

TJIWARL PALYAKUWA (AGREEMENT)**SCHEDULE 8**

Restoring Rights to Country*Ngurrara Malaku Kanyira*

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1. Overview

1.1 What this Schedule contains

This Schedule sets out:

- (a) a process to enable the Tjiwarl People to seek a determination of exclusive native title in relation to:
 - (i) Wanjarri Nature Reserve (including the Wanjarri Nature Reserve Addition) (see clause 6);
 - (ii) the Yeelirrie Lake Mason non-exclusive area (see clause 6); and
- (b) the Parties' obligations under that process (see clauses 4 and 5).

2. Definitions and Interpretation

Throughout this Schedule there are terms that are capitalised and they are given a specific meaning that is set out clauses 2.1 and 2.2.

Clause 2.3 sets out the rules which help explain the way in which this Schedule should be read to avoid any confusion.

2.1 General Definitions

In this Schedule, words and expressions defined in the Native Title Act including **applicant**, **approved determination of native title**, **authorise**, **claimant application**, **determination of native title**, **facilitation and assistance functions**, **native title determination application**, **non-extinguishment principle**, **public work** and **representative Aboriginal/Torres Strait Islander body** have the same meaning when used in this Schedule.

2.2 Specific Definitions

In this Schedule, unless the context requires otherwise:

Agreement means the Tjiwarl Palyakuwa (Agreement) and includes the Schedules to that agreement.

Agreement Area has the meaning given in clause 2 of this Agreement.

Authorised Applicant has the meaning given in clause 4.1(c).

Conservation Estate Schedule means Schedule 7 to this Agreement.

Determination Application means a native title determination application, to be made by an Authorised Applicant under section 61(1) of the Native Title Act that:

- (a) relying on the operation of Section 47C, seeks recognition of exclusive possession native title in relation to the Original Wanjarri Nature Reserve Area; and
 - (b) is proposed to be heard and determined together with the Variation Application,
- being the relevant claimant application for the purposes of section 47C(1)(a) of the Native Title Act.

Execution Date means the date on which this Agreement is executed by all the Parties.

Native Title Act means the *Native Title Act 1993* (Cth).

Native Title Claims means the Variation Application and the Determination Application.

Native Title Determination means a determination of native title on the Native Title Claims that native title exists in relation to the Reserves that is substantially in the form annexed to the minute of proposed orders contained at Annexure 3 to this Schedule.

Original Wanjarri Nature Reserve Area means all that land and water comprising Reserve 30897 being Lot 569 on Deposited Plan 73751 and being the whole of the land in Certificate of Crown Land Title Volume LR3162 Folio 538, being an area that was excluded from the area the subject of the Tjiwarl Determination by reason of extinguishment, generally shown on the map at Annexure 1 to the Conservation Estate Schedule.

Reserves means:

- (a) Wanjarri Nature Reserve when it is expanded to include the Wanjarri Nature Reserve Addition; and
- (b) Yeelirrie Lake Mason Reserve when it is created.

Section 47C means section 47C of the Native Title Act.

Section 47C Agreement means an agreement between the State and Tjiwarl AC (and, in relation to Wanjarri Nature Reserve, the Authorised Applicant) made under section 47C(1)(b) of the Native Title Act that, in relation to:

- (a) Wanjarri Nature Reserve is substantially in the form contained at Annexure 1 to this Schedule; and
- (b) Yeelirrie Lake Mason Reserve is substantially in the form contained at Annexure 2 to this Schedule.

Tjiwarl AC means Tjiwarl (Aboriginal Corporation) RNTBC (ICN: 8628) of unit 6, 524 Abernethy Road, Kewdale, Western Australia in its capacity as a registered native title body corporate holding native title on trust for the Tjiwarl People.

Tjiwarl Determination means the determination of native title made by the Federal Court of Australia on 27 April 2017 in WAD 228 of 2011 and WAD 302 of 2015, as amended by the Full Court of the Federal Court of Australia on 1 February 2018 in WAD 217 of 2017 and WAD 218 of 2017 and as further amended by the High Court of Australia on 17 April 2019 in P 38 of 2018.

Tjiwarl Determination Area means the area the subject of the Tjiwarl Determination.

Tjiwarl People means those persons described in Schedule 2 of the Tjiwarl Determination.

Variation Application means a revised native title determination application to be made by Tjiwarl AC on behalf of the Tjiwarl People under section 61(1) of the Native Title Act in relation to the Reserves (to the extent they are in the Tjiwarl Determination Area) that:

- (a) seeks to vary the Tjiwarl Determination by recognising:
 - (i) on the basis of Section 47C, exclusive possession native title in relation to the:
 - (A) Wanjarri Nature Reserve Addition; and
 - (B) Yeelirrie Lake Mason non-exclusive area; and
 - (ii) each of the Reserves as an other interest for the purposes of section 225(c) of the Native Title Act; and
- (b) is proposed to be heard and determined together with the Determination Application, being the relevant revised native title determination application for the purposes of section 47C(1)(a) of the Native Title Act.

Wanjarri Nature Reserve means all that land and water comprising Reserve 30897 for the purpose of Conservation of Flora and Fauna which is classified under the LA Act as a class A

reserve, being the Original Wanjarri Nature Reserve Area, as expanded to include the Wanjarri Nature Reserve Addition as provided for in clause 3.1 of the Conservation Estate Schedule.

Wanjarri Nature Reserve Addition means Lot 568 on Deposited Plan 73751 and being the whole of the land in Certificate of Crown Land Title Volume LR3162 Folio 537, generally shown on the map at Annexure 1 to the Conservation Estate Schedule.

Yeelirrie Lake Mason non-exclusive area means that part of Yeelirrie Lake Mason Reserve which comprises part of the land that is currently designated UCL 239, being an area in relation to which Tjiwarl AC holds non-exclusive native title in trust for the Tjiwarl People in accordance with the Tjiwarl Determination.

Yeelirrie Lake Mason Reserve means all that land and water comprising a new reserve for the purpose of National Park, to be classified under the LA Act as a class A reserve, to be created within the Agreement Area as provided for in the Conservation Estate Schedule including, as the context requires, that reserve when created, being the area generally shown on the map at Annexure 2 to the Conservation Estate Schedule.

2.3 Interpretation – General

- (a) References to clauses are references to clauses in this Schedule unless otherwise indicated.
- (b) For the avoidance of doubt, unless the contrary intention appears, the principles of interpretation contained in clause 1.3 of this Agreement apply to this Schedule.

3. Application of this Schedule

This Schedule applies in relation to the Reserves once they are jointly vested in accordance with clauses 3.3 and 3.8 of the Conservation Estate Schedule.

4. Obligations of Tjiwarl AC

This clause explains what Tjiwarl AC has to do to get the new claims for exclusive native title filed in the Federal Court under section 47C of the Native Title Act.

4.1 Making the Native Title Claims

As soon as is reasonably practicable after the Reserves are jointly vested in accordance with clauses 3.3 and 3.8 of the Conservation Estate Schedule, Tjiwarl AC will:

- (a) give notice to the State requesting a Section 47C Agreement in relation to each of the Reserves;
- (b) obtain any necessary approvals to make the Variation Application;
- (c) assist the Tjiwarl People to authorise an applicant to make the Determination Application (**Authorised Applicant**) and enter into the Section 47C Agreement in relation to Wanjarri Nature Reserve;
- (d) once the Section 47C agreements have been entered into:
 - (i) file the Variation Application in the Federal Court of Australia;
 - (ii) use its best endeavours to:
 - (A) have the Authorised Applicant referred to in clause 4.1(c) file the Determination Application in the Federal Court of Australia; and
 - (B) arrange that the Native Title Claims are filed in the Federal Court of Australia at the same time.

4.2 Facilitation and assistance function

For the avoidance of doubt, the assistance to be given to the Authorised Applicant in clause 4.1(c) may include Tjiwarl AC making a request on behalf of the Tjiwarl People for the relevant representative Aboriginal/Torres Strait Islander body to exercise its facilitation and assistance functions in relation to the Determination Application.

5. Obligations of the State

This clause explains what the State needs to do to ensure the Tjiwarl People can lodge new claims for exclusive native title in the conservation reserves.

5.1 Entry into s 47C Agreements

It is the State's intention as at the Execution Date that, as soon as is reasonably practicable after the receipt of the notice provided to the State pursuant to clause 4.1(a) the State will:

- (a) comply with the requirements in the Native Title Act to notify the proposed Section 47C Agreements in respect of the Reserves and to give interested parties an opportunity to comment on the proposed Section 47C Agreements; and
- (b) subject to those requirements, execute a Section 47C Agreement in respect of the Reserves and provide the executed copies to Tjiwarl AC.

5.2 Determination of Native Title Claims

It is the State's intention as at the Execution Date that, if:

- (a) Tjiwarl AC makes a Variation Application; and
- (b) an Authorised Applicant makes a Determination Application,

in accordance with clause 6, the State will consent to the Native Title Determination.

6. Determining Native Title Claims

This clause says that once the new claims are lodged, Tjiwarl AC and the State will work together to get exclusive native title recognised by the Federal Court in the conservation reserves.

6.1 Filing of minute of proposed orders

It is the intention of the Parties as at the Execution Date that the Parties will, as soon as is reasonably practicable after the Native Title Claims are made, prepare and file in the Federal Court of Australia a minute of proposed orders that is substantially in the form contained at Annexure 3 to this Schedule seeking the Native Title Determination.

6.2 Parties to negotiate necessary amendments

If the Federal Court of Australia does not agree to make orders in accordance with the minute of proposed orders described in clause 6.1, then the Parties will, as required, and as soon as is reasonably practicable:

- (a) negotiate in good faith to make any necessary amendments to the minute of proposed orders;
- (b) prepare and file in the Federal Court of Australia a further minute of proposed orders; and
- (c) otherwise work co-operatively and do all things reasonably necessary to have the Federal Court of Australia make the Native Title Determination.

6.3 Effect of determination

The Parties agree that:

- (a) the Native Title Determination will not affect:
 - (i) the validity of the creation of the Reserves or any other prior interest in relation to the area the subject of the Reserves; nor
 - (ii) any interest of the State in any capacity, or of any statutory authority (including a local government body), in any public works in relation to the area the subject of the Native Title Determination; and
- (b) on and from the date of the Native Title Determination, the non-extinguishment principle applies to the creation of the Reserves and any other prior interest in relation to the area the subject of the Native Title Determination.

TJIWARL PALYAKUWA (AGREEMENT)**SCHEDULE 8 – Annexure 1**

Agreement to the operation of section 47C of the Native Title Act (Wanjarri Nature Reserve)

AGREEMENT TO OPERATION OF SECTION 47C NATIVE TITLE ACT

In relation to Wanjarri Nature Reserve

BETWEEN

State of Western Australia

Proposed Tjiwarl Applicant

Tjiwarl (Aboriginal Corporation) RNTBC (ICN 8628)

DATE

This Agreement is made on the day of 202

PARTIES

State **STATE OF WESTERN AUSTRALIA**, represented by the Minister for Aboriginal Affairs of 12th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia

Proposed Tjiwarl Applicant [NAME(S)] in their own right and for and on behalf of the Tjiwarl People, care of Unit 6, 254 Abernethy Road, Kewdale, Western Australia

Tjiwarl AC **TJIWARL (ABORIGINAL CORPORATION) RNTBC (ICN 8628)** a body corporate established for and on behalf of the Tjiwarl People of Unit 6, 254 Abernethy Road, Kewdale, Western Australia

RECITALS

- A. Among other things, the Tjiwarl Palyakuwa (Agreement) settles the State's liability for all claims for compensation for the loss, diminution, impairment or other effect on the Tjiwarl People's native title rights and interests by certain acts done within the area the subject of the Tjiwarl Determination.
- B. The Tjiwarl Palyakuwa (Agreement) also provides the Tjiwarl People's consent to, among other things, the expansion of the Original Wanjarri Nature Reserve Area to include the Wanjarri Nature Reserve Addition.
- C. Since the Tjiwarl Palyakuwa (Agreement) was registered:
- (a) the Original Wanjarri Nature Reserve Area has been expanded to include the Wanjarri Nature Reserve Addition;
 - (b) Wanjarri Nature Reserve has been vested jointly in the Conservation and Parks Commission and Tjiwarl AC; and

- (c) the State and Tjiwarl AC have commenced developing a management plan for approval under section 60 of the *Conservation and Land Management Act 1984* (WA) in respect of Wanjarri Nature Reserve.
- D. The Original Wanjarri Nature Reserve Area was excluded from the area the subject of the Tjiwarl Determination by reason of extinguishment, so native title was not recognised in relation to that area. As such, the Original Wanjarri Nature Reserve Area is not the subject of an approved determination of native title. The Tjiwarl Determination recognises non-exclusive native title in relation to the area the subject of the Wanjarri Nature Reserve Addition.
- E. The Tjiwarl Palyakuwa (Agreement) provides for means by which the Tjiwarl People can seek a determination of exclusive native title in relation to Wanjarri Nature Reserve by relying on section 47C of the Native Title Act. The Tjiwarl Palyakuwa (Agreement) contemplates that any prior extinguishment of native title in relation to the Wanjarri Nature Reserve will be disregarded by:
- (a) Tjiwarl AC making the Variation Application; and
 - (b) the Proposed Tjiwarl Applicant making the Determination Application,
- with the Native Title Claims to be determined at the same time.
- F. At a meeting held at [insert location] on [insert date] (**authorisation meeting**), the Tjiwarl People authorised:
- (a) Tjiwarl AC to enter into the Tjiwarl Palyakuwa (Agreement);
 - (b) Tjiwarl AC to make the Variation Application; and
 - (c) the Proposed Tjiwarl Applicant to make the Determination Application.
- G. Consistent with the authorisation given by the Tjiwarl People at the authorisation meeting, the Proposed Tjiwarl Applicant comprises those authorised persons who remain willing and able to act as applicant for the purposes of this Agreement and the Determination Application.
- H. In relation to the Native Title Claims, the Parties agree that Wanjarri Nature Reserve should be recognised in any determination of native title as an 'other interest' for the purposes of section 225(c) of the Native Title Act.
- I. In accordance with the Tjiwarl Palyakuwa (Agreement) and Section 47C:
- (a) on [insert date] Tjiwarl AC, on behalf of the Tjiwarl People, requested the State's agreement to the operation of Section 47C in relation to Wanjarri Nature Reserve; and

- (b) on [insert date], the State arranged for notification of the proposed terms of this Agreement by publishing a public notice in *The West Australian*. The notice was also published on the Department of the Premier and Cabinet's website on the same date. The purpose of the notification was to give interested persons an opportunity to comment on the proposed agreement. The period for comment ended on [insert date].
- J. The Parties enter this Agreement for the purposes of section 47C(1)(b) of the Native Title Act to enable:
- (a) Tjiwarl AC to make the Variation Application; and
- (b) the Proposed Tjiwarl Applicant to make the Determination Application, on the basis that any prior extinguishment of their native title is to be disregarded.
- K. Tjiwarl AC and the State are, or intend to be, parties to an agreement for the purposes of section 47C(1)(b) of the Native Title Act in relation to Yeelirrie Lake Mason Reserve which is within the area the subject of the Tjiwarl Determination and is proposed to be the subject of the Variation Application.
- L. The Parties intend that the Native Title Claims will be made and determined at the same time.

THE PARTIES AGREE AS FOLLOWS:

1. General Definitions

In this Agreement, words and expressions defined in the Native Title Act including **approved determination of native title, determination of native title, indigenous land use agreement, public work, relevant public work** and **Register of Indigenous Land Use Agreements** have the same meaning when used in this Agreement.

2. Specific Definitions

In this Agreement the following words and phrases have the following meanings:

Agreement Area means all the land and waters the subject of Wanjarri Nature Reserve being the area generally shown on the map at Schedule 1.

Determination Application means a native title determination application, to be made by the Proposed Tjiwarl Applicant on behalf of the Tjiwarl People in accordance with section 251B of the Native Title Act, under section 61(1) of that Act that:

- (a) relying on the operation of Section 47C, seeks recognition of exclusive possession native title in relation to the Original Wanjarri Nature Reserve Area; and
 - (b) is proposed to be heard and determined together with the Variation Application,
- being the relevant claimant application for the purposes of section 47C(1)(a) of the Native Title Act.

LA Act means the *Land Administration Act 1997* (WA).

Native Title Act means the *Native Title Act 1993* (Cth).

Native Title Claims means the Variation Application and the Determination Application.

Original Wanjarri Nature Reserve Area means the area that was the subject of Reserve 30897 when the Tjiwarl Determination was made, being Lot 569 on Deposited Plan 73751 and being the whole of the land in Certificate of Crown Land Title Volume LR3162 Folio 538, being an area that was excluded from the area the subject of the Tjiwarl Determination by reason of extinguishment.

Parties means the Proposed Tjiwarl Applicant, Tjiwarl AC and the State.

Proposed Tjiwarl Applicant means the person or persons authorised by the Tjiwarl People in accordance with section 251B of the Native Title Act to make the Determination Application.

Section 47C means section 47C of the Native Title Act.

State means the Crown in right of the State of Western Australia, acting through the Minister for Aboriginal Affairs.

Tjiwarl AC means Tjiwarl (Aboriginal Corporation) RNTBC (ICN: 8628) of unit 6, 524 Abernethy Road, Kewdale, Western Australia in its capacity as a registered native title body corporate holding native title on trust for the Tjiwarl People.

Tjiwarl Determination means the determination of native title made by the Federal Court of Australia on 27 April 2017 in WAD 228 of 2011 and WAD 302 of 2015, as amended by the Full Court of the Federal Court of Australia on 1 February 2018 in WAD 217 of 2017 and WAD 218 of 2017 and as further amended by the High Court of Australia on 17 April 2019 in P 38 of 2018.

Tjiwarl Determination Area means the area the subject of the Tjiwarl Determination.

Tjiwarl Palyakuwa (Agreement) means the indigenous land use agreement of that name that was entered on the Register of Indigenous Land Use Agreements on [insert date].

Tjiwarl People means the persons described at Schedule 2 to the Tjiwarl Determination.

Variation Application means a revised native title determination application to be made by Tjiwarl AC on behalf of the Tjiwarl People under section 61(1) of the Native Title Act that:

- (a) seeks to vary the Tjiwarl Determination by:
 - (i) relying on the operation of Section 47C, exclusive possession native title in relation to the:
 - (A) Wanjarri Nature Reserve Addition; and
 - (B) Yeelirrie Lake Mason non-exclusive area; and
 - (ii) recognising each of Wanjarri Nature Reserve and Yeelirrie Lake Mason Reserve as an ‘other interest’ for the purposes of section 225(c) of the Native Title Act; and
- (b) is proposed to be heard and determined together with the Determination Application, being the relevant revised native title determination application for the purposes of section 47C(1)(a) of the Native Title Act.

Wanjarri Nature Reserve means all that land and water comprising Reserve 30897 for the purpose of Conservation, Flora and Fauna which is classified under the LA Act as a class A reserve, being the Original Wanjarri Nature Reserve Area, as expanded to include the Wanjarri Nature Reserve Addition, as provided for in clause 3.1 of the Conservation Estate Schedule of the Tjiwarl Palyakuwa (Agreement).

Wanjarri Nature Reserve Addition means Lot 568 on Deposited Plan 73751 and being the whole of the land in Certificate of Crown Land Title Volume LR3162 Folio 537, that was added to the area of the Original Wanjarri Nature Reserve on [insert date], being an area in relation to which Tjiwarl AC holds non-exclusive native title in trust for the Tjiwarl People in accordance with the Tjiwarl Determination.

Yeelirrie Lake Mason non-exclusive area means that part of Yeelirrie Lake Mason Reserve which comprises part of the land that was formerly designated UCL 239, being an area in relation to which Tjiwarl AC holds non-exclusive native title in trust for the Tjiwarl People in accordance with the Tjiwarl Determination.

Yeelirrie Lake Mason Reserve means all that land and water comprising Reserve [XXXX] for the purpose of National Park and which is classified under the LA Act as a class A reserve, being Lot [insert number] as shown on Deposited Plan [insert number].

3. Interpretation

In this Agreement, unless the context otherwise requires:

- (a) the headings and subheadings are inserted for guidance only and do not govern the meaning or construction of any provision of this Agreement;
- (b) words expressed in the singular include the plural and vice versa;
- (c) a reference to a document, agreement or instrument is to that document, agreement or instrument as varied, amended, supplemented, or replaced;
- (d) 'including' means 'including but not limited to'; and
- (e) a reference to a written law will be deemed to include any amendment, re-enactment or consolidation of the written law.

4. Application of section 47C to the Agreement Area

- (a) The Parties agree to the operation of Section 47C in relation to the Agreement Area.
- (b) Without limiting clause 4(a), the Parties agree that, for all purposes under the Native Title Act in relation to the Native Title Claims, any extinguishment of native title by the setting aside, granting or vesting of, or by placing the care, control and management of, Wanjarri Nature Reserve, and by the creation of any other prior interest in relation to the Agreement Area, is to be disregarded.
- (c) In accordance with section 47C(4) of the Native Title Act, the State agrees that the extinguishing effect of any of its relevant public works in the Agreement Area is to be disregarded.

5. Governing law and jurisdiction

- (a) Apart from its operation under the Native Title Act, this Agreement is governed by the law applicable in the State of Western Australia.
- (b) Each Party irrevocably and unconditionally submits to the jurisdiction of the Federal Court of Australia and to the non-exclusive jurisdiction of the courts of Western Australia.

6. Costs

Each Party will bear its own costs in relation to the negotiation, preparation and execution of this Agreement.

7. Counterparts

- (a) This Agreement may be executed in counterparts. All executed counterparts, taken together, constitute one document.
- (b) Each Party must execute a number of counterparts that will enable each Party to have at least one original version of each counterpart.

8. Further action and time

Each Party must use its best endeavours to do all things necessary or desirable to give effect to this Agreement and the matters contemplated by it.

EXECUTED AS AN AGREEMENT

EXECUTED for and on behalf of **the**)
Proposed Tjiwarl Applicant in the)
Determination Application, by the following)
members of the proposed Applicant:)

[Name] (signature)

Witness (signature)

Date

Name of witness (please print)

[Name] (signature)

Witness (signature)

Date

Name of witness (please print)

[Name] (signature)

Witness (signature)

Date

Name of witness (please print)

EXECUTED in accordance with section 99-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) on behalf of **TJIWARL ABORIGINAL CORPORATION (RNTBC) ICN 8628** by:

Director (Signature)

Director (Signature)

Director (print name)

Director (print name)

Date

Date

SIGNED for and on behalf of the **STATE**)
OF WESTERN AUSTRALIA by the)
HONOURABLE [insert details], Minister)
for Aboriginal Affairs of the State of)
Western Australia, in the presence of:)

Signature of witness

Signature

Full name of witness (print)

Date

Address of witness

Occupation of witness

Schedule 1 – Map of Agreement Area

TJIWARL PALYAKUWA (AGREEMENT)**SCHEDULE 8 – Annexure 2**

Agreement to the operation of section 47C of the Native Title Act (Yeelirrie Lake Mason Reserve)

AGREEMENT TO OPERATION OF SECTION 47C NATIVE TITLE ACT

In relation to the Yeelirrie Lake Mason Reserve

BETWEEN

Tjiwarl (Aboriginal Corporation) RNTBC (ICN 8628)

State of Western Australia

DATE

This Agreement is made on the day of 202

PARTIES

State **STATE OF WESTERN AUSTRALIA**, represented by the Minister for Aboriginal Affairs of 12th Floor, Dumas House, 2 Havelock Street, West Perth, Western Australia

Tjiwarl AC **TJIWARL ABORIGINAL CORPORATION (RNTBC)** ICN 8628 a body corporate established for and on behalf of the Tjiwarl People of Unit 6, 254 Abernethy Road, Kewdale, Western Australia

RECITALS

- A. Among other things, the Tjiwarl Palyakuwa (Agreement) settles the State's liability for all claims for compensation for the loss, diminution, impairment or other effect on the Tjiwarl People's native title rights and interests by certain acts done within the area the subject of the Tjiwarl Determination.
- B. The Tjiwarl Palyakuwa (Agreement) also provides the Tjiwarl People's consent to, among other things, the creation of Yeelirrie Lake Mason Reserve.
- C. Since the Tjiwarl Palyakuwa (Agreement) was registered:
- (a) Yeelirrie Lake Mason Reserve has been created;
 - (b) Yeelirrie Lake Mason Reserve has been vested jointly in the Conservation and Parks Commission and Tjiwarl AC; and
 - (c) the Parties have commenced developing a management plan for approval under section 60 of the *Conservation and Land Management Act 1984* (WA) in respect of the Yeelirrie Lake Mason Reserve.
- D. Yeelirrie Lake Mason Reserve did not exist when the Tjiwarl Determination was made. In relation to the area the subject of the Yeelirrie Lake Mason Reserve the Tjiwarl Determination recognises that Tjiwarl People have:

- (a) exclusive native title in relation to that part of Yeelirrie Lake Mason Reserve which was unallocated Crown land when the Tjiwarl Determination was made; and
 - (b) non-exclusive native title in relation to the balance.
- E. The Tjiwarl Palyakuwa (Agreement) provides for means by which the Tjiwarl People can seek a determination of exclusive native title in relation to the Agreement Area by relying on section 47C of the Native Title Act. The Tjiwarl Palyakuwa (Agreement) contemplates that any prior extinguishment of native title in relation to the Yeelirrie Lake Mason Reserve will be disregarded by:
 - (a) Tjiwarl AC making the Variation Application; and
 - (b) the Proposed Tjiwarl Applicant making the Determination Application,with the Native Title Claims to be determined at the same time.
- F. At a meeting held at [insert location] on [insert date] (**authorisation meeting**), the Tjiwarl People authorised:
 - (a) Tjiwarl AC to enter into the Tjiwarl Palyakuwa (Agreement); and
 - (b) Tjiwarl AC to make the Variation Application.
- G. In relation to the Variation Application, the Parties agree that Yeelirrie Lake Mason Reserve should be recognised in any determination of native title as an 'other interest' for the purposes of section 225(c) of the Native Title Act.
- H. In accordance with the Tjiwarl Palyakuwa (Agreement) and Section 47C:
 - (a) on [insert date] Tjiwarl AC requested the State's agreement to the operation of Section 47C in relation to Yeelirrie Lake Mason Reserve; and
 - (b) on [insert date], the State arranged for notification of the proposed terms of this Agreement by publishing a public notice in *The West Australian*. The notice was also published on the Department of the Premier and Cabinet's website on the same date. The purpose of the notification was to give interested persons an opportunity to comment on the proposed agreement. The period for comment ended on [insert date].
- I. The Parties enter this Agreement for the purposes of section 47C(1)(b) of the Native Title Act to enable the Tjiwarl People to make the Variation Application on the basis that any prior extinguishment of their native title is to be disregarded.

- J. The Parties are, or intend to be, parties to an agreement for the purposes of section 47C(1)(b) of the Native Title Act in relation to Wanjarri Nature Reserve, part of which is within the area the subject of the Tjiwarl Determination and proposed to be the subject of the Variation Application.
- K. The Parties intend that the Native Title Claims will be determined at the same time.

THE PARTIES AGREE AS FOLLOWS:

1. General Definitions

In this Agreement, words and expressions defined in the Native Title Act including **approved determination of native title, determination of native title, indigenous land use agreement, public work, relevant public work** and **Register of Indigenous Land Use Agreements** have the same meaning when used in this Agreement.

2. Specific Definitions

In this Agreement the following words and phrases have the following meanings:

Agreement Area means all the land and waters the subject of Yeelirrie Lake Mason Reserve being the area generally shown on the map at Schedule 1.

Determination Application means a native title determination application, to be made by an applicant authorised by the Tjiwarl People in accordance with section 251B, under section 61(1) of the Native Title Act that:

- (a) relying on the operation of Section 47C, seeks recognition of exclusive possession native title in relation to the Original Wanjarri Nature Reserve Area; and
- (b) is proposed to be heard and determined together with the Variation Application, being the relevant claimant application for the purposes of section 47C(1)(a) of the Native Title Act.

LA Act means the *Land Administration Act 1997* (WA).

Native Title Act means the *Native Title Act 1993* (Cth).

Native Title Claims means the Variation Application and the Determination Application.

Original Wanjarri Nature Reserve Area means the area that was the subject of Reserve 30897 when the Tjiwarl Determination was made, being Lot 569 on Deposited Plan 73751 and being the whole of the land in Certificate of Crown Land Title Volume LR3162 Folio 538.

Parties means Tjiwarl AC and the State.

Section 47C means section 47C of the Native Title Act.

State means the Crown in right of the State of Western Australia, acting through the Minister for Aboriginal Affairs.

Tjiwarl AC means Tjiwarl (Aboriginal Corporation) RNTBC (ICN: 8628) of unit 6, 524 Abernethy Road, Kewdale, Western Australia in its capacity as a registered native title body corporate holding native title on trust for the Tjiwarl People.

Tjiwarl Determination means the determination of native title made by the Federal Court of Australia on 27 April 2017 in WAD 228 of 2011 and WAD 302 of 2015, as amended by the Full Court of the Federal Court of Australia on 1 February 2018 in WAD 217 of 2017 and WAD 218 of 2017 and as further amended by the High Court of Australia on 17 April 2019 in P 38 of 2018.

Tjiwarl Determination Area means the area the subject of the Tjiwarl Determination.

Tjiwarl Palyakuwa (Agreement) means the indigenous land use agreement of that name that was entered on the Register of Indigenous Land Use Agreements on [insert date].

Tjiwarl People means the persons described in Schedule 2 to the Tjiwarl Determination.

Variation Application means a revised native title determination application to be made by Tjiwarl AC on behalf of the Tjiwarl People under section 61(1) of the Native Title Act that:

- (a) seeks to vary the Tjiwarl Determination by:
 - (i) relying on the operation of Section 47C, exclusive possession native title in relation to the:
 - (A) Wanjarri Nature Reserve Addition; and
 - (B) Yeelirrie Lake Mason non-exclusive area; and
 - (i) recognising each of Wanjarri Nature Reserve and Yeelirrie Lake Mason Reserve as an 'other interest' for the purposes of section 225(c) of the Native Title Act; and
- (b) is proposed to be heard and determined together with the Determination Application, being the relevant revised native title determination application for the purposes of section 47C(1)(a) of the Native Title Act.

Wanjarri Nature Reserve means all that land and water comprising Reserve 30897 for the purpose of Conservation, Flora and Fauna which is classified under the LA Act as a class A

reserve, being the Original Wanjarri Nature Reserve Area, as expanded to include the Wanjarri Nature Reserve Addition, as provided for in clause 3.1 of the Conservation Estate Schedule of the Tjiwarl Palyakuwa (Agreement).

Wanjarri Nature Reserve Addition means Lot 568 on Deposited Plan 73751 and being the whole of the land in Certificate of Crown Land Title Volume LR3162 Folio 537, that was added to the area of the Original Wanjarri Nature Reserve on [insert date], being an area in relation to which Tjiwarl AC holds non-exclusive native title in trust for the Tjiwarl People in accordance with the Tjiwarl Determination.

Yeelirrie Lake Mason non-exclusive area means that part of Yeelirrie Lake Mason Reserve which comprises part of the land that was formerly designated UCL 239, being an area in relation to which Tjiwarl AC holds non-exclusive native title in trust for the Tjiwarl People in accordance with the Tjiwarl Determination.

Yeelirrie Lake Mason Reserve means all that land and water comprising Reserve [XXXX] for the purpose of National Park and which is classified under the LA Act as a class A reserve, being Lot [insert number] as shown on Deposited Plan [insert number].

3. Interpretation

In this Agreement, unless the context otherwise requires:

- (a) the headings and subheadings are inserted for guidance only and do not govern the meaning or construction of any provision of this Agreement;
- (b) words expressed in the singular include the plural and vice versa;
- (c) a reference to a document, agreement or instrument is to that document, agreement or instrument as varied, amended, supplemented, or replaced;
- (d) 'including' means 'including but not limited to'; and
- (e) a reference to a written law will be deemed to include any amendment, re-enactment or consolidation of the written law.

4. Application of section 47C to the Agreement Area

- (a) The Parties agree to the operation of Section 47C in relation to the Agreement Area.
- (b) Without limiting clause 4(a), the Parties agree that, for all purposes under the Native Title Act in relation to the Native Title Claims, any extinguishment of native title by the setting aside, granting or vesting, or by placing of the care, control and management, of the

Yeelirrie Lake Mason Reserve, and by the creation of any other prior interest in relation to the Agreement Area, is to be disregarded.

- (c) In accordance with section 47C(4) of the Native Title Act, the State agrees that the extinguishing effect of any of its relevant public works in the Agreement Area is to be disregarded.

5. Governing law and jurisdiction

- (a) Apart from its operation under the Native Title Act, this Agreement is governed by the law applicable in the State of Western Australia.
- (b) Each Party irrevocably and unconditionally submits to the jurisdiction of the Federal Court of Australia and to the non-exclusive jurisdiction of the courts of Western Australia.

6. Costs

Each Party will bear its own costs in relation to the negotiation, preparation and execution of this Agreement.

7. Counterparts

- (a) This Agreement may be executed in counterparts. All executed counterparts, taken together, constitute one document.
- (b) Each Party must execute a number of counterparts that will enable each Party to have at least one original version of each counterpart.

8. Further action and time

Each Party must use its best endeavours to do all things necessary or desirable to give effect to this Agreement and the matters contemplated by it.

EXECUTED AS AN AGREEMENT

EXECUTED in accordance with section 99-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) on behalf of **TJIWARL ABORIGINAL CORPORATION (RNTBC) ICN 8628** by:

Director (Signature)

Director (Signature)

Director (print name)

Director (print name)

Date

Date

SIGNED for and on behalf of the **STATE**)
OF WESTERN AUSTRALIA by the)
HONOURABLE [insert details], Minister)
for Aboriginal Affairs of the State of)
Western Australia, in the presence of:)

Signature of witness

Signature

Full name of witness (print)

Date

Address of witness

Occupation of witness

Schedule 1 – Map of Agreement Area

TJIWARL PALYAKUWA (AGREEMENT)**SCHEDULE 8 – Annexure 3**

Minute of Proposed Orders and Varied Determination of
Native Title

Minute of Proposed Orders and Varied Determination of Native Title

Federal Court of Australia
District Registry: Western Australia
Division: General

WAD [XXX/202X]

Tjiwarl Aboriginal Corporation (ICN 8628)

Applicant

State of Western Australia & Ors

Respondents

WAD [YYY/202Y]

[Name] & Ors on behalf of the Tjiwarl People

Applicant

State of Western Australia & Ors

Respondents

THE COURT NOTES THAT:

Determination of native title

1. On 27 April 2017, Mortimer J made a determination of native title in WAD 217 of 2017 and WAD 218 of 2017 to the effect that the **Tjiwarl People** (being the persons described in Schedule 2 of Attachment "A" to the determination) hold native title rights and interests in relation to the area the subject of the determination (**Tjiwarl Determination Area**). That determination was the subject of appeals to both the Full Court of this Court and the High Court of Australia. The determination was amended, and became an approved determination of native title, when the High Court of Australia finally determined the appeal in P 38 of 2018 on 17 April 2019 (**Tjiwarl Determination**).
2. Native title in relation to the Tjiwarl Determination Area is held by Tjiwarl (Aboriginal Corporation) RNTBC (ICN 8628) (**Tjiwarl AC**).

3. **Wanjarri Nature Reserve** (Reserve 30897) is within the external boundary of the Tjiwarl Determination Area but the area that was the subject of the reserve when the Tjiwarl Determination was made (**Original Wanjarri Nature Reserve Area**) was excluded from the Tjiwarl Determination Area by reason of extinguishment.

Compensation claims and indigenous land use agreement

4. On 17 June 2020, two compensation applications were made to this Court on behalf of the Tjiwarl People: WAD 141 of 2020 and WAD 142 of 2020. A third compensation application was made on 11 November 2020: WAD 269 of 2020.
5. On [insert date], [insert parties] entered into the Tjiwarl Palyakuwa (Agreement) which was entered on the Register of Indigenous Land Use Agreements on [insert date]. Among other things, the Tjiwarl Palyakuwa (Agreement) settles the State's liability for all claims for compensation for the loss, diminution, impairment or other effect on the Tjiwarl People's native title rights and interests by certain acts done within the area the subject of the Tjiwarl Determination.
6. The Tjiwarl Palyakuwa (Agreement) also provides the Tjiwarl People's consent to, among other things:
 - (a) the expansion of the Original Wanjarri Nature Reserve Area to include an area of approximately 8,431 hectares of land formerly the subject of Yakabindie Pastoral Lease H859693L (**Wanjarri Nature Reserve Addition**); and
 - (b) the creation of a new reserve within the Tjiwarl Determination Area now known as [**Yeelirrie Lake Mason Reserve**] (Reserve [XXXXXX]).
7. Since the Tjiwarl Palyakuwa (Agreement) was registered:
 - (a) the Original Wanjarri Nature Reserve Area has been expanded to include the Wanjarri Nature Reserve Addition;
 - (b) [**Yeelirrie Lake Mason Reserve**] has been created;
 - (c) both Wanjarri Nature Reserve and [**Yeelirrie Lake Mason Reserve**] (**Tjiwarl Conservation Estate**) have been vested jointly in the Conservation and Parks Commission and Tjiwarl AC; and
 - (d) the State and Tjiwarl AC have commenced developing a management plan for approval under section 60 of the *Conservation and Land Management Act 1984* (WA) in respect of the Tjiwarl Conservation Estate.

Current status of native title in relation to Tjiwarl Conservation Estate

8. The Original Wanjarri Nature Reserve Area is not the subject of an approved determination of native title. The Tjiwarl Determination recognises non-exclusive native title in relation to the Wanjarri Nature Reserve Addition.
9. [Yeelirrie Lake Mason Reserve] is also within the external boundary of the Tjiwarl Determination Area, but it did not exist when the Tjiwarl Determination was made. The Tjiwarl Determination recognises that the Tjiwarl People have:
 - (a) exclusive native title in relation to that part of [Yeelirrie Lake Mason Reserve] that was unallocated Crown land when the Tjiwarl Determination was made (UCL 245 and UCL 246); and
 - (b) non-exclusive native title in relation to the balance of [Yeelirrie Lake Mason Reserve] (formerly UCL 239) (**Yeelirrie Lake Mason non-exclusive area**).

Proposed variation and further determination of native title in relation to Tjiwarl Conservation Estate

10. The Tjiwarl Palyakuwa (Agreement) provides for means by which the Tjiwarl People can, by relying on section 47C of the *Native Title Act 1993* (Cth), seek a determination of exclusive native title in relation to those parts of the Tjiwarl Conservation Estate where exclusive native title is not currently recognised. The Tjiwarl Palyakuwa (Agreement) contemplates that any prior extinguishment of native title will be disregarded by:
 - (a) Tjiwarl AC making a revised native title determination application under section 61(1) of the *Native Title Act* in relation to the:
 - (i) Wanjarri Nature Reserve Addition; and
 - (ii) Yeelirrie Lake Mason non-exclusive area; and
 - (b) the Tjiwarl People authorising an applicant to make a native title determination application under section 61(1) of the *Native Title Act* in relation to the Original Wanjarri Nature Reserve Area,and that both applications be heard and determined together.
11. On [insert date], Tjiwarl AC and the State entered into two agreements under section 47C(1)(b) of the *Native Title Act* in relation to the Tjiwarl Conservation Estate, one in relation to Wanjarri Nature Reserve and the other in relation to [Yeelirrie Lake Mason Reserve] (**section 47C Agreements**).

Current applications

12. On [insert date], in accordance with the Tjiwarl Palyakuwa (Agreement) and the section 47C Agreements:
 - (a) the Applicant in WAD [XXX/202X] filed a revised native title determination application under section 61(1) of the *Native Title Act* in relation to the Tjiwarl Conservation Estate to the extent that it is in the Tjiwarl Determination Area (**Variation Application**); and
 - (b) the Applicant in WAD [YYY/202Y], authorised by the Tjiwarl People, filed a native title determination application under section 61(1) of the *Native Title Act* in relation to that part of the Tjiwarl Conservation Estate comprising the Original Wanjarri Nature Reserve Area (**Determination Application**),

(together **the Applications**).
13. The parties to the Applications (**the parties**) have requested that they be heard and determined together with the intention that a determination of the Applications will result in a single approved determination of native title:
 - (a) in relation to an area that includes Wanjarri Nature Reserve (including the Wanjarri Nature Reserve Addition);
 - (b) that recognises exclusive native title in relation to both:
 - (i) Wanjarri Nature Reserve (including the Wanjarri Nature Reserve Addition); and
 - (ii) the Yeelirrie Lake Mason non-exclusive area;
 - (c) that recognises both Wanjarri Nature Reserve (including the Wanjarri Nature Reserve Addition) and [Yeelirrie Lake Mason Reserve] as an ‘other interest’ for the purposes of section 225 of the *Native Title Act*; and
 - (d) that replaces the Tjiwarl Determination.
14. The parties have reached an agreement as to the terms of the orders, including a varied determination of native title, to be made on the Applications.
15. The parties have filed with the Court this Minute of Proposed Orders and Varied Determination of Native Title setting out the terms of the agreement reached by the parties in relation to the Applications.

BEING SATISFIED that orders in the terms sought by the parties are within the power of the Court and, it appearing to the Court appropriate to do so pursuant to sections 13(5) and 87 of the *Native Title Act*, and by the consent of the parties:

THE COURT ORDERS THAT:

- 1. Pursuant to rule 30.11 of the *Federal Court Rules 2011* (Cth) WAD [XXX/202X] and WAD [YYY/202Y] be heard together.
- 2. The determination of native title at Attachment "A" to the orders made by Justice Mortimer in *Narrier v State of Western Australia* [2016] FCA 1519, as amended by orders of:
 - (a) the Full Court of the Federal Court on 1 February 2018 in *BHP Billiton Nickel West Pty Ltd v KN (Deceased)* [2018] FCAFC 8 (WAD 217 of 2017 & WAD 218 of 2017); and
 - (b) the High Court on 17 April 2019 in *Tjungarrayi v Western Australia & KN (deceased) and Others (Tjiwarl and Tjiwarl #2) v Western Australia* [2019] HCA 12 (P 38 of 2018),

be varied as follows:

- (c) delete order 10 and replace it with the following:

Areas to which ss 47B and 47C of the Native Title Act apply

10 For the avoidance of doubt:

- (a) *section 47B of the Native Title Act applies to the parts of the Determination Area set out in Part 1 of Schedule 5; and*
- (b) *section 47C of the Native Title Act applies to the parts of the Determination Area set out in Part 2 of Schedule 5;*

- (d) in the table in paragraph 2 of Part 2 of Schedule 1, delete "RES 30897";
- (e) in Schedule 3, delete the table and replace it with the following:

<i>RES 30897</i>	<i>RES [XXXXXX]¹</i>
------------------	---------------------------------

- (f) in Schedule 4, delete the chapeau and replace it with the following:
With the exception of:

¹ Being the designated reserve number of [Yeelirrie (Lake Mason) Nature Reserve/National Park].

- (a) *Wanjarri Nature Reserve (Reserve 30897), which is an other interest that is included in the Determination Area as a result of this Varied Determination of Native Title; and*
- (b) *Reserve [XXXX], which is an other interest that was created on [insert date],*
the nature and extent of other interests set out in relation to the Determination Area as at 27 April 2017 are:
- (g) in the table in paragraph 1 of Part 1 of Schedule 4, insert "RES 30897" and "RES [XXXXX]"²;
- (h) delete Schedule 5 and replace it with the following:

SCHEDULE 5

AREAS TO WHICH SECTIONS 47B AND 47C OF THE NATIVE TITLE ACT APPLY

Part 1 – s 47B areas

The parts of the Determination Area to which section 47B of the Native Title Act applies (shown generally on the maps in Schedule 6 as shaded green) are those parts of [Yeelirrie Lake Mason Reserve] (Reserve [XXXX]) formerly designated UCL 245 and UCL 246.

Part 2 – s 47C areas

The parts of the Determination Area to which section 47C of the Native Title Act applies (shown generally on the maps in Schedule 6 as shaded [colour]) are:

- (a) *Wanjarri Nature Reserve (Reserve 30897); and*
- (b) *that part of [Yeelirrie Lake Mason Reserve] formerly designated UCL 239.*
- (i) delete the maps in Schedule 6 and replace them with the maps in Schedule 6 of Attachment "A" to these orders.
3. The determination of native title as varied by order 1 above be in the form of Attachment "A" to these orders.
4. Tjiwarl (Aboriginal Corporation) RNTBC (ICN: 8628) shall hold the determined native title in trust for the native title holders pursuant to section 56(2)(a) of the *Native Title Act*.
5. There be no order as to costs.

² Being the designated reserve number of [Yeelirrie (Lake Mason) Nature Reserve/National Park].

ATTACHMENT "A"

VARIED DETERMINATION OF NATIVE TITLE

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

Existence of native title (s 225)

1. Native title exists in relation to the whole of the Determination Area.

Native title holders (s 225(a))

2. The native title in the Determination Area is held by the persons described in Schedule 2 (**native title holders**).

The nature and extent of native title rights and interests (s 225(b); s 225(e))

3. Subject to orders 6 and 7, the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Schedule 3 is the right to possession, occupation, use and enjoyment of those parts to the exclusion of all others.
4. Subject to orders 5 to 7, the nature and extent of the native title rights and interests in relation to each part of the Determination Area, other than those parts of the Determination Area referred to in Schedule 3, are the following rights or interests:
 - (a) the right to access, remain in and use that part;
 - (b) the right to access, take and use the resources of that part for any purpose;
 - (c) the right to engage in spiritual and cultural activities in that part;
 - (d) the right to maintain and protect places of significance on that part; and
 - (e) the right to receive a portion of any traditional resources (not including minerals or petroleum) taken from land or waters by Aboriginal people who are also governed by Western Desert traditional laws and customs.

Qualifications on native title rights and interests (s 225(b); 225(e))

5. The native title rights and interests in order 4 do not confer possession, occupation, use and enjoyment of those parts of the Determination Area on the native title holders to the exclusion of all others.

6. The native title rights and interests are subject to and exercisable in accordance with:
 - (a) the traditional laws and customs of the native title holders; and
 - (b) the laws of the State and the Commonwealth, including the common law.
7. Notwithstanding anything in this Determination there are no native title rights and interests in the Determination Area in or in relation to:
 - (a) minerals or petroleum; or
 - (b) geothermal energy resources and geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967* (WA).

The nature and extent of any other interests (s 225(c))

8. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Schedule 4 (**other interests**).

Relationship between native title rights and other interests (s 225(d))

9. Except as otherwise provided for by law, the relationship between the native title rights and interests described in orders 3 and 4 and the other interests is as follows:
 - (a) the Determination does not affect the validity of those other interests;
 - (b) to the extent of any inconsistency between the other interests described in Part 1 of Schedule 4 and the continued existence, enjoyment or exercise of the native title rights and interests:
 - (i) the native title rights and interests continue to exist in their entirety, but the native title rights and interests have no effect in relation to the other interests to the extent of the inconsistency during the currency of the other interests; and
 - (ii) otherwise the other interests co-exist with the native title rights and interests and, for the avoidance of doubt, the doing of an activity required or permitted under those interests prevails over the native title rights and interests and their exercise, but does not extinguish them; and
 - (c) to the extent of any inconsistency with the other interests described in Part 2 of Schedule 4 and the continued existence, enjoyment or exercise of the native title rights and interests, those other interests have no force or effect against the native title rights and interests.

Areas to which ss 47B and 47C of the Native Title Act apply

10. For the avoidance of doubt:
- (a) section 47B of the *Native Title Act* applies to the parts of the Determination Area set out in Part 1 of Schedule 5; and
 - (b) section 47C of the *Native Title Act* applies to the parts of the Determination Area set out in Part 2 of Schedule 5.

Definitions and interpretation

11. In this Determination, unless the contrary intention appears:

Determination Area means the land and waters within the external boundary described in Part 1 of Schedule 1 and depicted on the maps at Schedule 6, but not including the Excluded Areas.

Excluded Areas means the land and waters described in Part 2 of Schedule 1 and depicted as such on the maps at Schedule 6.

land and **waters** respectively have the same meanings as in the *Native Title Act*.

minerals means minerals as defined in the *Mining Act 1904* (WA) (repealed) and the *Mining Act 1978* (WA).

Native Title Act means the *Native Title Act 1993* (Cth).

petroleum means petroleum as defined in the *Petroleum Act 1936* (WA) (repealed) and the *Petroleum and Geothermal Energy Resources Act 1967* (WA).

State means the State of Western Australia.

12. In the event of an inconsistency between the written description of areas in the Schedules and the areas depicted on the maps in Schedule 6, the written descriptions shall prevail.

SCHEDULE 1

DETERMINATION AREA

Part 1 – External boundaries and areas of land and waters where native title exists

The external boundary of the Determination Area, generally shown as bordered in blue on the maps at Schedule 6, is as follows:

All those lands and waters commencing at the northernmost northeastern corner of Pastoral Lease N049747 (Gidgee) and extending easterly to the northernmost northwestern corner of Lot 60 as shown on Deposited Plan 238007; Then easterly along the northern boundary of that lot to a western boundary of Pastoral Lease N049508 (Yeelirrie); Then northerly and easterly along boundaries of that pastoral lease to a western boundary of Pastoral Lease N049530 (Albion Downs); Then northerly along boundaries of that pastoral lease to the intersection with a southern boundary of Native Title Determination WAD248/2007 Tarlpa (WCD2013/004); Then easterly, northerly, again easterly, northwesterly, generally southeasterly and again easterly along boundaries of that native title determination to the southernmost southeastern corner of the eastern severance of Pastoral Lease N050051 (Lake Way), being a point of the present boundary of Pastoral Lease N049448 (Mt Keith); Then generally easterly and southerly along boundaries of that pastoral lease to the northeastern corner of Reserve 30897; Then generally southerly along boundaries of that reserve to a northeastern corner of Pastoral Lease N049476 (Yakabindie); Then generally southerly along boundaries of that pastoral lease to a northeastern corner of Pastoral Lease N049438 (Leinster Downs); Then generally southerly along boundaries of that pastoral lease to Latitude 27.998685 South; Then westerly to the intersection with a eastern boundary of the northeastern severance of Reserve 10513 at Latitude 27.998687 South; Then westerly to the intersection with a eastern boundary of the eastern severance of Pastoral Lease N049967 (Depot Springs) at Latitude 27.998691 South; Then southerly and generally westerly along the boundaries of that pastoral lease to the southeastern corner of Pastoral Lease N050557 (Booylgoo Spring); Then westerly, northerly and again westerly along boundaries of that pastoral lease to longitude 119.713751 East; Then northerly to a southwestern corner of Lot 74 as shown on Deposited Plan 220987, being a point on the present boundary of Pastoral Lease N050557 (Booylgoo Spring); Then generally northerly along boundaries of that pastoral lease to its northernmost northwestern corner; Then northwesterly to the easternmost southeastern corner of Pastoral Lease N049747 (Gidgee); Then northwesterly to the southernmost southwestern corner of Pastoral Lease N049934 (Youno Downs); Then northerly along the boundary of that pastoral lease back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees.
 All referenced Deposited Plans and Diagrams are held by the Western Australian Land Information Authority, trading as Landgate.
 Cadastral boundaries sourced from Landgate’s Spatial Cadastral Database dated 3rd January 2017.

For the avoidance of doubt the application excludes any land and waters already claimed by:

- Native Title Determination Application WAD248/2007 Tarlpa (WCD2013/004) as Determined in the Federal Court on the 29th July 2013.
- Native Title Determination Application WAD6064/1998 Wutha (WC1999/010) as Registered in the Federal Court on the 13th January 2017.

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared By: Graphic Services (Landgate) 24th March 2017

Use of Coordinates:

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

Part 2 – Excluded Areas

The following areas within the external boundaries described in Part 1 of this Schedule 1, generally shaded in pink on the maps at Schedule 6, being land and waters where native title has been completely extinguished, are not included in the Determination Area:

Freehold

1. The following grants of freehold title:

CT252/76	GT 17/720	GT 20/119	GT 21/595
CT291/194	GT 17/737	GT 20/260	GT 21/612
CT1121/244	GT18/63	GT 20/261	GT 21/653
CT1676/354	GT18/64	GT 20/262	GT 21/654
CT1676/355	GT18/242	GT 20/502	GT 21/655
CT1850/671	GT 18/521	GT 20/571	GT 21/680
CT121/85	GT18/733	GT 20/572	GT 21/681
CT182/79	GT 18/734	GT 20/591	GT 21/682

CT189/15	GT 19/151	GT 20/650	GT 21/683
CT209/47	GT 19/152	GT 20/769	GT 21/684
CT256/30	GT 19/179	GT 20/770	GT 21/762
CT367/189	GT 19/180	GT 21/34	GT 21/764
CT388/198	GT 19/209	GT 21/35	GT 21/796
CT 390/162	GT 19/210	GT 21/66	GT 21/797
CT 395/102	GT 19/284	GT 21/67	GT 21/798
CT 395/103	GT 19/399	GT 21/328	GT 21/799
CT 395/104	GT 19/456	GT 21/329	GT 21/800
CT 399/5	GT 19/488	GT 21/330	GT 21/801
CT 403/108	GT 19/489	GT 21/335	GT 22/356
CT 413/153	GT 19/490	GT 21/336	GT 22/528
CT 415/139	GT 19/491	GT 21/337	GT 22/529
CT 421/165	GT 19/663	GT 21/338	GT 22/638
CT 423/90	GT 19/705	GT 21/339	GT 22/639
CT 424/81	GT 19/706	GT 21/353	GT 22/754
CT 424/82	GT 19/718	GT 21/354	GT 23/159
CT 424/196	GT 19/749	GT 21/355	GT 23/160
CT 427/200	GT 19/792	GT 21/377	GT 23/182
CT 431/192	GT 19/793	GT 21/399	GT 23/183
CT 451/25	GT 20/26	GT 21/400	GT 23/220
GT 14/36	GT 20/27	GT 21/401	GT 23/369
GT 14/263	GT 20/76	GT 21/402	GT 23/389
GT 14/403	GT 20/77	GT 21/450	GT 23/454
GT 17/305	GT 20/86	GT 21/589	GT 23/652

Reserves

2. The following vested reserves:

RES 5505	RES 39075	RES 42277	RES 51192
RES 8400	RES 41816	RES 42315	
RES 10378	RES 41817	RES 42831	
RES 17675	RES 41818	RES 42934	

Leases of reserves

3. The following leases of reserves under section 41A of the *Land Act 1898* (WA) and section 32 of the *Land Act 1933* (WA):

L332/767	L332/1085	L332/1178	L954/41A
L332/783	L332/1177	L332/1986	

Special leases

4. The following special leases:

3116/6675	3116/6676	3116/6696
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Roads

5. The following roads:

Road 10	Road 15	Closed Road 21
Road 13	Road 16	Closed Road 22
Road 14	Closed Road 20	Closed Road 23

SCHEDULE 2

DESCRIPTION OF THE NATIVE TITLE HOLDERS

1. The persons referred to in order 2 of the Determination are those persons from time to time:
 - (a) who, in accordance with Western Desert traditional laws and customs, have a connection to part or all of the Determination Area through conception, birth, growing up or initiation on the area, acquisition of knowledge through long association, or through descent from a person who has had such a connection; and
 - (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs.

2. At the date of this Determination, the persons referred to in paragraph 1 of this Schedule 2 are those who:
 - (a) have a connection through:
 - (i) their own birth, or long association with part or all of the Determination Area; or
 - (ii) the birth, or long association with part or all of the Determination Area, of their ancestors by which they claim country; and
 - (b) in respect of whom that claim is recognised according to Western Desert traditional laws and customs,

being such of the descendants of the following ancestors as are recognised, according to Western Desert traditional laws and customs, by the other native title holders as having rights in the Determination Area:

- i. Alfie Ashwin;
- ii. Piman/Charlie Beaman;
- iii. Tjampula/Jumbo Harris;
- iv. Nampu/Scotty Lewis;
- v. Nimpurru/Spider Narrier;
- vi. Tjulyitjutu/Rosie Jones;
- vii. Kathleen Bingham;
- viii. Kurril/Scotty/Ted/Packhorse Rennie Tullock;
- ix. Pukungka/Dolly Walker;

- x. Manyila/Trilby; and
- xi. Dempsey James.

SCHEDULE 3

WHERE NATIVE TITLE IS EXCLUSIVE POSSESSION

The parts of the Determination Area where native title comprises the rights and interests set out in order 3 are as follows, as shown generally shaded green on the maps in Schedule 6:

RES 30897	RES [XXXXXX] ³
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³ Being the designated reserve number of the Yeelirrie Lake Mason Reserve.

SCHEDULE 4

OTHER INTERESTS

With the exception of:

- (a) Wanjarri Nature Reserve (Reserve 30897) which is an other interest that is included in the Determination Area as a result of this Varied Determination of Native Title; and
- (b) Reserve [XXXX], which is an other interest that was created on [insert date],

the nature and extent of other interests in relation to the Determination Area as at 27 April 2017 are:

Part 1 – Other interests which validly affect the native title rights and interests

Reserves

1. The following reserves and the rights and interests of persons who have the care, control and management of the reserves:

RES 4004	RES 9417	RES 12834	RES 15889
RES 6405	RES 9418	RES 12835	RES 16611
RES 6913	RES 9699	RES 12836	RES 18137
RES 7003	RES 10037	RES 13093	RES 18760
RES 7553	RES 10247	RES 13094	RES 19403
RES 7724	RES 10293	RES 13095	RES 30897
RES 9016	RES 10513	RES 13711	RES 46801
RES 9288	RES 12207	RES 13871	RES [XXXX] ⁴
RES 9416	RES 12833	RES 15441	

⁴ Being the designated reserve number of the Yeelirrie Lake Mason Reserve.

Pastoral leases

2. The following current pastoral leases and the rights and interests of the holders from time to time of those pastoral leases:

Albion Downs (N049530)	Gidgee (N049747)	Mount Keith (N049448)	Yeelirrie (N049508)
Booylgoo Springs (N050557)	Lake Way (N050051)	Pinnacles (N049812)	Youno Downs (N049934)
Depot Springs (N049967)	Leinster Downs (N049438)	Yakabindie (N049476)	

Roads

3. The following roads (being roads which are maintained by the Shire of Sandstone and the Shire of Wiluna as at the date of this Determination) marked generally on the maps in Schedule 6 in beige:

Road 2	Road 6	Road 8	Road M069 (Mt Magnet-Leinster Road)
Road 5	Road 7	Road 11	

Water Bores and Gravel Pits

4. The rights of the Commissioner of Main Roads, Shire of Sandstone and the Shire of Wiluna to use and maintain the following water bores and gravel pits as at the date of this Determination:

Location of Main Roads WA Material Pits

No.	SLK	Offset (km)	Direction	Coordinates	
				S	E
Material pits on or near Goldfields Highway					
1.	442.69	0.6	East	27.9192	120.68
2.	444.2	0.2	West	27.919	120.6652
3.	444.73	0.1	East	27.9166	120.6639
4.	445.77	0.2	West	27.9104	120.644

No.	SLK	Offset (km)	Direction	Coordinates	
				S	E
5.	445.77	0.12	East	27.9094	120.6563
6.	455.25	0.3	West	27.8498	120.5814
7.	461.4	0.6	East	27.7999	120.5581
8.	465.2	4.9	East	27.767	120.5937
9.	471.1	1.7	West	27.7199	120.5252
10.	528.4	0.36	West	27.218	120.5077
11.	531.020	1.55	East	27.1933	120.516
12.	533.36	1.52	East	27.1729	120.5099
13.	533.36	1.52	East	27.174	120.5095
14.	534.16	0.54	East	27.1647	120.4981
15.	534.16	0.63	East	27.1648	120.5007
16.	534.955	3.01	East	27.1481	120.513
17.	534.955	3.05	East	27.1464	120.5133
18.	539.15	0.3			
19.	539.75	0.3			
20.	540.2				
21.	540.4				
22.	540.48	0.3	West	27.1258	120.4635
23.	540.95	0.575	East	27.1191	120.4704
24.	543.15				
25.	543.3				
26.	545.9				
27.	546				
28.	546.948	0.96	East	27.0635	120.4328
29.	546.948	0.96	East	27.0602	120.4312
30.	549.4	0.96	East	27.0577	120.4332

No.	SLK	Offset (km)	Direction	Coordinates	
				S	E
31.	549.6	0.3			
32.	550.9	0.4			
33.	551				
34.	552.6	1.2	East	27.0095	120.4119
35.	554.8	2.82	East	26.9941	120.4139
36.	561.6				
37.	563.7	8.77	East	26.9613	120.414
38.	563.7	9.38	East	26.9652	120.418
39.	563.7	9.515	East	26.9643	120.4177
40.	563.7	9.515	East	26.9643	120.4177
41.	565.5	0.02			
42.	569.8				
43.		0.36	West	27.2289	120.5074
44.		1.55	East	27.2042	120.5158
45.		1.52	East	27.1839	120.50970
46.		1.52	East	27.1848	120.5092
47.		0.54	East	27.1755	120.4979
48.		0.63	East	27.1756	120.5004
49.		3.01	East	27.1589	120.5127
50.		3.05	East	27.1573	120.5131
51.		0.96	East	27.0743	120.4326
52.		0.96	East	27.0710	120.4309
53.		0.96	East	27.0685	120.4329
54.		1.2	East	27.0203	120.4116
55.		2.82	East	27.0049	120.4136
56.		8.77	East	26.9721	120.4138

No.	SLK	Offset (km)	Direction	Coordinates	
				S	E
57.		9.38	East	26.9760	120.4177
58.		9.515	East	26.9751	120.4175
59.		9.515	East	26.9751	120.4175
60.		2.075	West	26.8902	120.2891
61.		1.945	West	26.8905	120.2914
62.		0.72	West	27.2338	120.5066
63.		0.87	West	27.2355	120.5056
64.		0.29	West	27.2281	120.5069
65.		0.79	East	27.2082	120.5124
66.		0.735	East	27.1974	120.5068
67.		0.76	East	27.1819	120.5024
68.		0.96	East	27.1808	120.5042
69.		0.4	West	27.1771	120.4890
70.		0.525	West	27.1780	120.4878
71.		0.52	West	27.1723	120.4869
72.		0.52	West	27.1724	120.4869
73.		0.525	West	27.1628	120.4819
74.		0.6	West	27.1630	120.4812
75.		0.525	West	27.1626	120.4831
76.		0.6	West	27.1554	120.4789
77.		0.7	East	27.1541	120.4904
78.		0.747	West	27.1304	120.4604
79.		0.35	West	27.1267	120.4618
80.		1.1	West	27.1233	120.4513
81.		1.1	West	27.1233	120.4513
82.		0.71	West	27.1243	120.4555

No.	SLK	Offset (km)	Direction	Coordinates	
				S	E
83.		0.76	East	27.0809	120.4344
84.		0.56	West	27.0755	120.4150
85.		0.165	East	27.0661	120.4198
86.		0.325	West	27.0689	120.4147
87.		0.3	West	27.0681	120.4150
88.		0.87	East	27.0343	120.4160
89.		0.87	East	27.0321	120.4146
90.		0.83	East	27.0223	120.4061
91.		0.18	West	27.0040	120.3818
92.		0.31	East	27.0026	120.3831
93.		0.15	West	26.9977	120.3767
94.		0.19	West	26.9963	120.3708
95.		0.315	West	26.9963	120.3708
96.		0.2	West	26.9841	120.3691
97.		0.2	West	26.9804	120.3620
98.		0.2	East	26.9705	120.3616
99.		0.2	East	26.9619	120.3564
100.		0.25	East	26.9541	120.3526
101.		0.7	East	26.9089	120.3269
102.		0.2	East	26.9465	120.3470
103.		0.95	East	26.9404	120.3497
104.		0.5	East	26.9182	120.3321
105.		0.65	East	26.9163	120.3332
106.		0.4	East	26.9089	120.3269
107.		0.34	East	26.9055	120.3235
108.		0.2	West	26.8992	120.3125

No.	SLK	Offset (km)	Direction	Coordinates	
				S	E
109.		0.28	West	26.8959	120.3093
Material pits on or near Mt Magnet Leinster Road					
110.	202.91	0.1			
111.	219.77	0.27	South	28.016	119.9398
112.	237.37	0.27	South	27.9357	120.0883
113.	247.15	0.22	South	27.9496	120.1847
114.	260.1	2.4	North	27.954	120.3053
115.	262.6	0.1	North	27.9686	120.3362
116.	267.0	0.15	South	27.9659	120.3799
117.	269.49	0.66	North	27.9575	120.4058
118.	269.5	0.3	South	27.9664	120.4028
119.	272.85	0.8	North	27.9465	120.443

Location of Main Roads WA Water Bores

No.	SLK	Offset (km)	Direction	Coordinates	
				S	E
1.	545.13		East	27.0914	120.48
2.	545.13	1.2	East	27.1022	120.4797
3.	543.65		East	27.1097	120.4703
4.	543.65	0.2	East	27.1205	120.4700
5.	543.05	3.3	East	27.11945	120.471
6.	543.05	4.3	East	27.10067	120.4812
7.	543.05	4.3	East	27.10082	120.48127
8.	525.6	0.3	West	27.2513	120.5203
9.	525.6		East	27.2404	120.5205
10.	525.6	0.2	West	27.2499	120.52188

11.	498.17	4.4	East	27.46885	120.55375
12.	498.17	4.4	East	27.46893	120.55338
13.	484.44	5.06	West	27.6116	120.5012
14.	467.87	1.69	East	27.74223	120.5606
15.	433.5	0.19	West	27.97543	120.74922

Location of the Shire of Sandstone's Gravel Pits And Water Bore

No.	Distance from Leinster Rd	Coordinates	
		S	E
Gravel pits			
1.	38.7	27.8117	119.8486
2.	51.5	27.7556	119.9536
3.	66	27.6411	119.9992
4.	70	27.6053	120.0008
Water bore			
1.	64	27.6572	119.9997

Location of the Shire of Wiluna's Water Bore

No.	SLK	Coordinates	
		S	E
1.	81	27.21859	119.56624

Easements

5. The following easements and the rights and interests of the holders from time to time of those easements:

EASMT 1	EASMT 2(b)	EASMT 4
EASMT 2(a)	EASMT 3	

Mining interests

6. The rights and interests of the holders from time to time of the following current mining interests under the *Mining Act 1978* (WA):

<i>Exploration Licences</i>	
1.	E36/535
2.	E36/602
3.	E36/610
4.	E36/617
5.	E36/684
6.	E36/733
7.	E36/782
8.	E36/787
9.	E36/788
10.	E36/828
11.	E36/829
12.	E36/832-I
13.	E36/836
14.	E36/849
15.	E36/872
16.	E36/878
17.	E53/1136
18.	E53/1167
19.	E53/1243
20.	E53/1273
21.	E53/1480
22.	E53/1593
23.	E57/577-I

24.	E57/675-I
25.	E57/676
<i>Prospecting Licences</i>	
26.	P36/1596
27.	P36/1744
<i>Miscellaneous Licences</i>	
28.	L36/42
29.	L36/51
30.	L36/52
31.	L36/53
32.	L36/54
33.	L36/55
34.	L36/56
35.	L36/60
36.	L36/62
37.	L36/67
38.	L36/68
39.	L36/69
40.	L36/70
41.	L36/71
42.	L36/72
43.	L36/73
44.	L36/74
45.	L36/75
46.	L36/76
47.	L36/77
48.	L36/78

49.	L36/79
50.	L36/80
51.	L36/81
52.	L36/82
53.	L36/85
54.	L36/86
55.	L36/88
56.	L36/89
57.	L36/90
58.	L36/91
59.	L36/93
60.	L36/94
61.	L36/95
62.	L36/97
63.	L36/101
64.	L36/106
65.	L36/107
66.	L36/109
67.	L36/110
68.	L36/111
69.	L36/112
70.	L36/118
71.	L36/119
72.	L36/137
73.	L36/145
74.	L36/159
75.	L36/163

76.	L36/165
77.	L36/166
78.	L36/167
79.	L36/170
80.	L36/171
81.	L36/172
82.	L36/175
83.	L36/178
84.	L36/179
85.	L36/180
86.	L36/187
87.	L36/189
88.	L36/191
89.	L36/194
90.	L36/199
91.	L36/203
92.	L36/206
93.	L53/31
94.	L53/54
95.	L53/56
96.	L53/58
97.	L53/63
98.	L53/64
99.	L53/65
100.	L53/66
101.	L53/67
102.	L53/76

103.	L53/82
104.	L53/89
105.	L53/90
106.	L53/91
107.	L53/92
108.	L53/96
109.	L53/104
110.	L53/105
111.	L53/110
112.	L53/118
113.	L53/119
114.	L53/120
115.	L53/121
116.	L53/122
117.	L53/123
118.	L53/124
119.	L53/128
120.	L53/129
121.	L53/130
122.	L53/131
123.	L53/132
124.	L53/134
125.	L53/135
126.	L53/145
127.	L53/159
128.	L53/160
129.	L53/161

130.	L53/165
131.	L53/171
132.	L53/172
133.	L53/177
<i>Mining Leases</i>	
134.	M36/3
135.	M36/4
136.	M36/9
137.	M36/19
138.	M36/20
139.	M36/24
140.	M36/25
141.	M36/32
142.	M36/34
143.	M36/53
144.	M36/54
145.	M36/61
146.	M36/62
147.	M36/63
148.	M36/64
149.	M36/69
150.	M36/70
151.	M36/71
152.	M36/72
153.	M36/73
154.	M36/74
155.	M36/75

156.	M36/77
157.	M36/78
158.	M36/87
159.	M36/102
160.	M36/103
161.	M36/111
162.	M36/113
163.	M36/114
164.	M36/115
165.	M36/116
166.	M36/119
167.	M36/120
168.	M36/121
169.	M36/123
170.	M36/127
171.	M36/129
172.	M36/130
173.	M36/131
174.	M36/149
175.	M36/155
176.	M36/156
177.	M36/158
178.	M36/159
179.	M36/160
180.	M36/162
181.	M36/163
182.	M36/164

183.	M36/165
184.	M36/166
185.	M36/167
186.	M36/168
187.	M36/174
188.	M36/176
189.	M36/180
190.	M36/182
191.	M36/183
192.	M36/184
193.	M36/185
194.	M36/191
195.	M36/199
196.	M36/212
197.	M36/216
198.	M36/217
199.	M36/218
200.	M36/219
201.	M36/220
202.	M36/230
203.	M36/233
204.	M36/234
205.	M36/242
206.	M36/243
207.	M36/246
208.	M36/264
209.	M36/265

210.	M36/266
211.	M36/273
212.	M36/279
213.	M36/285
214.	M36/286
215.	M36/288
216.	M36/290
217.	M36/291
218.	M36/292
219.	M36/294
220.	M36/299
221.	M36/301
222.	M36/302
223.	M36/303
224.	M36/305
225.	M36/306
226.	M36/307
227.	M36/314
228.	M36/315
229.	M36/316
230.	M36/317
231.	M36/328
232.	M36/329
233.	M36/330
234.	M36/332
235.	M36/336
236.	M36/341

237.	M36/342
238.	M36/349
239.	M36/365
240.	M36/366
241.	M36/367
242.	M36/368
243.	M36/371
244.	M36/375
245.	M36/376
246.	M36/377
247.	M36/384
248.	M36/389
249.	M36/391
250.	M36/399
251.	M36/401
252.	M36/408
253.	M36/409
254.	M36/417
255.	M36/422
256.	M36/439
257.	M36/440
258.	M36/441
259.	M36/443
260.	M36/452
261.	M36/453
262.	M36/454
263.	M36/455

264.	M36/456
265.	M36/457
266.	M36/459
267.	M36/460
268.	M36/467
269.	M36/493
270.	M36/509
271.	M36/510
272.	M36/517
273.	M36/549
274.	M36/580
275.	M36/603
276.	M36/618
277.	M36/631
278.	M36/632
279.	M36/633
280.	M36/657
281.	M36/658
282.	M36/659
283.	M36/660
284.	M36/676
285.	M36/677
286.	M36/678
287.	M36/679
288.	M36/680
289.	M53/1
290.	M53/2

291.	M53/28
292.	M53/35
293.	M53/36
294.	M53/55
295.	M53/56
296.	M53/57
297.	M53/153
298.	M53/165
299.	M53/166
300.	M53/167
301.	M53/187
302.	M53/208
303.	M53/215
304.	M53/216
305.	M53/217
306.	M53/218
307.	M53/238
308.	M53/239
309.	M53/240
310.	M53/241
311.	M53/242
312.	M53/243
313.	M53/252
314.	M53/327
315.	M53/328
316.	M53/371
317.	M53/410

318.	M53/411
319.	M53/462
320.	M53/463
321.	M53/466
322.	M53/467
323.	M53/475
324.	M53/483
325.	M53/484
326.	M53/485
327.	M53/486
328.	M53/487
329.	M53/488
330.	M53/489
331.	M53/490
332.	M53/491
333.	M53/949
334.	ML 255SA
<i>General Purpose Leases</i>	
335.	G53/11
336.	G53/12
337.	G53/13
338.	G53/14
<i>Temporary Reserves</i>	
339.	TR 70/6899
<i>Mineral Claims</i>	
340.	MC 36/2667
341.	MC 36/2668

342.	MC 36/2677
343.	MC 36/2679
344.	MC 36/2680
345.	MC 36/2681
346.	MC 36/2707
347.	MC 36/2708
348.	MC 36/2709
349.	MC 36/2710
350.	MC 36/2711
351.	MC 36/2712
352.	MC 36/2713
353.	MC 36/2714
354.	MC 36/2715
355.	MC 36/2716
356.	MC 36/2717
357.	MC 36/2718
358.	MC 36/2771
359.	MC 36/3313
360.	MC 36/3314
361.	MC 36/3315
362.	MC 36/3316
363.	MC 36/3317
364.	MC 36/3694
365.	MC 53/1098
366.	MC 53/1099
367.	MC 53/1100
368.	MC 53/1101

369.	MC 53/1102
370.	MC 53/1103
371.	MC 53/1104
372.	MC 53/1105
373.	MC 53/1106
374.	MC 53/1107
375.	MC 53/1108
376.	MC 53/1109
377.	MC 53/1110
378.	MC 53/1111
379.	MC 53/1112
380.	MC 53/1113
381.	MC 53/1114
382.	MC 53/1115
383.	MC 53/1116
384.	MC 53/1117
385.	MC 53/1118
386.	MC 53/1119
387.	MC 53/1120
388.	MC 53/1121
389.	MC 53/1122
390.	MC 53/1165
391.	MC 53/1166
392.	MC 53/1167
393.	MC 53/1168
394.	MC 53/1169
395.	MC 53/1170

396.	MC 53/1171
397.	MC 53/1172
398.	MC 53/1173
399.	MC 53/1174
400.	MC 53/1175
401.	MC 53/1176
402.	MC 53/1177
403.	MC 53/1178
404.	MC 53/1179
405.	MC 53/1180
406.	MC 53/1181
407.	MC 53/1182
408.	MC 53/1183
409.	MC 53/1184
410.	MC 53/1185
411.	MC 53/1186
412.	MC 53/1187
413.	MC 53/1188
414.	MC 53/1189
415.	MC 53/1190
416.	MC 53/1191
417.	MC 53/1192
418.	MC 53/1193
419.	MC 53/1194
420.	MC 53/1196
421.	MC 53/1197
422.	MC 53/3147

423.	MC 53/3148
424.	MC 53/3149
425.	MC 53/3150
426.	MC 53/3151
427.	MC 53/3152
428.	MC 53/3153
429.	MC 53/3767
430.	MC 53/3768
431.	MC 53/3769
432.	MC 53/3770
433.	MC 53/3771
434.	MC 53/3772
435.	MC 53/3773
436.	MC 53/3774
437.	MC 53/3775
438.	MC 53/3776
439.	MC 53/3780
440.	MC 53/3781
441.	MC 53/3782
442.	MC 53/3783
443.	MC 53/3784
444.	MC 53/3785
445.	MC 53/3871
446.	MC 53/3904
447.	MC 53/3905
448.	MC 53/3906
449.	MC 53/3908

450.	MC 53/3909
451.	MC 53/3911
452.	MC 53/3912
453.	MC 53/3914
454.	MC 53/3919
455.	MC 53/3927
456.	MC 53/3929
457.	MC 53/3931
458.	MC 53/3933
459.	MC 53/3934
460.	MC 53/3939
461.	MC 53/3940
462.	MC 53/3941
463.	MC 53/3942
464.	MC 53/3943
465.	MC 53/4060
466.	MC 53/4062
467.	MC 53/4063
468.	MC 53/4064
469.	MC 53/4065
470.	MC 53/4115
471.	MC 53/4126
472.	MC 53/4127
473.	MC 53/4358
474.	MC 53/4359
475.	MC 53/4360
476.	MC 53/4529

477.	MC 53/4530
478.	MC 53/4531
479.	MC 53/4805
480.	MC 53/5303
481.	MC 53/5304
482.	MC 53/5305
483.	MC 53/5306
484.	MC 53/5307
485.	MC 53/5308
486.	MC 53/5309
487.	MC 53/5310
488.	MC 53/5311
489.	MC 53/5312
490.	MC 53/5313
491.	MC 53/5314
492.	MC 53/5315
493.	MC 53/5316
494.	MC 53/5317
495.	MC 53/5318
496.	MC 53/5319
497.	MC 53/5320
498.	MC 53/5321

Petroleum interests

7. The rights and interests of the holders of the following current petroleum pipeline licences under the *Petroleum Pipelines Act 1969* (WA):

PL 24	PL 26
PL 25	

Water interests

8. The following groundwater areas under the *Rights in Water and Irrigation Act 1914* (WA) and the rights and interests comprised in, conferred under or in accordance with the *Rights in Water and Irrigation Act 1914* (WA) in respect of those areas:

East Murchison Groundwater Area	Goldfields Groundwater Area
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Telstra

9. The rights and interests of Telstra Corporation Limited:
- (a) as the owner or operator of telecommunications facilities within the Determination Area;
 - (b) created pursuant to the *Post and Telegraph Act 1901* (Cth), the *Telecommunications Act 1975* (Cth), the *Australian Telecommunications Corporation Act 1989* (Cth), the *Telecommunications Act 1991* (Cth) and the *Telecommunications Act 1997* (Cth) including rights:
 - (i) to inspect land;
 - (ii) to install and operate telecommunications facilities; and
 - (iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities;
 - (c) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Determination Area in performance of their duties; and
 - (d) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Determination Area.

Other

10. Rights and interests, including licences and permissions, held under valid or validated grants from the Crown in right of the State or of the Commonwealth pursuant to statute or otherwise in the exercise of its executive power of a kind not otherwise referred to in this Schedule 4.
11. Valid or validated rights or interests of a kind not otherwise referred to in this Schedule 4 held by reason of the force and operation of the laws of the State or of the Commonwealth.
12. The right to access the Determination Area by an employee, agent or instrumentality of:
 - (a) the State;
 - (b) the Commonwealth;
 - (c) any local government authority,as required in the performance of his or her statutory or common law duty where such access would be permitted to private land.
13. So far as confirmed pursuant to section 14 of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) as at the date of this Determination, any existing public access to and enjoyment of:
 - (a) waterways;
 - (b) beds and banks or foreshores of waterways; and
 - (c) stock routes.

Part 2 – Other interests which have no force or effect against the native title rights and interests

The following current mining tenements under the *Mining Act 1978* (WA) are invalid future acts which have no force or effect against the native title rights and interests:

Tenure ID	Tenure Type
L36/144	Miscellaneous Licence
L36/148	Miscellaneous Licence
L36/152	Miscellaneous Licence
L53/109	Miscellaneous Licence

SCHEDULE 5

AREAS TO WHICH SECTIONS 47B AND 47C OF NATIVE TITLE ACT APPLY

Part 1 – s 47B areas

The parts of the Determination Area to which section 47B of the *Native Title Act* applies (shown generally on the maps in Schedule 6 as shaded green) are those parts of [Yeelirrie Lake Mason Reserve] (Reserve [XXXX]) formerly designated UCL 245 and UCL 246.

Part 2 – s 47C areas

The parts of the Determination Area to which section 47C of the *Native Title Act* applies (shown generally on the maps in Schedule 6 as shaded [colour]) are:

- (a) Wanjarri Nature Reserve (Reserve 30897); and
- (b) that part of [Yeelirrie Lake Mason Reserve] formerly designated UCL 239.

SCHEDULE 6

MAPS OF THE DETERMINATION AREA