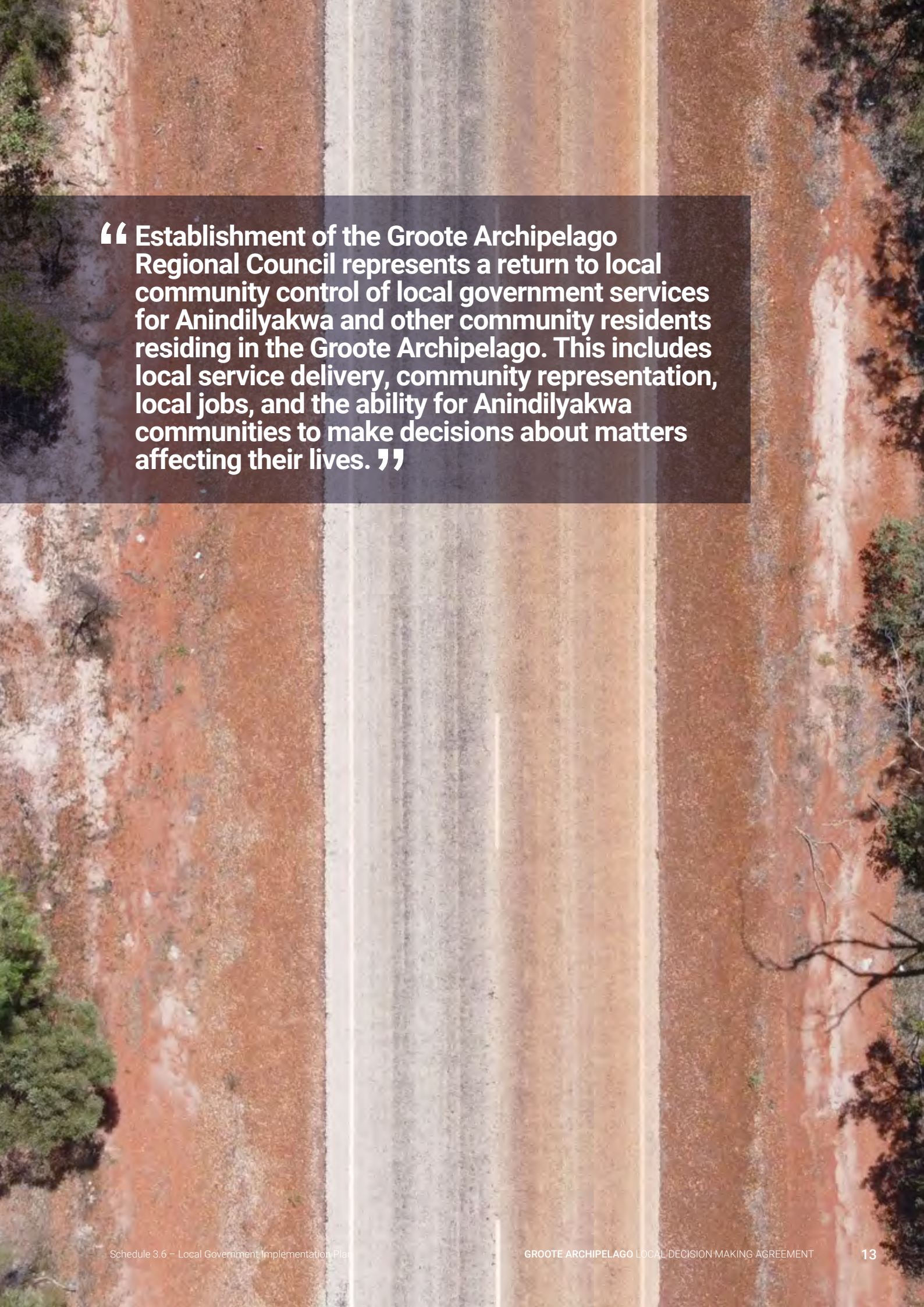
5.5. Supporting ongoing service delivery for agency services

- a) The Parties will work with the relevant Australian Government agencies to consider options for the continuity of agency services (e.g. Aged Care, Community Patrol) currently delivered by EARC in Groote Archipelago, by way of transfer to the new GARC or to other agreed service providers, or Anindilyakwa organisations.

5.6. Assessment of incorporation of Alyangula as Local Government Area

- a) As part of the Groote Archipelago mine closure processes, the NT Government commits to engaging a consultant to prepare a report in the coming years to assess the financial and other implications of incorporation of Alyangula as a Local Government Area and options for its inclusion in the Groote Archipelago Regional Council boundary or otherwise. This will not form part of the Member's work plan for the establishment of the GARC.





“ Establishment of the Groote Archipelago Regional Council represents a return to local community control of local government services for Anindilyakwa and other community residents residing in the Groote Archipelago. This includes local service delivery, community representation, local jobs, and the ability for Anindilyakwa communities to make decisions about matters affecting their lives. ”

6 | Government Policies and Reforms that may impact the Implementation Plan

- (a) Potential policies and reforms that may impact the Implementation Plan include, but are not limited to changes in NT Government or Commonwealth government legislative requirements impacting on council operations.
- (b) The NT Government has appointed a Treaty Commissioner and has signed a MoU with the four NT Land Councils to progress discussions on the possible development of a Treaty or Treaties. This ongoing discussion may interact with this Implementation Plan.
- (c) The Commonwealth is undertaking a referendum in late 2023 to consider recognising Aboriginal and Torres Strait Islander people as the First Peoples of Australia through a Voice to Parliament. This may include Local and Regional Voice arrangements and may interact with this IP.

7 | Risk Management

- (a) The Parties will adopt their own risk management approaches to identify and mitigate undue risk to achieving the agreed outcomes and strategies.

8 | Review of Implementation Plan

- (a) The Parties agree that the Implementation Plan may require review from time to time in relation to changes to ALC or Commonwealth and/or NT Government policy, strategy and legislation. The 6 monthly review process between the Parties should be used as a mechanism to review aspects of the Implementation Plan if required.


9 | Anindilyakwa Future Aspirations

- (a) The ALC wishes to record that it has consistently advocated the following longer-term aspirations of the Anindilyakwa Traditional Owners for the Groote Archipelago, noting that such aspirations are presently beyond the scope of the current LDM Agreement and so do not form part of the Implementation Plan objectives.
- (b) Whilst the Anindilyakwa Traditional Owners consider the return of local government to be an important first step, their longer-term vision encompasses the establishment of a united leadership model for Anindilyakwa leaders to meet and set the governance and administrative direction for the Groote Archipelago.
- (c) To achieve this aspiration, the Anindilyakwa Traditional Owners envisage that once the new regional council is fully operational, negotiations could be entered into by the ALC, the new regional council and the Northern Territory and Commonwealth Governments, with the aim of establishing a forum for Anindilyakwa leaders to meet as Regional Governance Committee and set the strategic directions for the Groote Archipelago under a legally binding Regional Governance Agreement.
- (d) A Regional Governance Committee would be established to oversee the Regional Governance Agreement and, over time and with necessary legislative changes, the Regional Governance Committee would transform into a Regional Authority and progressively take full control of services currently delivered by the Northern Territory and Commonwealth governments and provide a model for true self-government.
- (e) The NT Government acknowledges the establishment of a Regional Authority is a long-term aspiration of the Anindilyakwa Traditional Owners and the establishment of a new local government in the region is considered by them as a first step along the pathway towards self-determination.

10 | Signing

- (a) As is the case with the Agreement, the Parties to this Implementation Plan acknowledge that its provisions are not legally enforceable however, that does not lessen the commitment of the Parties to achieve the Outcomes sought in the Groote Archipelago Local Decision Making Agreement and this Implementation Plan.
- (b) The Parties agree that the transfer of Local Government responsibilities and control will be supported by legally binding processes (e.g. transfer of legal title, contracts and/or funding agreements for services, or other statutory or legal instruments)

Signed by




Tony Wurramarrba AO
Chairman
Anindilyakwa Land Council

Date: 19 / 07 / 2023




Mark Hewitt
Chief Executive Officer
Anindilyakwa Land Council

Date: 19 / 07 / 2023



Iain Summers
Constituting Member
Prospective Groote Archipelago Regional Council

Date: 19 / 7 / 2023



The Hon Charlesy Patch MLA
Minister for Local Government,
on behalf of the Northern Territory Government

Date: 19 / 7 / 2023



The Hon Natasha Fyles MLA
Chief Minister of the Northern Territory,
on behalf of the Northern Territory Government

Date: 19 / 7 / 2023

Selena Uibo

The Hon Selena Uibo MLA
Minister for Treaty and Local Decision Making,
on behalf of the Northern Territory Government.

Date: 02 / 08 / 2023

Witnessed by

Representative
Department of the Chief Minister and Cabinet
Northern Territory Government

Date: 19 / 7 / 2023





