



# Extract from Register of Indigenous Land Use Agreements

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<b>NNTT number</b>	WI2013/007
<b>Short name</b>	Mirning Area Agreement ILUA
<b>ILUA type</b>	Area Agreement
<b>Date registered</b>	19/02/2014
<b>State/territory</b>	Western Australia
<b>Local government region</b>	Shire of Dundas

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## Description of the area covered by the agreement

### 3.9 Area to which this Agreement Applies

This Agreement applies to the Agreement Area subject to clause 2.6.

[Clause 2.6 provides for partial termination due to determination or withdrawal of Mirning Claim; see below under heading 'Period in which the agreement will operate'.]

'Agreement Area' means the following areas of land:

- (a) the Proposed Residential Site Land;
- (b) the Proposed Industrial Site Land;
- (c) the Proposed School Site Land;
- (d) the Eucla Townsite Land;
- (e) the Fishing and Squatter Sites Land;
- (f) the Golf Course Site Land;
- (g) the Horse Paddocks Site Land;
- (h) the Shooting Range Site Land;
- (i) the Weebubbie Cave Site Land; and
- (j) the Wanteen Reserve Site Land,

and which areas of land, for reference purposes only, are outlined or hachured in purple on the map titled "Agreement Area Map" in Schedule 1.

'Proposed Residential Site Land' means: (a) the land comprising Lot 225 on Deposited Plan 220083, being a portion of Reserve 37570; and (b) the land comprising Lot 224 on Deposited Plan 220083, and, for reference purposes only, being those areas of land outlined and hachured in purple on map 8 in Schedule 1.

'Proposed Industrial Site Land' means the land comprising Lot 372 on Deposited Plan 66257 and, for reference purposes only, being the land outlined and hachured in purple on map 10 in Schedule 1.

'Proposed School Site Land' means the land comprising Lot 370 on Deposited Plan 66257, being a portion of Reserve 37570, and, for reference purposes only, being the land outlined and hachured in purple on map 9 in Schedule 1.

'Eucla Townsite Land' means the land comprising Lot 371 on Deposited Plan 66257 and Lot 373 on Deposited Plan 66257 and, for reference purposes only, being those areas of land marked as "Lot 371" and "Lot 373" and outlined and hachured in purple on map 10 in Schedule 1.

'Fishing and Squatter Sites Land' means: (a) the land comprising Lots 310, 311, 312 and 313 on Deposited Plan 67595 and, for reference purposes only, being those areas of land outlined and hachured in purple on map 1 in Schedule 1 and located in the area known as "Red Rocks"; (b) the land comprising Lot 314 on Deposited Plan 67596 and Lot 520 on Deposited Plan 69778 and, for reference purposes only, being those areas of land marked "Lot 314 on DP67596" and "Lot 520 on DP69778" outlined on map 2 in Schedule 1 and located in the area known as "Wanteen"; and (c) the land comprising Lots 316, 317, 318 and 319 on Deposited Plan 67597 and Lot 521 on Deposited Plan 69936 and, for reference purposes only, being those areas of land outlined and hachured in purple on map 3 in Schedule 1 and located in the area known as "3 and 12 Mile".

'Golf Course Site Land' means the land comprising Lot 300 on Deposited Plan 48623 and, for reference purposes only, being the land outlined and hachured in purple on map 6 in Schedule 1.

'Horse Paddocks Site Land' means the land comprising Lot 301 on Deposited Plan 49434 and, for reference purposes only, being the land outlined and hachured in purple on map 5 in Schedule 1.

'Shooting Range Site Land' means the land comprising Lot 44 on Deposited Plan 33036 and, for reference purposes only, being the land outlined and hachured in purple on map 7 in Schedule 1.

'Weebubbie Cave Site Land' means the land comprising Reserve 19713 being Lot 300 on Deposited Plan 69595, and for reference purposes only, that land marked as " Lot 300 on DP 69595" and outlined and hachured in purple on map 4 in Schedule 1.

'Wanteen Reserve Site Land' means the land comprising Lot 315 on Deposited Plan 67596 and, for reference purposes only, being that land marked as " Lot 315 on DP 67596" and outlined and hachured in purple on map 2 in Schedule 1.

[A copy of the Agreement Area Map and Maps 1 to 10 showing each of the areas of land described above from Schedule 1 of the agreement are attached to this register extract.]

## Parties to agreement

### *Applicant*

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<b>Party name</b>	The State of Western Australia, acting through the Minister for Lands, a body corporate under section 7(1) of the Land Administration Act 1997 WA (State)
<b>Contact address</b>	Manager, Goldfields Wheatbelt Department of Lands PO Box 1143 West Perth WA 6872

### *Other Parties*

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<b>Party name</b>	The Minister for Lands, a body corporate under section 7(1) of the Land Administration Act 1997 WA (Minister for Lands)
<b>Contact address</b>	Manager, Goldfields Wheatbelt Department of Lands PO Box 1143 West Perth WA 6872

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**Party name** Arthur Dimer, Jean McKenzie, John Graham, Les Tucker, Wendy Lawrie, Clem Lawrie, Robert Lawrie, David Hirschhausen for and on behalf of the Mirning Claim Group (Claimants)

'Claim Group' means all the persons who, according to their traditional laws and customs, hold the common or group rights and interests comprising the native title claim under the Mirning Claim.

'Mirning Claim' has the meaning given in Recital B. [Recital B: A native title determination application being NNTT file number WC11/1, Federal Court file number WAD6001/01 and known as Mirning People native title claim.]

**Contact address** Goldfields Land and Sea Council  
PO Box 3058  
Adelaide Terrace  
East Perth WA 6832

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**Period in which the agreement will operate**

**Start date** not specified

**End date** not specified

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**2. TERM OF THE AGREEMENT**

**2.1 Commencement**

This Agreement commences on the Execution Date, except for clauses 3 and 5 which will commence on the Commencement Date, and binds each of the Parties, their successors and permitted assigns.

**2.2 Term**

This Agreement terminates on the occurrence of whichever of the following events is the first to occur:

- (a) where clause 11.6 (dealing with the consequences of non-registration) occurs;
- (b) where all Parties agree in writing to end the Agreement; or
- (c) upon notice being given by the State, where there is an Unsuccessful Determination of Native Title, such notice not to be given prior to the completion of all appeal processes or the expiry of any timeframe within which an appeal process must be commenced in relation to the relevant determination orders of the Federal Court of Australia; or
- (d) where the Agreement is removed from the ILUA Register by the Native Title Registrar in accordance with section 199C of the NTA.

**2.3 No Termination**

Subject to clause 2.2, no Party is entitled to terminate this Agreement for any reason, including by reason of breach or repudiation of this Agreement by any Party.

**2.4 Consequences of Termination**

Unless otherwise agreed in writing by all Parties, if this Agreement is terminated in accordance with clause 2.2:

- (a) unless otherwise provided for in this Agreement, this Agreement ceases to have any force or effect on and from the date of termination;
- (b) any act done under or in accordance with this Agreement shall remain, to the extent permitted by law, valid; and
- (c) all rights and obligations under this Agreement which accrued before or on the date of the

termination of this Agreement shall remain binding and enforceable .

#### 2.5 Termination after Registration on the ILUA Register

If all Parties propose to terminate this Agreement after the registration of this Agreement on the ILUA Register then all Parties must advise the Native Title Registrar in writing in accordance with section 199C(1)(c)(ii) of the NTA.

#### 2.6 Partial termination due to determination or withdrawal of Mirning Claim

The Parties acknowledge that, as at the Execution Date, the Agreement Area is part of the area of land over which the Mirning Claim has been made and agree that in the event of an approved determination of native title or a revised approved determination of native title under which native title is determined not to exist, or if the Mirning Claim is dismissed or withdrawn, over any part (but not the whole) of the Agreement Area (Excluded Area), then unless otherwise provided for in this Agreement, on and from the date of such determination or withdrawal:

- (a) this Agreement ceases to have any force or effect in respect of the Excluded Area and no Party has any claim against another Party in respect of any matter or thing arising out of, done, performed or omitted to be done or performed under this Agreement in respect of the Excluded Area; and
- (b) this Agreement will continue to have force and effect in respect of that part of the Agreement Area which does not fall within the Excluded Area .

#### 1.1 Defined terms

'Execution Date' means the date of the execution of this Agreement by the last of the Parties to execute it.

'Commencement Date' means the date on which this Agreement is registered and entered on the ILUA register.

'Unsuccessful Determination of Native Title' means orders of the Federal Court of Australia which constitute an approved determination of native title or a revised approved determination of native title under which native title is determined not to exist over the entirety of the Agreement Area.

### **Statements of the kind mentioned in ss. 24EB(1) or 24EBA(1) or (4)**

#### 3 AGREEMENT THAT FUTURE ACTS MAY BE DONE

##### 3.1 Future Act

Each party acknowledges and agrees that the acts contemplated by clause 3.2 may be Future Acts to which the provisions of Part 2, Division 3 of the NTA may apply.

##### 3.2 Parties' consent to Future Acts

(a) Each Party consents to the following land transactions, with the intent that such statement of consent satisfies the requirement of section 24EB(1)(b) of the NTA in respect of each of them:

- (i) the Eucla Townsite Land Transactions;
- (ii) the Fishing and Squatter Sites Land Transaction;
- (iii) the Golf Course Site Land Transaction;
- (iv) the Horse Paddocks Site Land Transaction;
- (v) the Proposed Industrial Site Land Transaction;
- (vi) the Proposed School Site Land Transaction;
- (vii) the Proposed Residential Site Land Transaction;
- (viii) the Shooting Range Site Land Transaction;
- (ix) the Weebubbie Cave Site Land Transaction; and
- (x) the Wanteen Reserve Site Land Transaction,(together, the Land Transactions).

(b) For the avoidance of doubt, the consents in paragraph (a) of this clause includes consent to the doing of every act comprised in each of the Land Transactions any and all things ancillary to the doing of the Land Transactions, with the intent that such statement of consent satisfies the

requirement of section 24EB(1)(b) of the NTA in respect of each of those things.

### 3.6 No right to negotiate

(a) The Right to Negotiate Procedure does not apply to any of the acts referred to in clause 3.2, with the intent that such statement satisfies the requirement of section 24EB(1)(c) of the NTA.

(b) For the avoidance of doubt, no other procedural requirements in Part 2 Division 3 of the NTA apply to the future acts described in clause 3.2.

'Right to Negotiate Procedure' means the procedure under Subdivision P of Division 3 of Part 2 of the NTA.

### 3.5 Non-Extinguishment Principle and surrender of native title for specified land

(a) Subject to clause 3.10, the Non-Extinguishment Principle applies to the Land Transactions.

(b) For the avoidance of doubt, the acts referred to in clause 3.2 and any activity required or permitted by those acts and that is done in accordance with those acts, shall prevail over any native title rights or interests and any exercise of those rights and interests, but do not extinguish them, except to the extent provided for in clause 3.10.

### 3.10 Surrender of Native Title

(a) Notwithstanding anything in clause 3.5 or elsewhere in this Agreement and on and from the Commencement Date, the Claimants agree to surrender in favour of the State, all native title rights and interests with the intention by the Parties that such native title rights and interests be extinguished, in respect of the following land:

- (i) the Proposed School Site Land;
- (ii) the Proposed Residential Site Land; and
- (iii) the Proposed Industrial Site Land.

(b) The Claimants agree to satisfy the requirements of the NTA for the purposes of the transfer of Lot 371 and Lot 373 in fee simple as contemplated under clause 4.2 of this Agreement and to surrender, in favour of the State, all native title rights and interests in such land on and from the date of such transfer, with the intention by the Parties that the native title rights and interests in such land be extinguished.

### **Attachments to the entry**

[WI2013\\_007 Schedule 1 - Agreement Area Maps.pdf](#)