



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2015/020
Short name	Balla Balla Port ILUA
ILUA type	Body Corporate
Date registered	09/02/2016
State/territory	Western Australia
Local government region	City of Karratha

Description of the area covered by the agreement

3.1(b) This ILUA applies to the Port Land.

'Port Land' means the land to be the subject of the Taking and Vesting for the purpose of the development and operation of the Port, being that land as described in the written description and as shown on the map attached at Schedule 1.

[The written description and map of the agreement area is contained in Schedule 1 of the agreement. A copy of Schedule 1 is attached to this register extract.

The following general description of the agreement area has been provided by the National Native Title Tribunal to assist people to understand the location of the agreement area. It is provided for information only and should not be considered part of the Register of ILUAs:

Agreement area covers about 50 sq km located approx. 8km west of Whim Creek]

Parties to agreement

Applicant

Party name	BBI Port Aus Operations Pty Ltd (BBI Port)
Contact address	Level 24, 56 Pitt Street Sydney NSW 2000

Other Parties

Party name	Ngarluma Aboriginal Corporation RNTBC (NAC)
Contact address	c/- Land Equity Legal PO Box 2179 Subiaco WA 6904

Period in which the agreement will operate

Start date	not specified
End date	not specified

9.1 Term

This ILUA remains in force and effect from its execution date unless and until the Agreement is terminated in which case this ILUA will also terminate.

Definitions:

'ILUA' means this indigenous land use agreement and its Schedule.

'Execution Date' means the date that both of the Parties have signed this ILUA.

'Agreement' means the Ngarluma Infrastructure and Productive Mining Agreement dated 26 November 2013 as varied by deed dated 11 April 2015 between Forge Resources Swan Pty Ltd and the NAC and as partly assigned to BBI Port pursuant to a deed of assignment and assumption dated 11 April 2015. A reference to the Agreement in this ILUA includes a reference to the above deed of assignment and assumption.

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

4.1 Port and Port Tenure

Subject to clause 5, the NAC and the Ngarluma People:

- (a) consent to the Taking and Vesting;
- (b) consent to the grant of any Port Future Acts in connection with the Port and Port Activities within the Port Land including grant of the Port Titles; and
- (c) acknowledge that the above consents are in satisfaction of section 24BB to 24BE of the Native Title Act.

4.2 Right to Negotiate does not apply

If the Taking, Vesting and Port Future Acts in connection with the Port and Port Activities within the Port Land including grant of the Port Titles would otherwise be subject to the 'right to negotiate' provisions in Subdivision P of the Native Title Act, the Parties agree that those provisions are not intended to apply.

5. The Parties agree that the non-extinguishment principle shall apply to the Taking, Vesting and Port Future Acts and shall include application to any person in connection with the Port and Port Activities within the Port Land including grant of the Port Titles.

Definitions:

'LAA' means the Land Administration Act 1997 (WA).

'Ngarluma People' means the Ngarluma members from time to time of the NAC.

'PPA' means the Pilbara Ports Authority (ABN 94 987 448 870) or any replacement ports authority.

'Port' means the Port Land and the infrastructure to be developed on Port Land for any purposes contemplated by the Port Authorities Act 1999 (WA) including, without limitation to facilitate the transportation and export of minerals which infrastructure will include but will not be limited to conveyor systems, stockyards, stackers, reclaimers, barge loaders, workshops, administration facilities, flood bunds, stormwater ponds and bores.

'Port Activities' means all activities and operations necessary or desirable for any purposes

contemplated by the Port Authorities Act 1999 (WA) including, without limitation to investigate, implement, develop, construct, install, operate, maintain, repair, replace, expand, further develop or decommission all or part of the Port.

'Port Future Acts' means all acts and activities associated with the creation and operation of the Port including the:

- (a) Taking;
- (b) Vesting;
- (c) granting of Port Titles; and
- (d) conduct of Port Activities,

in the event that that act or activity is a "future act" for the purpose of section 233 of the Native Title Act.

'Port Titles' means such leases, licences, easements, access rights or other rights or tenure at the Port to be granted by the PPA to:

- (a) BBI Port
- (b) BBI Rail Aus Pty Ltd (ACN 604 857 392);
- (c) BBI Port Aus Pty Ltd (ACN 604 857 203) as trustee for the BBI Port Trust;
- (d) any other third parties including future port proponents, for any purposes contemplated by the Port Authorities Act 1999 (WA) including, without limitation to construct, commission, operate, maintain and expand the capacity of the Port, including the amending, remaking, renewal and/or regranting of such titles as may be required from time to time.

'Taking' means the taking of rights and interests, including native title rights and interests subject to the non-extinguishment principle, in the Port Land pursuant to a taking order under Part 9 of the LAA or any equivalent legislation.

'Vesting' means either or both of:

- (a) the reserve and grant of a management order under the LAA; and
 - (b) the proclamation and vesting under the Port Authorities Act 1999 (WA),
- in respect of the Port Land or any part thereof from time to time in the PPA or any replacement port authority pursuant to the Port Authorities Act 1999 (WA).

Attachments to the entry

[WI2015_020 Schedule 1 Area description.pdf](#)

[WI2015_020 Schedule 1 Map of agreement area.pdf](#)