

Annexure B - The Memorandum of Understanding between the Adnyamathanha People and the Malyangapa People

This agreement is made on the 23rd day of April 2015 between Adnyamathanha #1 Native Title Claim Group (SAD 6001/1998) (the Adnyamathanha People) and the Malyankapa Native Title Group (SAD 251/2013) (the Malyankapa People).

BACKGROUND

The Malyankapa Native Title Claim overlaps part of the Adnyamathanha #1 Native Title Claim (the overlap area) and, following mediation in the Federal Court, the parties have now resolved the issues in relation to the overlap. A map of the overlap area is attached to this agreement (Annexure A).

This agreement also covers the area to the east of the overlap area within South Australia, as shown on a second map attached to this agreement (Annexure B) (the proposed Malyankapa No. 2 Claim Area).

OPERATIONAL PROVISIONS

The Adnyamathanha People through their representatives and the Malyankapa People through their representatives have agreed:

1. The Malyankapa People will as soon as practicable withdraw the SAD 251/2013 Native Title Claim and will not file a new claim over the whole or any part of the area (the overlap area) subject of that claim or over any other part of SAD 6001/1998.
2. The Adnyamathanha People acknowledge that the Malyankapa People have Malyankapa traditional rights and interests (including heritage interests) in the overlap area which are not native title rights but which co-exist with the native title rights and interests of the Adnyamathanha People in relation to the overlap area.
3. The Adnyamathanha People, in their post-consent determination dealings with the State or third parties, in relation to the overlap area or any part of it will use their best endeavours to ensure the participation of two suitably chosen representatives of the Malyankapa People on heritage clearance surveys within the overlap area for the purpose of protecting Malyankapa traditional cultural interests (including providing copies of statutory notices from the State or third parties including Part 9B Mining Act Notices and similar notices to the nominated representative of the Malyankapa

People). However, this provision is not intended to affect, or change any arrangements in relation to, the now existing agreements between the Adnyamathanha People and the State or such third parties.

4. To enable the Adnyamathanha People to meet their obligations under clause 3, the Adnyamathanha People agree that they will send any survey requests to the Malyankapa People together with the relevant Part 9B Agreement as soon as possible having received the relevant survey request and the Malyankapa people shall have one week upon receipt of such requests to nominate their representatives and to advise the Adnyamathanha People in relation to the Malyankapa representatives' travel and logistical proposals for attending the survey so that these may be taken into account in the preparation of any budget to be submitted in connection with that survey.
5. The Adnyamathanha People will have conduct of any Part 9B, Indigenous Land Use Agreement or other native title agreement negotiations relating to the overlap area with third parties including the State.
6. In conducting negotiations with third parties or the State (other than negotiations with mineral explorers for a Part 9B Mining Act agreement limited to minerals exploration) the Adnyamathanha People will extend an invitation to two representatives of the Malyankapa People to attend and observe (but not otherwise participate in) any such negotiations, provided that:
 - (a) the Malyankapa representatives first agree to comply with any reasonable confidentiality requirements; and
 - (b) their attendance will be at the cost of the Malyankapa People.

The Adnyamathanha People will provide the Malyankapa People with an opportunity throughout the course of such negotiations to make representations to Adnyamathanha People and the Adnyamathanha People agree to take any representations into account during such negotiations, with a view to any comments, queries or concerns being conveyed to the State or third parties wherever possible.

7. Where these negotiations result in economic and/or commercial benefits or any other benefits including any education, employment or business development preferences to the Adnyamathanha People, the Adnyamathanha People will:
 - (a) share any minerals or petroleum production payments equally with the Malyankapa People; and
 - (b) use their best endeavours to share all other such benefits (other than administration payments) equally with the Malyankapa People.
8. For the purposes of clause 7, the Adnyamathanha People agree (subject to any reasonable confidentiality requirements) to furnish the Malyankapa People with a copy of any Part 9B, Indigenous Land Use Agreement or other native title agreement following its execution by or on behalf of the Adnyamathanha People and its registration with the National Native Title Tribunal or Mining Registrar as the case may be.
9. The Adnyamathanha People agree to provide the Malyankapa People with a copy of any notices or information they receive from any third party or the State with whom an agreement has been made, that relates to the payment of benefits (other than administration payments) derived from the relevant agreement. To avoid doubt, this includes schedules or remittance advice relating to any such payments made to, or for the benefit of, the Adnyamathanha People by the State or third parties in consequence of such agreement, whether such payments have been made to the Adnyamathanha Traditional Lands Association (Aboriginal Corporation) (“ATLA”) or its nominees.
10. The Adnyamathanha People will not take any action to prevent the Malyankapa People from exercising rights under section 47 of the Pastoral Land Management and Conservation Act 1989.
11. The Adnyamathanha People will take all practical steps to ensure that the State and other respondent parties agree to a Federal Court consent determination of native title in favour of the Adnyamathanha People in relation to the overlap area which includes an ancillary order for the purposes of section 87(5) or 87A(5) of the Native Title Act 1993 referring to the terms of this Agreement and attaching a copy of this Agreement as a schedule.


12. Both parties acknowledge that the Malyankapa People intend to, and the Malyankapa People shall, lodge a native title claim in the Federal Court by 30 September 2015 in relation to the proposed Malankapa No. 2 Claim Area.
13. On the basis that the Malyankapa People lodge the native title claim, referred to in clause 12, before 30 September 2015, then (subject to clause 14) the following provisions of this clause shall apply:
 - 13.1 The Adnyamathanha People will not file a native title claim over the whole or any part of the proposed Malyankapa No. 2 Claim Area;
 - 13.2 Clauses 2 to 11 shall apply to the proposed Malyankapa No. 2 Claim Area as though: (a) all references in those clauses to “Adnyamathanha” are treated as being references to “Malyankapa”; (b) all references in those clauses to “Malyankapa” are treated as being references to “Adnyamathanha”; (c) all references in those clauses to “the overlap area” are treated as being references to “the proposed Malankapa No. 2 Claim Area”; (d) the reference in clause 9 to “ATLA” is treated as being a reference to any equivalent or similar corporation which is representative of the Malyankapa People.
14. In the event that the native title claim referred to in clause 12 has not passed the registration test under s 190A and following of the Native Title Act 1993 by 30 June 2016 or such later date as may be agreed between the Parties, then clause 13.1 shall cease to apply and the parties shall negotiate in good faith about the appropriate course of action for the future.

ADDITIONAL PROVISIONS


15. The representatives of the Adnyamathanha People and the Malyankapa People will each seek ratification of this agreement by their respective claim group by 7th July 2015.
16. The parties will develop a dispute resolution protocol and a communications protocol as soon as practicable after ratification.

FOR AND ON BEHALF OF

THE ADNYAMATHANHA #TNATIVE TITLE CLAIM GROUP




CHAIR ATLA
Mark McKenzie (SNR)
Mick Boulchamff
Kedric Johnson
Geraldine Anderson

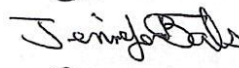


P. McKenzie (AGLD DIRECTOR)


THE MALYANKAPA PEOPLES NATIVE TITLE CLAIM GROUP



Mr. Lutt
Cliff Dett

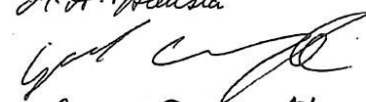


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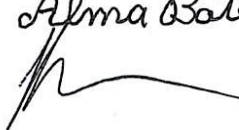


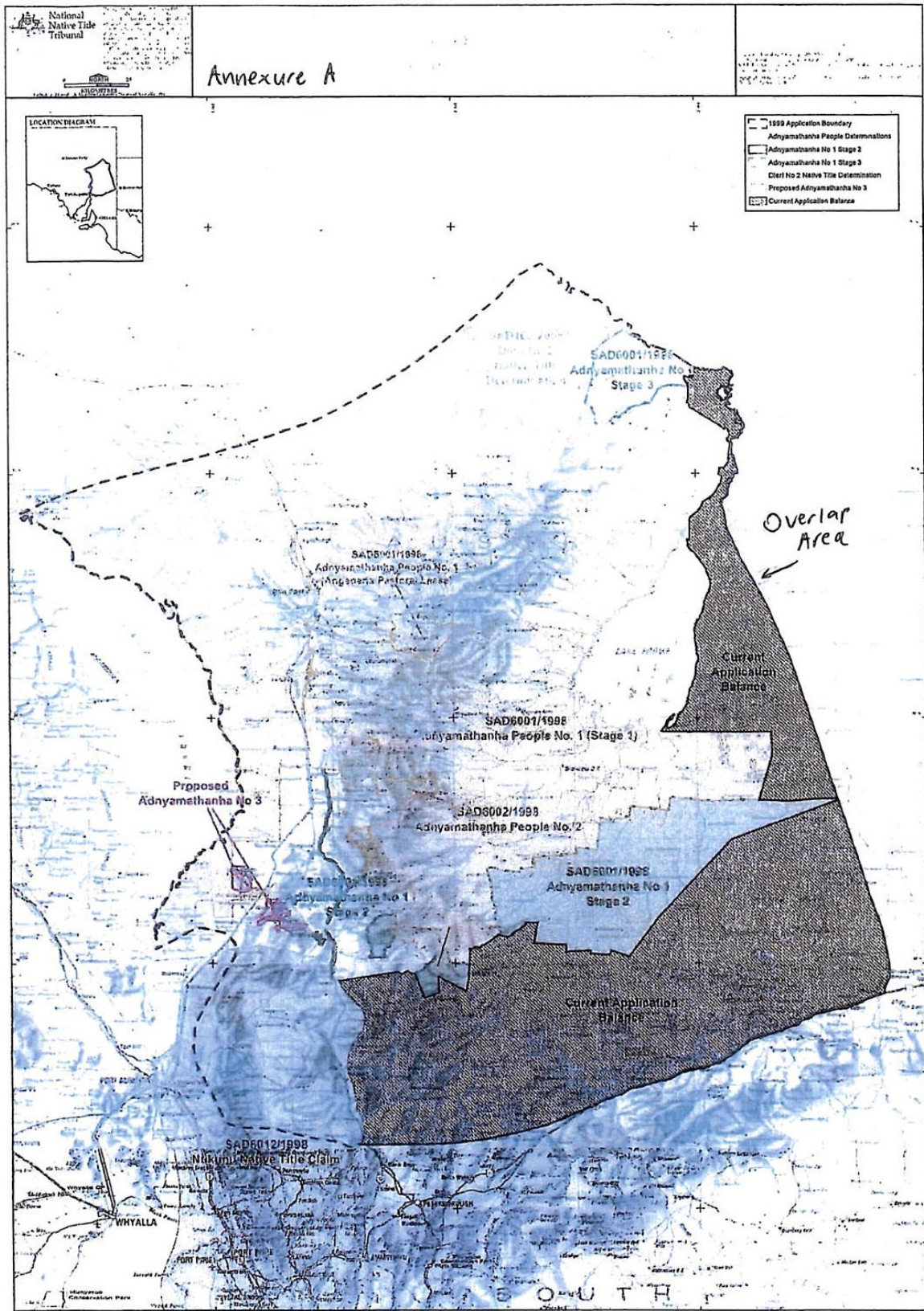
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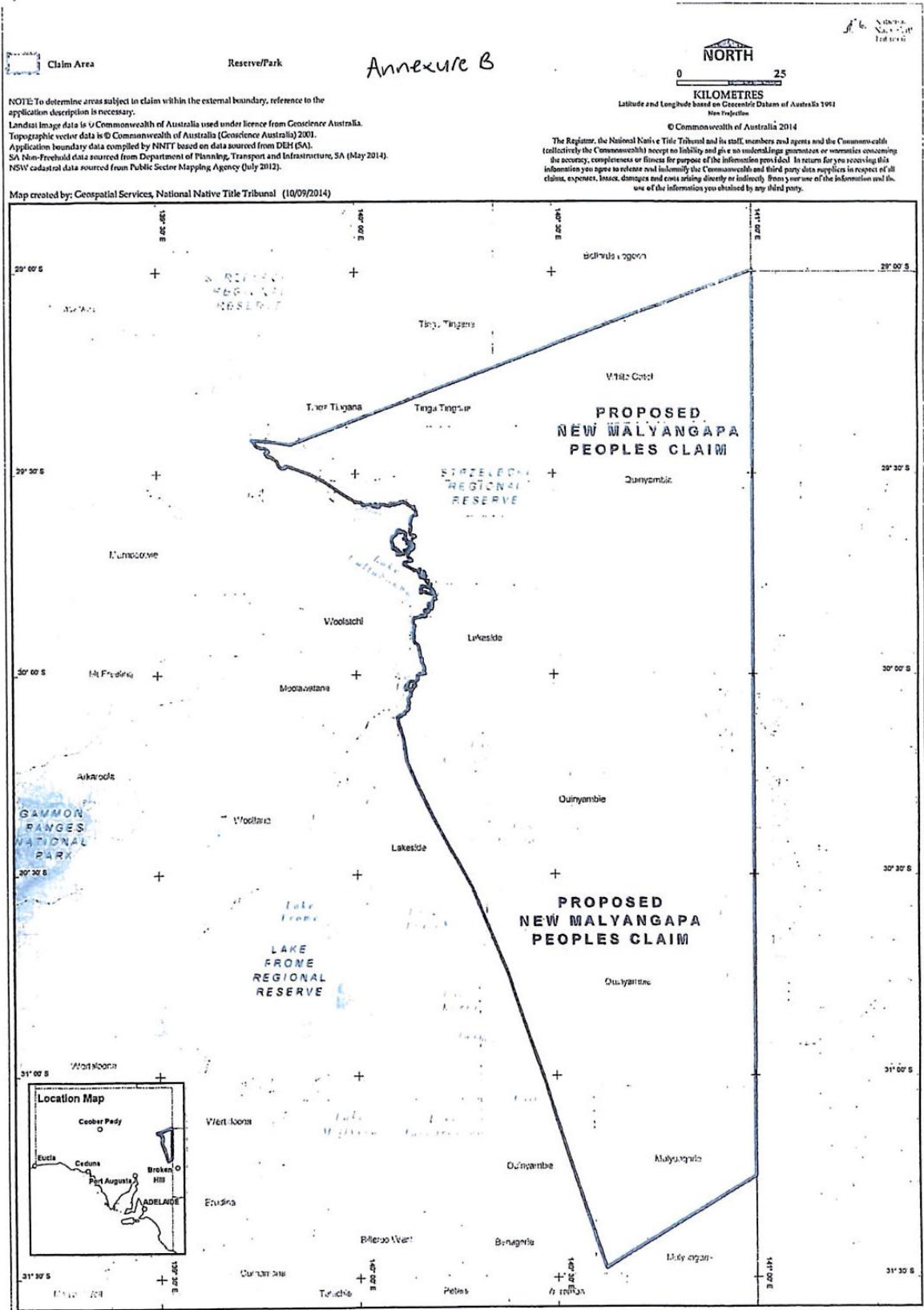
A.A. Hansia



Alma Bates-Hannah







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