

## FEDERAL COURT OF AUSTRALIA

### Ah Chee v State of South Australia [2014] FCA 1048

Citation: Ah Chee v State of South Australia [2014] FCA 1048

Parties: **ARTHUR AH CHEE AND OTHERS v STATE OF SOUTH AUSTRALIA AND OTHERS**

File number: SAD 6016 of 1998

Judge: **MANSFIELD J**

Date of judgment: 3 October 2014

Catchwords: **NATIVE TITLE** – consent determination – conditions prescribed by ss 87 and 87A of the *Native Title Act 1993* (Cth) satisfied – resolution by agreement of claim for determination of native title

Legislation: *Native Title Act 1993* (Cth)

Cases cited: *Starkey v State of South Australia* [2014] FCA 924  
*King on behalf of the Eringa Native Title Claim Group v State of South Australia* [2011] FCA 1387  
*Munn (for and on behalf of the Guggari People) v The State of Queensland* (2001) 115 FCR 109  
*Far West Coast Native Title Claim v State of South Australia (No 7)* [2013] FCA 1285  
*Dodd v State of South Australia* [2012] FCA 519  
*Lovett (on behalf of the Gunditjamara People) v Victoria* [2007] FCA 474  
*Yungngora People v Western Australia* [2007] FCA 588  
*King v Northern Territory* [2011] FCA 582  
*Nelson v Northern Territory* [2010] FCA 1343

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Place: Pelican Point

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**IN THE FEDERAL COURT OF AUSTRALIA  
SOUTH AUSTRALIA DISTRICT REGISTRY  
GENERAL DIVISION**

**SAD 6016 of 1998**

**BETWEEN: ARTHUR AH CHEE AND OTHERS**  
Applicant

**AND: STATE OF SOUTH AUSTRALIA AND OTHERS**  
Respondent

**JUDGE:** MANSFIELD J  
**DATE OF ORDER:** 3 OCTOBER 2014  
**WHERE MADE:** PELICAN POINT

### **Preamble**

A The Applicant first lodged Native Title Determination Application No. SAD 6016 of 1998 (the Application) with the National Native Title Tribunal on 21 August 1997 in relation to lands and waters in northern South Australia and south western Queensland. The Application was referred to the Federal Court of Australia on 30 September 1998.

B The Applicant, the State of South Australia, the State of Queensland and the other respondents have reached an agreement as to the terms of a determination of native title to be made in relation to the land and waters. They have filed with this Court pursuant to s 87 of the *Native Title Act 1993* (Cth) (the NT Act) an agreement in writing to seek the making of consent orders for a determination.

C The Parties acknowledge that the effect of the making of the determination will be that the members of the native title claim group, in accordance with the traditional laws acknowledged and the traditional customs observed by them, will be recognised as the Native Title Holders for the Native Title Land as defined by Order 4 below.

D The Parties have requested that the Court determine the proceedings without a trial.

Being satisfied that an order in the terms set out below is within the power of the Court and it appearing to the Court appropriate to do so, pursuant to s 87 of the NT Act, and by the consent of the Parties:

### **THE COURT ORDERS, DECLARES AND DETERMINES BY CONSENT THAT:**

1. There be a determination of native title in the terms set out below.
2. Each party to the proceeding bear its own costs.

### **Determination Area**

3. The Determination Area is the land and waters described in Area A and Area B as set out in Schedule 1 and depicted in the maps contained in Schedule 2.
4. Native title exists in the Native Title Land, being that part of the Determination Area described in Schedule 3, subject to the qualifications set out in that Schedule.
5. Native title has been extinguished in relation to that part of the Determination Area described in Schedule 4.

#### **Native Title Holders**

6. The native title rights and interests are held by the Native Title Holders.
7. Under the relevant traditional laws and customs of the Wangkangurru/Yarluyandi People, the Native Title Holders comprise those living Aboriginal people who both self-identify as Wangkangurru or Yarluyandi and who are recognised as being Wangkangurru and/or Yarluyandi by other Wangkangurru and/or Yarluyandi people based on:
  - (a) descent, including adoption in accordance with Wangkangurru/Yarluyandi law and custom, from a Wangkangurru, Yarluyandi, Ngamani or Karanguru Ancestor; and
  - (b) possession of knowledge of the country and its spiritual and mythical propensities and qualities.

#### **Rights and Interests**

8. Subject to Orders 10, 11, 12, 13, 14 and 15 the nature and extent of the native title rights and interests in the Native Title Land described in Part A and Part B of Schedule 3 are the non-exclusive rights to use and enjoy those lands and waters in accordance with the Native Title Holders' traditional laws and customs, being:
  - (a) the right to access and move about the Native Title Land;
  - (b) the right to live and camp on the Native Title Land for the purpose of exercising their native title rights and interests, and for those purposes erect temporary shelters and other structures on the Native Title Land;
  - (c) the right to hunt and fish on the land and waters of the Native Title Land;

- (d) the right to gather and use the Natural Resources of the Native Title Land;
  - (e) the right to share and exchange the Natural Resources and Natural Water Resources of the Native Title Land;
  - (f) the right to take and use the Natural Water Resources of the Native Title Land;
  - (g) the right to cook on the Native Title Land and to light fires for domestic purposes but not for the purposes of hunting or clearing vegetation;
  - (h) the right to engage and participate in cultural activities on the Native Title Land including those relating to births and deaths;
  - (i) the right to conduct ceremonies and hold meetings on the Native Title Land;
  - (j) the right to teach on the Native Title Land the physical and spiritual attributes of locations;
  - (k) the right to visit, maintain and protect sites and places of cultural and religious significance to Native Title Holders, under their traditional laws and customs, on the Native Title Land; and
  - (l) the right to be accompanied on to the Native Title Land by those people who, though not Native Title Holders, are:
    - (i) spouses of Native Title Holders; or
    - (ii) people required by traditional law and custom for the performance of ceremonies or cultural activities on the Native Title Land; or
    - (iii) people who have rights in relation to the Native Title Land according to the traditional laws and customs acknowledged by the Native Title Holders.
9. Subject to Orders 10, 11, 12 and 14, the nature and extent of the native title rights and interests in relation to that part of the Native Title Land described in Part C of Schedule 3 are the non-exclusive rights to access, be present on and traverse those lands and waters.

### **General Limitations**

10. The native title rights and interests described in Orders 8 and 9 are for personal, domestic and communal use but do not include commercial use of the Native Title Land or the Natural Resources and Natural Water Resources from it.
11. The native title rights and interests described in Orders 8 and 9 do not confer possession, occupation, use and enjoyment of those lands and waters on the Native Title Holders to the exclusion of others.
12. The native title rights and interests described in Orders 8 and 9 are subject to and exercisable in accordance with:
  - (a) the traditional laws and customs of the Native Title Holders;
  - (b) the laws of the State of South Australia, the State of Queensland and the Commonwealth, including the common law.
13. In relation to Area A of the Determination Area there are no native title rights or interests in or in relation to:
  - (a) minerals as defined in s 6 of the *Mining Act 1971* (SA);
  - (b) Petroleum, as defined in s 4 of the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (c) a naturally occurring underground accumulation of a regulated substance as defined in s 4 of the *Petroleum and Geothermal Energy Act 2000* (SA), below a depth of 100 metres from the surface of the earth;
  - (d) a natural reservoir, as defined in s 4 of the *Petroleum and Geothermal Energy Act 2000* (SA), below a depth of 100 metres from the surface of the earth; or
  - (e) geothermal energy, as defined in s 4 of the *Petroleum and Geothermal Energy Act 2000* (SA) the source of which is below a depth of 100 metres from the surface of the earth.

For the purposes of this Order 13 and the avoidance of doubt:

- (f) a geological structure (in whole or in part) on or at the earth's surface or a natural cavity which can be accessed or entered by a person through a natural opening in the earth's surface, is not a natural reservoir;
- (g) thermal energy contained in a hot or natural spring is not geothermal energy as defined in s 4 of the *Petroleum and Geothermal Energy Act 2000* (SA);
- (h) the absence from this Order of any reference to a natural reservoir or a naturally occurring accumulation of a regulated substance, as those terms are defined in s 4 of the *Petroleum and Geothermal Energy Act 2000* (SA), above a depth of 100 metres below the surface of the earth or geothermal energy the source of which is above a depth of 100 metres below the surface of the earth is not, of itself, to be taken as an indication of the existence or otherwise of native title rights or interests in such natural reservoir, naturally occurring accumulation of a regulated substance or geothermal energy.

14. In relation to Area B of the Determination Area there is no native title in or in relation to:

- (a) minerals as defined in the *Mineral Resources Act 1989* (Qld);
- (b) petroleum as defined in the *Petroleum Act 1923* (Qld) and the *Petroleum and Gas (Production and Safety) Act 2004* (Qld); and
- (c) geothermal energy and geothermal resources as defined in the *Geothermal Energy Act 2010* (Qld).

15. For the avoidance of doubt, the native title interest expressed in Order 8(f) (the right to use the Natural Water Resources of the Native Title Land) is subject to the *Natural Resources Management Act 2004* (SA) and *Water Act 2000* (Qld).

### **Other Interests & Relationship with Native Title**

16. The nature and extent of other rights and interests in relation to the Native Title Land are set out at Schedule 5 (the Other Interests).
17. The relationship between the native title rights and interests in the Native Title Land that are described in Orders 8 and 9 and the Other Interests set out at Schedule 5 is that:
  - (a) the Other Interests continue to have effect, and the rights conferred by or held under the Other Interests may be exercised notwithstanding the existence of the native title rights and interests;
  - (b) to the extent that any of the Other Interests are inconsistent with the continued existence, enjoyment or exercise of the native title rights and interests, 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
  - (c) the Other Interests and any activity that is required or permitted to be done by or under the Other Interests, prevail over the native title rights and interests and any exercise of the native title rights and interests but, subject to any application of s 24IB or s 24JA of the NT Act, will not extinguish them.

18. The native title is subject to extinguishment in accordance with the NT Act.

### **AND THE COURT MAKES THE FOLLOWING FURTHER ORDERS:**

19. The native title is to be held in trust.
20. The Wangkangurru/Yarluyandi Aboriginal Corporation incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth), is to:
  - (a) be the prescribed body corporate for the purposes of s 57(2) of the NT Act; and
  - (b) perform the functions mentioned in s 57(3) of the NT Act after becoming a registered native title body corporate.

21. In relation to Area A of the Determination Area, the Applicant (through the Prescribed Body Corporate) the State of South Australia, or any other respondent Party have liberty to apply on 14 days' notice to a single judge of the Court for the following purposes:

- (a) to establish the precise location and boundaries of any public works and adjacent land and waters referred to in items 1 or 2(a) of Schedule 4; or
- (b) to establish the effect on native title rights and interests of any public works referred to in item 2(a) of Schedule 4.

### **Interpretation & Declaration**

22. In this determination, including its schedules:

- (a) unless the contrary intention appears, the words and expressions used have the same meaning as they are given in Part 15 of the NT Act;
- (b) "Local Government Act" has the meaning in the *Local Government Act 2009* (Qld);
- (c) "NPWA Reserve" means a reserve as defined in the *National Parks and Wildlife Act 1972* (SA);
- (d) "Natural Resources" means:
  - (i) any animal, plant, fish and bird life found on or in the land and waters of the Native Title Land, including but not limited to medicinal plants, wild tobacco, feathers and resin; and
  - (ii) any clays, soil, sand, gravel, rock or ochre found on or below the surface of the Native Title Land;

that have traditionally been taken and used by the Native Title Holders, but does not include:

- (i) animals that are the private personal property of another;
- (ii) crops that are the private personal property of another; and
- (iii) minerals as defined in the *Mineral Resources Act 1989* (Qld) or the *Mining Act 1971* (SA), petroleum as defined in the *Petroleum Act 1923* (Qld), the

*Petroleum and Gas (Production and Safety) Act 2004* (Qld) and the *Petroleum and Geothermal Energy Act 2000* (SA);

(e) Natural Water Resources means:

- (i) water which flows, whether permanently or intermittently, within a river, creek, or stream;
- (ii) any natural collection of water, whether permanent or intermittent; and
- (iii) water from an underground water source;

(f) “laws of the State of South Australia, the State of Queensland and the Commonwealth” means the common law and laws of the State of South Australia, the State of Queensland and the Commonwealth of Australia, and includes legislation, regulations, statutory instruments and local laws;

(g) “Reserves” means reserves that are dedicated or taken to be reserves under the *Land Act 1994* (Qld);

(h) in the event of an inconsistency between a description of an area in a schedule and the depiction of that area on the map in *Schedule 2*, the written description shall prevail.

Note: Entry of orders is dealt with in Rule 39.32 of the *Federal Court Rules 2011*.

## Schedules

### **SCHEDULE 1 – DETERMINATION AREA**

The Determination Area comprises the land and waters described below and as depicted in the maps contained in Schedule 2.

#### **AREA A – EXTERNAL BOUNDARY OF THE SOUTH AUSTRALIAN DETERMINATION AREA**

That part of the Determination Area which is located within the State of South Australia comprises all land and waters bounded by the following line:

Commencing at a point being the intersection of the borders between Queensland, South Australia and Northern Territory; then easterly along the northern border of South Australia (being the southern border of Queensland), through Longitude 139.780453 East (being the eastern-most point of the Determination Area within Queensland), to its intersection with Longitude 140.001231 East; then in straight lines connecting the following coordinate points:

<b>Longitude (East)</b>	<b>Latitude (South)</b>
139.900728	26.147648
139.800759	26.315911
139.569764	26.693364
139.367244	26.953967
138.719232	27.787831
138.102550	27.864510

the latter point being a point on the centreline of Warburton River; generally north-westerly and south-westerly along the said centreline of Warburton River, generally being straight lines connecting the following coordinate points:

Longitude (East)	Latitude (South)
138.102800	27.865300
138.102290	27.865750
138.101650	27.867550
138.102530	27.869800
138.102640	27.871280
138.101450	27.873540
138.100000	27.875130
138.099830	27.875320
138.096650	27.877230
138.090410	27.879690
138.089160	27.879900
138.089140	27.879910
138.088000	27.879680
138.086360	27.878540
138.086170	27.876160
138.086000	27.874140
138.084630	27.870300
138.084230	27.869810
138.083620	27.869060
138.079950	27.867130
138.078420	27.867120
138.076080	27.867790
138.072350	27.868980
138.069020	27.870010
138.067110	27.870910
138.066600	27.871240
138.065830	27.872370
138.065800	27.872380
138.063920	27.873030
138.063290	27.873140
138.061640	27.872460
138.058100	27.869960
138.056340	27.869330
138.055440	27.869840
138.054920	27.870400
138.054670	27.871300
138.054150	27.871980
138.054150	27.873440
138.054400	27.874120
138.054260	27.875020
138.053110	27.877480
138.052260	27.878230
138.051460	27.879020
138.050560	27.879850
138.048640	27.880970
138.046860	27.881640
138.045210	27.881750
138.043640	27.881450
138.038740	27.881380
138.036070	27.881820

Longitude (East)	Latitude (South)
138.031860	27.881920
138.027500	27.881890
138.026480	27.881910
138.021980	27.881750
138.018560	27.881060
138.017040	27.881050
138.014160	27.881980
138.014230	27.883410
138.014610	27.884310
138.015360	27.885100
138.018970	27.886990
138.019920	27.887380
138.020680	27.888060
138.020930	27.888510
138.020920	27.889190
138.020150	27.890540
138.019310	27.891350
138.018620	27.892000
138.016710	27.893450
138.015560	27.894010
138.013910	27.894340
138.011120	27.894330
138.009340	27.894320
138.007940	27.894650
138.006160	27.895900
138.005260	27.897520
138.003980	27.898690
138.002960	27.899020
138.002250	27.899020
138.001810	27.898880
138.001280	27.898540
138.000150	27.897930
138.000000	27.897820
137.998620	27.896810
137.996840	27.896710
137.995190	27.897170
137.994060	27.897740
137.993860	27.897910
137.993050	27.898650
137.990790	27.902490
137.989780	27.903290
137.988640	27.902960
137.987340	27.901900
137.987450	27.897440
137.987570	27.896310
137.988310	27.893710
137.988940	27.892810
137.989450	27.892350
137.990150	27.891920
137.991590	27.890760

Longitude (East)	Latitude (South)
137.991490	27.889610
137.991120	27.888860
137.990080	27.887940
137.989070	27.887030
137.988390	27.886490
137.986070	27.886510
137.984970	27.886670
137.984820	27.886690
137.983550	27.887000
137.981070	27.887670
137.979620	27.888000
137.974330	27.890970
137.973580	27.892330
137.973340	27.894810
137.971070	27.897080
137.971220	27.899560
137.970470	27.901030
137.968450	27.902730
137.966170	27.903640
137.963630	27.903660
137.962600	27.902090
137.962700	27.898480
137.961930	27.897470
137.961040	27.897020
137.958500	27.896920
137.957610	27.896020
137.957840	27.893660
137.956820	27.892870
137.954530	27.892550
137.953890	27.891760
137.954010	27.889950
137.952730	27.889060
137.945990	27.887740
137.943680	27.883920
137.942410	27.883030
137.941640	27.883030
137.940890	27.883600
137.940650	27.886420
137.939660	27.889130
137.938150	27.891280
137.929160	27.895610
137.927130	27.895620
137.925860	27.895180
137.924960	27.894060
137.924940	27.891460
137.923920	27.889890
137.923520	27.886960
137.921980	27.884600
137.921840	27.883590
137.922350	27.882680
137.926260	27.879950

Longitude (East)	Latitude (South)
137.926890	27.878600
137.926490	27.876910
137.924580	27.874780
137.922160	27.873770
137.919360	27.873220
137.918470	27.872330
137.913240	27.869650
137.911590	27.869660
137.910580	27.870340
137.910340	27.871920
137.910980	27.873150
137.911130	27.875750
137.908480	27.878350
137.907640	27.878680
137.905550	27.877580
137.904140	27.875440
137.903880	27.873640
137.903110	27.873080
137.901590	27.873320
137.900830	27.873090
137.900190	27.872530
137.900180	27.871630
137.900930	27.870160
137.900800	27.869370
137.899520	27.867240
137.894800	27.863990
137.892490	27.859720
137.890940	27.855890
137.890800	27.854310
137.889900	27.852170
137.889760	27.850150
137.890260	27.848450
137.891400	27.847770
137.892790	27.847760
137.894060	27.847310
137.895070	27.846400
137.895180	27.845080
137.894160	27.843920
137.892640	27.843370
137.890360	27.844050
137.888580	27.844060
137.887560	27.843620
137.886520	27.840350
137.884990	27.837880
137.885100	27.835280
137.884070	27.834160
137.880770	27.832820
137.879650	27.831980
137.879360	27.831370
137.879230	27.830800
137.877950	27.829340

Longitude (East)	Latitude (South)
137.877950	27.829120
137.877180	27.828220
137.877180	27.827990
137.876800	27.827430
137.875730	27.826320
137.875270	27.825860
137.873740	27.825190
137.871580	27.823290
137.860610	27.814990
137.858570	27.813760
137.852850	27.811760
137.850300	27.809850
137.850270	27.805230
137.845930	27.801750
137.842500	27.799960
137.838440	27.799980
137.835320	27.800720
137.833670	27.800900
137.832880	27.800840
137.831410	27.800220
137.830160	27.799300
137.829950	27.798600
137.829950	27.797860
137.830200	27.795700
137.829910	27.795040
137.829900	27.793820
137.829260	27.791450
137.829370	27.789760
137.830130	27.788410
137.831770	27.787950
137.834940	27.787930
137.836970	27.787470
137.837600	27.786790
137.837720	27.785670
137.837080	27.784430
137.834910	27.782410
137.830970	27.780730
137.826910	27.780300
137.824760	27.781440
137.824260	27.782680
137.823370	27.783590
137.821980	27.784040
137.819060	27.783940
137.816260	27.781930
137.813710	27.778780
137.812050	27.777550
137.809000	27.777000
137.804680	27.774650
137.801490	27.772070
137.799310	27.768130
137.796760	27.765090

Longitude (East)	Latitude (South)
137.790160	27.763770
137.788380	27.763210
137.787710	27.762620
137.786340	27.760970
137.786330	27.759950
137.790240	27.754630
137.790730	27.752380
137.790080	27.750240
137.788810	27.749790
137.786410	27.751150
137.785270	27.750930
137.782980	27.749030
137.782080	27.747340
137.781670	27.741810
137.780690	27.739680
137.779330	27.738040
137.776900	27.736650
137.774760	27.735000
137.774760	27.734820
137.772460	27.733290
137.771350	27.732770
137.771150	27.732770
137.769800	27.731680
137.767780	27.729850
137.766290	27.728240
137.764160	27.726850
137.763080	27.725260
137.762080	27.724600
137.760400	27.723630
137.759640	27.723520
137.758880	27.723180
137.758490	27.722850
137.757250	27.722400
137.756590	27.722180
137.756080	27.722070
137.754690	27.722070
137.754430	27.722190
137.753680	27.722870
137.753050	27.724340
137.753180	27.724560
137.752930	27.726140
137.753070	27.727610
137.753200	27.728060
137.753840	27.729070
137.754600	27.729180
137.755870	27.730080
137.756000	27.731320
137.755370	27.732220
137.754260	27.732100
137.752960	27.731670
137.751940	27.730880

Longitude (East)	Latitude (South)
137.751430	27.730320
137.749000	27.726610
137.746970	27.724810
137.745440	27.723910
137.743920	27.723580
137.743280	27.723240
137.742140	27.722230
137.741310	27.721200
137.740860	27.720430
137.740720	27.717950
137.741220	27.716150
137.741210	27.714910
137.741460	27.714120
137.741460	27.713210
137.741330	27.712880
137.740050	27.711300
137.739800	27.710740
137.739540	27.709270
137.737750	27.707360
137.735470	27.706470
137.734610	27.706470
137.732020	27.707500
137.730470	27.707400
137.729970	27.707530
137.727610	27.707060
137.725330	27.707180
137.724850	27.706820
137.723380	27.707120
137.720370	27.707060
137.717070	27.707530
137.716460	27.708340
137.716210	27.709020
137.716210	27.709360
137.715580	27.710040
137.714700	27.710720
137.713430	27.711400
137.713050	27.711510
137.709740	27.711890
137.707860	27.712320
137.705830	27.712330
137.704690	27.711990
137.703800	27.711890
137.701770	27.711890
137.697710	27.711570
137.696700	27.711350
137.694420	27.711130
137.692010	27.711140
137.691250	27.711360
137.690360	27.711820
137.689980	27.712160
137.689610	27.712950

Longitude (East)	Latitude (South)
137.689740	27.714870
137.689240	27.716220
137.687920	27.717500
137.687550	27.717770
137.686830	27.719370
137.685650	27.721000
137.684120	27.722220
137.683170	27.722610
137.682680	27.722780
137.681280	27.722900
137.680650	27.723130
137.679640	27.723240
137.678880	27.723130
137.677230	27.722460
137.676720	27.722470
137.673030	27.720790
137.669860	27.720800
137.666700	27.722050
137.666070	27.722500
137.664420	27.722730
137.663790	27.722960
137.661580	27.723040
137.661000	27.722740
137.659090	27.722300
137.658590	27.722300
137.657830	27.721960
137.656550	27.720950
137.654890	27.718120
137.653750	27.717350
137.653370	27.717240
137.651720	27.717240
137.650200	27.717810
137.649670	27.718240
137.648310	27.719510
137.647050	27.721660
137.646290	27.722450
137.645660	27.723580
137.644400	27.725410
137.643520	27.727160
137.643530	27.728660
137.643660	27.729450
137.644040	27.730240
137.644420	27.730690
137.646200	27.732150
137.647350	27.733720
137.647610	27.734290
137.648000	27.736320
137.648140	27.740260
137.647770	27.742630
137.647650	27.744100
137.646390	27.747260

Longitude (East)	Latitude (South)
137.646020	27.747650
137.644980	27.748550
137.643480	27.749290
137.642620	27.750410
137.642140	27.751250
137.642100	27.751380
137.641430	27.752170
137.640940	27.752870
137.640850	27.755130
137.640850	27.755210
137.641200	27.756820
137.641110	27.757540
137.640650	27.758780
137.640140	27.759390
137.639190	27.760270
137.637410	27.761040
137.635970	27.761620
137.634170	27.761600
137.633150	27.761520
137.632500	27.761510
137.631990	27.761180
137.631480	27.761060
137.630850	27.761070
137.630090	27.761410
137.628440	27.761190
137.626670	27.761190
137.624840	27.761920
137.623600	27.762230
137.622020	27.762570
137.620490	27.762100
137.618880	27.761390
137.616580	27.760580
137.615190	27.760420
137.613180	27.760460
137.612160	27.760910
137.611760	27.761900
137.612200	27.762810
137.612830	27.763520
137.613080	27.763580
137.613610	27.763710
137.614120	27.764050
137.615460	27.765210
137.617250	27.766760
137.617570	27.767330
137.616770	27.768880
137.614990	27.769470
137.612720	27.770250
137.611550	27.770400
137.610420	27.770640
137.609580	27.770600
137.609070	27.770490

Longitude (East)	Latitude (South)
137.608560	27.770230
137.607290	27.769590
137.606530	27.769480
137.606280	27.769260
137.605900	27.769260
137.604120	27.768360
137.603480	27.767910
137.600680	27.765440
137.599550	27.764770
137.598900	27.764770
137.597760	27.765330
137.597380	27.765670
137.596120	27.767590
137.596000	27.768270
137.595740	27.768500
137.595530	27.771320
137.595640	27.774020
137.596530	27.775830
137.597170	27.776390
137.599330	27.777620
137.599450	27.778590
137.599130	27.779620
137.597550	27.782020
137.597080	27.783560
137.597560	27.784860
137.597970	27.786880
137.596320	27.787670
137.596760	27.789030
137.596850	27.791230
137.596700	27.791880
137.594440	27.793990
137.594450	27.794550
137.593810	27.795120
137.594200	27.796580
137.591290	27.798510
137.589510	27.798510
137.588120	27.799310
137.586720	27.799310
137.585460	27.800100
137.584700	27.802140
137.582810	27.803610
137.581410	27.803950
137.579510	27.803730
137.578880	27.803100
137.578450	27.802360
137.578490	27.801150
137.577790	27.800350
137.577050	27.799790
137.576740	27.799870
137.576360	27.799960
137.576330	27.800570

Longitude (East)	Latitude (South)
137.576240	27.801530
137.576130	27.802350
137.575940	27.803480
137.576210	27.804080
137.576210	27.804640
137.576720	27.805770
137.578630	27.807340
137.580290	27.808130
137.581370	27.808970
137.581290	27.809400
137.579860	27.810640
137.578370	27.811340
137.576590	27.811790
137.573520	27.811340
137.570460	27.811280
137.568120	27.811740
137.566060	27.812610
137.563940	27.814240
137.562270	27.815660
137.560930	27.816650
137.559240	27.817010
137.557090	27.817300
137.555440	27.817380
137.554140	27.818110
137.553210	27.819260
137.552540	27.820040
137.551520	27.820940
137.550760	27.821170
137.549870	27.821170
137.549490	27.821060
137.549240	27.820840
137.548090	27.817680
137.547450	27.817120
137.545040	27.817240
137.544020	27.816790
137.543130	27.816000
137.542750	27.815780
137.541350	27.815450
137.540820	27.815370
137.538350	27.815980
137.536580	27.816580
137.534210	27.816620
137.532480	27.816650
137.531100	27.817190
137.528820	27.818160
137.527280	27.819010
137.525850	27.819960
137.524200	27.820960
137.522020	27.821470
137.519940	27.821500
137.517700	27.819800

Longitude (East)	Latitude (South)
137.517040	27.818420
137.515270	27.816860
137.512590	27.815990
137.510990	27.814070
137.510190	27.812070
137.509990	27.810440
137.510500	27.808970
137.512520	27.807840
137.513540	27.807610
137.514530	27.807740
137.515270	27.807590
137.516630	27.807930
137.516770	27.807930
137.517770	27.807150
137.517790	27.805900
137.516820	27.805010
137.515740	27.804910
137.515180	27.804900
137.513800	27.804020
137.511280	27.802370
137.509930	27.802270
137.508490	27.802470
137.507020	27.802560
137.505190	27.801580
137.504040	27.801090
137.501530	27.800490
137.499560	27.800080
137.498540	27.799180
137.497770	27.797720
137.497390	27.796700
137.497390	27.795800
137.498150	27.794560
137.499160	27.793880
137.501190	27.793310
137.502050	27.792640
137.502710	27.792460
137.503780	27.791590
137.503980	27.790770
137.503820	27.789380
137.503270	27.788540
137.501450	27.786870
137.500250	27.786320
137.499770	27.785980
137.499260	27.785870
137.497740	27.785990
137.494320	27.786900
137.492540	27.786680
137.491020	27.785890
137.490510	27.785440
137.490250	27.785440
137.489370	27.784670

Longitude (East)	Latitude (South)
137.488730	27.785100
137.487460	27.784990
137.486700	27.784660
137.485680	27.783980
137.484030	27.783870
137.482620	27.784780
137.481370	27.785480
137.479150	27.785910
137.477500	27.786820
137.475050	27.788670
137.473390	27.789870
137.472000	27.790660
137.470480	27.790550
137.467940	27.789770
137.466540	27.789770
137.464890	27.790220
137.463120	27.791470
137.462620	27.793160
137.462740	27.794060
137.461990	27.795640
137.457690	27.798660
137.457310	27.798850
137.457550	27.799270
137.457750	27.799460
137.459680	27.802470
137.459040	27.805100
137.457020	27.806800
137.454580	27.808640
137.451380	27.810030
137.447880	27.810210
137.444590	27.809810
137.442630	27.810140
137.440270	27.811300
137.439420	27.813030
137.438960	27.814610
137.439070	27.816660
137.440730	27.819590
137.441490	27.820270
137.441510	27.820580
137.441750	27.821510
137.439850	27.823090
137.439190	27.825160
137.436430	27.827610
137.435800	27.828960
137.435550	27.829980
137.435550	27.830770
137.435300	27.831440
137.435170	27.832230
137.435170	27.833360
137.435050	27.834040
137.434670	27.834830

Longitude (East)	Latitude (South)
137.433660	27.835730
137.432890	27.836850
137.432640	27.837760
137.432650	27.839570
137.432140	27.840580
137.431380	27.841150
137.430620	27.842730
137.430630	27.843520
137.431140	27.844990
137.431010	27.846560
137.429490	27.848150
137.427720	27.848150
137.426960	27.848600
137.426580	27.848710
137.426070	27.848720
137.424190	27.849760
137.422890	27.849750
137.419650	27.852320
137.417520	27.853950
137.413000	27.857790
137.409480	27.860360
137.405020	27.863200
137.399720	27.865970
137.391490	27.868290
137.383270	27.871450
137.380030	27.871850
137.379020	27.872000
137.375330	27.871910
137.373300	27.871460
137.372280	27.870780
137.371840	27.870560
137.368570	27.869290
137.367790	27.867890
137.364610	27.867740
137.363413	27.867509
137.359420	27.866740
137.356550	27.864780
137.354500	27.861550
137.353490	27.857970
137.353220	27.854540
137.351280	27.851730
137.347300	27.846270
137.344110	27.842060
137.340530	27.837430
137.336380	27.832980
137.332200	27.830880
137.330410	27.830910
137.323460	27.831270
137.318140	27.833620
137.312250	27.835480
137.307780	27.837560

Longitude (East)	Latitude (South)
137.302060	27.838330
137.296550	27.840600
137.290720	27.845050
137.287990	27.853880
137.288990	27.855800
137.289470	27.856190
137.289730	27.856570
137.289980	27.856980
137.290110	27.857430
137.290110	27.858220
137.290360	27.859460
137.289730	27.861040
137.289740	27.861740
137.289500	27.864610
137.289210	27.865410
137.286390	27.867950
137.284830	27.868710
137.282480	27.868980
137.279370	27.868840

Longitude (East)	Latitude (South)
137.275730	27.868900
137.275190	27.869000
137.274580	27.868880
137.273120	27.869460
137.270460	27.871960
137.269810	27.873120
137.268280	27.874360
137.266564	27.874124
137.265880	27.874030
137.262830	27.872220
137.260800	27.871770
137.259640	27.869970
137.260540	27.868390
137.258000	27.866810
137.256720	27.865230
137.255200	27.864100
137.251770	27.864100
137.249930	27.863290

the later coordinate being the intersection of the said centreline of Warburton River with the centreline of an un-named creek; then generally north-westerly along the centreline of the said un-named creek, generally being straight lines connecting the following coordinate points:

<b>Longitude (East)</b>	<b>Latitude (South)</b>
137.250500	27.862530
137.250630	27.861060
137.249610	27.858920
137.249620	27.858350
137.249350	27.857680
137.248730	27.856550
137.247580	27.855530
137.247060	27.855190
137.246050	27.854860
137.245440	27.854260
137.244780	27.853490
137.244110	27.852350
137.243520	27.850600
137.243340	27.849160

the later coordinate being the intersection of the said un-named creek with the centreline of the Macumba River; then generally north-westerly along the said centreline of the Macumba River, generally being straight lines connecting the following coordinate points:

Longitude (East)	Latitude (South)
137.244360	27.847580
137.247100	27.843640
137.248310	27.840040
137.247580	27.835850
137.243840	27.832390
137.240790	27.828300
137.236040	27.823230
137.233440	27.817620
137.232690	27.811670
137.232920	27.809530
137.231940	27.809170
137.231710	27.804970
137.232340	27.802810
137.233140	27.800250
137.233990	27.798860
137.234230	27.797390
137.234370	27.796750
137.234430	27.794840
137.234670	27.794470
137.235950	27.792430
137.237190	27.791570
137.238320	27.790770
137.240130	27.788970
137.241060	27.787180
137.241060	27.786160
137.238010	27.779840
137.237350	27.778830
137.231160	27.778260
137.228620	27.778380
137.227860	27.779050
137.227860	27.781650
137.226860	27.783450
137.225070	27.782890
137.223420	27.780970
137.219620	27.777700
137.216060	27.778600
137.212640	27.779960
137.211620	27.779730
137.211890	27.777810
137.210610	27.776910
137.209080	27.776350
137.207430	27.776460
137.205150	27.775560
137.203130	27.775440
137.202670	27.775140
137.201470	27.774320
137.200460	27.774320
137.198300	27.773640
137.197540	27.773300
137.196270	27.772400

Longitude (East)	Latitude (South)
137.194870	27.770930
137.193730	27.768900
137.193480	27.767770
137.192060	27.766160
137.190950	27.765180
137.190690	27.765180
137.188280	27.763030
137.188020	27.762700
137.187510	27.761340
137.185880	27.759200
137.183710	27.757390
137.183080	27.756600
137.181930	27.753890
137.180770	27.752540
137.181430	27.751190
137.181930	27.747460
137.180920	27.745210
137.181170	27.742950
137.180800	27.741600
137.180790	27.738330
137.181550	27.735630
137.182440	27.732460
137.182530	27.731700
137.182290	27.731090
137.181540	27.730710
137.180720	27.730640
137.178970	27.730840
137.178390	27.730640
137.178210	27.729900
137.178360	27.729100
137.179760	27.728400
137.179750	27.727700
137.179320	27.727060
137.178050	27.726130
137.177550	27.726020
137.176470	27.725760
137.175500	27.725700
137.174790	27.725320
137.174390	27.724720
137.174320	27.723990
137.174540	27.722540
137.174390	27.721860
137.173920	27.721230
137.173310	27.720770
137.172550	27.720480
137.169980	27.720420
137.169120	27.720270
137.167410	27.719750
137.165690	27.718990
137.162710	27.717670

Longitude (East)	Latitude (South)
137.161330	27.716660
137.161140	27.716440
137.160760	27.715870
137.160630	27.715310
137.160130	27.715080
137.159360	27.714400
137.158860	27.713500
137.158860	27.713050
137.158730	27.712820
137.158220	27.712370
137.156830	27.712150
137.152900	27.712820
137.151260	27.712820
137.148590	27.712480
137.146430	27.712030
137.143890	27.711800
137.143260	27.711460
137.141870	27.710220
137.141170	27.709370
137.140700	27.708730
137.139680	27.707850
137.138480	27.706970
137.136460	27.706600
137.134820	27.706950
137.133670	27.707210
137.132110	27.708180
137.130070	27.708520
137.122470	27.716640
137.117370	27.718980
137.117000	27.719180
137.113450	27.721090
137.109220	27.722690
137.108770	27.725990
137.103940	27.729710
137.102800	27.731290
137.102160	27.736360
137.100130	27.737600
137.098360	27.737830
137.096330	27.738730
137.095830	27.740240
137.094800	27.740870
137.091880	27.740980
137.090720	27.741290
137.088080	27.741990
137.084020	27.743230
137.081860	27.744470
137.080230	27.744140
137.078740	27.743540
137.077580	27.742560
137.076190	27.740750
137.075580	27.740310

Longitude (East)	Latitude (South)
137.074800	27.740070
137.073930	27.738850
137.072360	27.738540
137.070360	27.738390
137.065690	27.739630
137.063300	27.740010
137.060860	27.740060
137.058350	27.739780
137.056820	27.739310
137.056220	27.738910
137.055780	27.738350
137.054830	27.736240
137.054390	27.735640
137.053120	27.734780
137.050820	27.733960
137.046810	27.733430
137.043980	27.732010
137.043090	27.732340
137.042290	27.732440
137.039830	27.732480
137.039060	27.732340
137.038350	27.732020
137.037030	27.731120
137.036300	27.730830
137.034600	27.730270
137.033040	27.729950
137.028980	27.729970
137.028100	27.729960
137.025050	27.731200
137.022260	27.731200
137.019780	27.733060
137.019590	27.734010
137.019340	27.734460
137.018190	27.735370
137.016420	27.736260
137.014260	27.736940
137.012230	27.739090
137.012100	27.739420
137.011970	27.739420
137.010450	27.740880
137.008920	27.742910
137.008160	27.744610
137.007400	27.745270
137.006760	27.746100
137.004830	27.747700
137.003480	27.748590
137.001870	27.749710
137.000180	27.750260
136.998880	27.750570
136.997240	27.751810
136.994990	27.753650

Longitude (East)	Latitude (South)
136.991900	27.755400
136.990760	27.756080
136.990000	27.756430
136.989250	27.756410
136.987510	27.757130
136.986150	27.757620
136.984460	27.757930
136.982450	27.758710
136.981150	27.759250
136.980220	27.759790
136.979600	27.759740
136.978950	27.759780
136.978320	27.760020
136.978060	27.760240
136.977430	27.760360
136.976410	27.760800
136.976190	27.761110
136.973170	27.762310
136.971370	27.763160
136.970940	27.762810
136.970190	27.762700
136.967900	27.764170
136.967650	27.764170
136.966630	27.764740
136.965400	27.765680
136.963460	27.766990
136.962570	27.767540
136.961140	27.767850
136.958350	27.769210
136.957110	27.770120
136.955960	27.770700
136.952420	27.771570
136.951530	27.772390
136.950890	27.772630
136.950120	27.772940
136.949490	27.773050
136.944540	27.773380
136.941870	27.774170
136.941110	27.774280
136.940220	27.774280
136.939120	27.775090
136.938580	27.775070
136.938060	27.774610
136.937680	27.774500
136.936030	27.774490
136.933750	27.775160
136.932600	27.775160
136.932220	27.775050
136.930700	27.774140
136.927790	27.774020
136.926270	27.772550

Longitude (East)	Latitude (South)
136.921830	27.770180
136.920060	27.768590
136.919810	27.767910
136.918040	27.765540
136.916540	27.765190
136.916180	27.764980
136.915250	27.764180
136.914490	27.762600
136.914360	27.761920
136.913730	27.761020
136.910950	27.758530
136.910800	27.757750
136.909310	27.755590
136.909310	27.755260
136.908180	27.753390
136.905770	27.751910
136.905940	27.750920
136.905940	27.748310
136.906250	27.748100
136.906350	27.748000
136.906420	27.747710
136.906790	27.746110
136.907060	27.740360
136.906940	27.738780
136.907840	27.734380
136.907900	27.732710
136.906840	27.729860
136.906590	27.728060
136.906470	27.725580
136.904570	27.722860
136.903940	27.722300
136.903430	27.721400
136.902300	27.720040
136.900460	27.718390
136.898370	27.717320
136.897360	27.716420
136.896710	27.715380
136.895340	27.714050
136.893400	27.713680
136.892800	27.713250
136.892680	27.712910
136.891790	27.712120
136.890780	27.711890
136.890520	27.711660
136.890140	27.711660
136.887100	27.709620
136.886350	27.708610
136.884950	27.707360
136.883440	27.706450
136.881410	27.705550
136.879630	27.704150

Longitude (East)	Latitude (South)
136.879130	27.703400
136.879020	27.699220
136.878390	27.697640
136.878260	27.696510
136.878010	27.696290
136.878010	27.695950
136.877760	27.695720
136.877260	27.694140
136.876630	27.693120
136.875230	27.691880
136.874350	27.691310
136.873830	27.690710
136.872950	27.690860
136.870680	27.689270
136.867130	27.689260
136.865730	27.688700
136.863580	27.688580
136.860540	27.686650
136.859270	27.686650
136.857240	27.687880
136.853820	27.687540
136.847980	27.689670
136.846330	27.689660
136.845070	27.688530
136.844820	27.687510
136.843800	27.686720
136.843490	27.685510
136.841650	27.685020
136.838360	27.685240
136.837830	27.685010
136.836960	27.685350
136.835940	27.686130
136.834930	27.686580
136.832770	27.687140
136.831120	27.686910
136.829220	27.686900
136.828200	27.687350
136.827570	27.687460
136.826640	27.687400
136.824660	27.685760
136.824530	27.685420
136.823140	27.684070
136.822890	27.683610
136.820490	27.681350
136.819450	27.680980
136.818440	27.678670
136.815950	27.673550
136.815330	27.671180
136.813560	27.669600
136.812170	27.666880
136.809520	27.664170

Longitude (East)	Latitude (South)
136.808030	27.661360
136.808390	27.660440
136.808400	27.657280
136.808010	27.656920
136.808410	27.656610
136.809570	27.650970
136.809450	27.648940
136.808690	27.647240
136.805030	27.643060
136.800610	27.640220
136.798710	27.639650
136.796670	27.638430
136.794790	27.636590
136.794030	27.635240
136.793300	27.634340
136.791390	27.629810
136.791170	27.629460
136.790380	27.628460
136.789630	27.627210
136.787990	27.625740
136.785710	27.624490
136.782670	27.623920
136.782290	27.624030
136.781780	27.624030
136.781390	27.623780
136.780170	27.624130
136.778360	27.624130
136.777850	27.624010
136.776210	27.623220
136.773930	27.621410
136.773030	27.620840
136.772040	27.619930
136.771030	27.617900
136.771040	27.617110
136.771290	27.616090
136.771550	27.615760
136.771680	27.615760
136.771790	27.614870
136.772570	27.614070
136.772570	27.613840
136.773210	27.612940
136.774030	27.612230
136.774480	27.611140
136.774480	27.610910
136.773610	27.608320
136.773240	27.605270
136.772730	27.604250
136.772490	27.603010
136.771600	27.601880
136.769100	27.601780
136.768540	27.601760

Longitude (East)	Latitude (South)
136.767440	27.601530
136.766260	27.600940
136.764260	27.599280
136.764210	27.599210
136.762110	27.597260
136.760760	27.595150
136.760590	27.594240
136.760110	27.593270
136.757330	27.590890
136.755440	27.588400
136.754560	27.586590
136.754060	27.586140
136.752150	27.582450
136.750780	27.581500
136.750400	27.581500
136.749390	27.581040
136.748250	27.580250
136.748130	27.580020
136.745980	27.578100
136.744210	27.576850
136.743960	27.576850
136.743330	27.576280
136.743080	27.576170
136.742700	27.576170
136.742440	27.575940
136.740920	27.575600
136.737380	27.575700
136.734090	27.575120
136.733420	27.574780
136.732130	27.574130
136.730040	27.572660
136.729030	27.570820
136.728160	27.568670
136.727030	27.566970
136.726650	27.566630
136.725760	27.566180
136.725000	27.566170
136.721080	27.565030
136.720070	27.565030
136.719560	27.564800
136.718800	27.564680
136.716400	27.564790
136.715920	27.565050
136.713090	27.566940
136.710860	27.567000
136.709170	27.566110
136.707730	27.565210
136.705760	27.563620
136.704880	27.562490
136.703740	27.561580
136.701970	27.561240

Longitude (East)	Latitude (South)
136.700580	27.560670
136.699570	27.560550
136.697930	27.559640
136.694900	27.557030
136.692010	27.552730
136.691000	27.551600
136.689100	27.550580
136.688220	27.550460
136.687330	27.550010
136.685200	27.549590
136.681220	27.549190
136.679360	27.548060
136.677720	27.547940
136.677210	27.548160
136.674670	27.548380
136.673540	27.548030
136.672020	27.547130
136.668980	27.544320
136.667740	27.542260
136.667110	27.540450
136.665100	27.538860
136.663960	27.537730
136.663080	27.536030
136.662720	27.532640
136.662600	27.532190
136.661840	27.530950
136.661340	27.530490
136.660840	27.529590
136.660860	27.524850
136.660610	27.524170
136.660620	27.522930
136.660490	27.522030
136.659990	27.520560
136.659240	27.519540
136.657510	27.518000
136.657350	27.517500
136.656970	27.517160
136.656220	27.516710
136.653570	27.514100
136.649400	27.511490
136.648010	27.510950
136.646880	27.509450
136.646630	27.508660
136.645120	27.506840
136.644370	27.505600
136.644380	27.504240
136.644260	27.503340
136.644010	27.502550
136.642870	27.500970
136.641110	27.499380
136.640360	27.499110

Longitude (East)	Latitude (South)
136.638590	27.496550
136.638860	27.494400
136.636090	27.492020
136.635460	27.490780
136.635850	27.489310
136.635600	27.488070
136.632190	27.485570
136.630440	27.481500
136.628680	27.480030
136.627140	27.479490
136.624920	27.473690
136.624290	27.473130
136.623660	27.472110
136.622900	27.471200
136.620760	27.469270
136.619630	27.468590
136.618750	27.467800
136.611810	27.463700
136.610430	27.461550
136.609920	27.461100
136.609420	27.460870
136.607400	27.460520
136.606010	27.460070
136.602730	27.458250
136.600560	27.456440
136.600590	27.455530
136.600000	27.454580
136.599960	27.454510
136.598700	27.453490
136.598580	27.453260
136.598580	27.452590
136.598960	27.452020
136.598970	27.451460
136.597840	27.449990
136.597710	27.448970
136.596330	27.447270
136.596100	27.446620
136.596720	27.445690
136.596860	27.443660
136.596240	27.441740
136.594110	27.438230
136.593360	27.436200
136.593620	27.433830
136.594650	27.431240
136.594670	27.428080
136.593300	27.424460
136.592290	27.422650
136.591040	27.421180
136.589910	27.419140
136.589550	27.416660
136.589110	27.415360

Longitude (East)	Latitude (South)
136.589690	27.413270
136.589950	27.412940
136.590470	27.409220
136.590110	27.406280
136.587860	27.400970
136.587250	27.400420
136.584110	27.393610
136.580600	27.388070
136.577900	27.384730
136.573690	27.379570
136.571570	27.375270
136.572220	27.372340
136.574400	27.367160
136.574280	27.365580
136.573290	27.362750
136.573290	27.362260
136.573300	27.360720
136.573820	27.357570
136.574840	27.355880
136.574980	27.353960
136.572980	27.350680
136.571780	27.349700
136.570080	27.348290
136.568390	27.342270
136.568230	27.341290
136.566470	27.338680
136.564840	27.337100
136.563460	27.335960
136.562950	27.335730
136.561190	27.334260
136.558170	27.332440
136.557670	27.331310
136.554900	27.329040
136.553770	27.328240
136.553390	27.327560
136.552510	27.326650
136.551760	27.326310
136.551030	27.326220
136.549740	27.325510
136.549490	27.325060
136.549620	27.323700
136.549500	27.323480
136.548170	27.322470
136.546340	27.322560
136.545470	27.321310
136.545360	27.318380
136.544480	27.317250
136.544740	27.316230
136.544750	27.314990
136.544620	27.314760
136.542640	27.312720

Longitude (East)	Latitude (South)
136.541980	27.312380
136.541480	27.311930
136.541100	27.311360
136.540480	27.309550
136.539730	27.308310
136.538990	27.307590
136.537210	27.307050
136.536580	27.306490
136.536090	27.305240
136.535330	27.304450
136.535080	27.304000
136.534840	27.302750
136.534280	27.301620
136.532830	27.300600
136.532200	27.300030
136.531830	27.299350
136.531700	27.298670
136.531710	27.297660
136.531340	27.296420
136.530210	27.295510
136.528690	27.295390
136.528360	27.295080
136.527930	27.295270
136.526170	27.294130
136.523770	27.294570
136.521490	27.294560
136.520740	27.294330
136.519730	27.294320
136.516570	27.293630
136.516190	27.293400
136.513540	27.292820
136.513040	27.292600
136.510900	27.291120
136.509450	27.290690
136.508250	27.289570
136.508140	27.287600
136.508290	27.287020
136.509040	27.285390
136.509170	27.284870
136.509180	27.283890
136.508430	27.282410
136.506550	27.279920
136.505670	27.279130
136.504670	27.278650
136.503161	27.275555
136.501285	27.272334
136.499240	27.271042
136.497970	27.270000
136.495490	27.268590
136.494740	27.268590
136.494360	27.268480

Longitude (East)	Latitude (South)
136.493350	27.267800
136.492330	27.266330
136.491950	27.266000
136.490690	27.265320
136.490310	27.265210
136.489170	27.265210
136.486770	27.265780
136.486140	27.265560
136.485300	27.265530
136.484250	27.265110
136.481840	27.263420
136.480330	27.262740
136.477040	27.262640
136.476290	27.262860
136.474650	27.262860
136.471990	27.261970
136.469210	27.259710
136.467570	27.258930
136.466680	27.258140
136.466550	27.257570
136.465920	27.256560
136.464280	27.255210
136.463260	27.254640
136.462630	27.254420
136.459980	27.253970
136.458590	27.253180
136.457320	27.252060
136.456190	27.250710
136.453910	27.247100
136.451500	27.244390
136.450240	27.243610
136.448220	27.243040
136.446190	27.241350
136.445560	27.240340
136.445310	27.239320
136.444290	27.237860
136.440100	27.235270
136.439240	27.234590
136.437720	27.233690
136.437470	27.233690
136.435320	27.232340
136.434310	27.230880
136.433930	27.229860
136.432660	27.228510
136.432460	27.228140
136.432280	27.227830
136.430660	27.226180
136.428110	27.225130
136.426600	27.224680
136.423820	27.223330
136.421550	27.222540

Longitude (East)	Latitude (South)
136.419520	27.220740
136.417500	27.220180
136.417000	27.220060
136.415480	27.218710
136.414210	27.216460
136.414210	27.216000
136.413330	27.214650
136.412190	27.213520
136.411120	27.211870
136.409160	27.211720
136.407900	27.210820
136.407260	27.209350
136.406000	27.207550
136.405870	27.206530
136.405360	27.205740
136.404980	27.205410
136.404230	27.204960
136.403940	27.204960
136.401700	27.204960
136.401070	27.204400
136.401070	27.203380
136.400690	27.202480
136.399810	27.201800
136.398670	27.201350
136.397530	27.200220
136.397530	27.199430
136.397280	27.198980
136.396900	27.198640
136.395640	27.197970
136.393490	27.195430
136.393230	27.195150
136.392480	27.195040
136.391440	27.195020
136.388690	27.195150
136.387970	27.194690
136.385790	27.195490
136.384650	27.195720
136.382000	27.195720
136.381500	27.195610
136.380740	27.195270
136.379220	27.193810
136.377580	27.193130
136.377250	27.192830
136.375560	27.190430
136.374800	27.189750
136.373790	27.189300
136.371770	27.188960
136.371340	27.189220
136.369650	27.188170
136.368870	27.187380
136.368360	27.185800

Longitude (East)	Latitude (South)
136.367860	27.184900
136.367480	27.184450
136.365580	27.182760
136.363620	27.181660
136.363180	27.181410
136.361920	27.181180
136.361420	27.181300
136.360820	27.181740
136.360110	27.181640
136.358380	27.181540
136.355710	27.180730
136.354850	27.180060
136.351700	27.178370
136.348920	27.177350
136.348290	27.177240
136.346570	27.177230
136.345640	27.176230
136.345130	27.176000
136.344630	27.175550
136.344220	27.174770
136.344750	27.173520
136.344620	27.171830
136.344110	27.171290
136.342770	27.169090
136.341090	27.167770
136.336290	27.166420
136.335660	27.166420
136.335160	27.166300
136.334780	27.166080
136.333530	27.166120
136.332630	27.165520
136.329860	27.164840
136.327460	27.164730
136.322790	27.165520
136.317620	27.166650
136.316480	27.166650
136.315470	27.166880
136.312320	27.168460
136.310800	27.168680
136.310050	27.168460
136.309040	27.167780
136.306010	27.167780
136.304490	27.166880
136.303230	27.166930
136.302850	27.166990
136.301590	27.166660
136.300330	27.166090
136.299950	27.165750
136.299480	27.165740
136.296040	27.164960
136.295030	27.164960

Longitude (East)	Latitude (South)
136.293640	27.165300
136.292890	27.165300
136.289620	27.165970
136.288470	27.165980
136.287460	27.165760
136.287080	27.165530
136.286200	27.164510
136.285060	27.164060
136.280580	27.164130
136.278250	27.165190
136.276360	27.165190
136.275850	27.165310
136.275090	27.165760
136.274840	27.165760
136.272320	27.167000
136.270170	27.167450
136.268280	27.168470
136.266640	27.168580
136.265130	27.168010
136.262850	27.165870
136.261670	27.165280
136.260080	27.165760
136.259570	27.165760
136.259070	27.165530
136.257810	27.165530
136.256670	27.165760
136.254400	27.165760
136.253900	27.165870
136.252660	27.166610
136.249100	27.166660
136.247330	27.167220
136.245820	27.168010
136.245130	27.168180
136.244430	27.168350
136.243040	27.168350
136.242290	27.168240
136.239440	27.167520
136.237950	27.167140
136.237670	27.166920
136.235160	27.168860
136.234630	27.168980
136.232570	27.169140
136.229670	27.170270
136.228660	27.171060
136.227770	27.171510
136.226260	27.171960
136.222220	27.173760
136.221420	27.173940
136.218940	27.174100
136.217050	27.173870
136.213010	27.172970

Longitude (East)	Latitude (South)
136.211370	27.172180
136.210360	27.171390
136.209460	27.170990
136.207860	27.170280
136.207080	27.169920
136.206450	27.169810
136.205190	27.169810
136.203290	27.170260
136.201400	27.171270
136.199130	27.171050
136.198290	27.170470
136.196730	27.169800
136.193450	27.169690
136.192570	27.169910
136.190300	27.169800
136.189790	27.169690
136.189410	27.169460
136.189380	27.169460
136.187390	27.168670
136.186760	27.168560
136.183480	27.168440
136.181840	27.167880
136.180330	27.166630
136.179320	27.165960
136.178653	27.165639

The later coordinate being the intersection of the said Macumba River with the southern production of the western boundary of Simpson Desert Regional Reserve – Block 565, OH(Dalhousie); northerly along the said production and the western boundary of Simpson Desert Regional Reserve – Blocks 565, 564 & 563 to the northern border of South Australia (being the southern border of Northern Territory); then easterly along the said northern border of South Australia to the point of commencement.

### **Reference datum**

Geographical coordinates have been provided by the Department of Planning, Transport & Infrastructure, Land Services Group.

Geographical coordinates are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees.

### **Data reference and source**

Watercourses and waterbodies referenced to GEODATA TOPO 250K – Series 3 © Commonwealth of Australia (Geoscience Australia).

Cadastral data sourced from Department of Planning, Transport & Infrastructure SA (3 February 2014).

### **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 of the custodians of cadastral and topographical 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.

## **AREA B – EXTERNAL BOUNDARY OF THE QUEENSLAND DETERMINATION AREA**

- 1 That part of the Determination Area which is located within the State of Queensland comprises all of the land and waters within the **Queensland External Boundary**, excluding the land and waters described in paragraph 2 below, bounded by the following line:

Commencing at a point being the intersection of the borders between Queensland, South Australia and Northern Territory; then northerly along the western border of Queensland (being the eastern border of Northern Territory) to Latitude 24.363085 South, then generally south-easterly and southerly in straight lines connecting the following coordinate points

<b>Longitude (East)</b>	<b>Latitude (South)</b>
138.617906	24.898504
138.816582	24.968954
139.424460	25.184468
139.424000	25.194840
139.426385	25.196843
139.427542	25.199510
139.430352	25.200921
139.431864	25.203727
139.431898	25.205759
139.434121	25.208870
139.433543	25.212141
139.433615	25.215826
139.433165	25.218394
139.433956	25.224037
139.440537	25.254361
139.445159	25.265651
139.449051	25.267405
139.453068	25.269174
139.453765	25.272024
139.454816	25.274582

<b>Longitude (East)</b>	<b>Latitude (South)</b>
139.459344	25.277353
139.469006	25.288057
139.470398	25.288721
139.481918	25.303900
139.483232	25.306346
139.483852	25.308850
139.483546	25.310681
139.484215	25.313187
139.478291	25.327048
139.477201	25.330721
139.475930	25.337127
139.474432	25.344858
139.473543	25.349237
139.472862	25.351207
139.470521	25.355913
139.469004	25.359374
139.466935	25.365040
139.464295	25.371080
139.462600	25.375477
139.461297	25.379445
139.459138	25.382754
139.457287	25.387664
139.456478	25.390310
139.456264	25.393070
139.455586	25.397153
139.454439	25.402937
139.454237	25.404723
139.453597	25.408995
139.452778	25.413862
139.451823	25.418592
139.451615	25.420947
139.451077	25.423297
139.451162	25.440583

Then southerly to the centreline of the Eyre Developmental Road at Latitude 25.453526 South, then south-easterly to Woolmarlie Tank at Longitude 139.548430 East, Latitude 25.506101 South, then south-westerly to Annuary Waterhole at Longitude 139.499580 East, Latitude 25.688832 South; then south-easterly to Louies Hill at Longitude 139.530186 East, Latitude 25.750357 South; then generally south-easterly in straight lines connecting the following coordinate points:

Longitude (East)	Latitude (South)
139.587822	25.784827
139.608415	25.807565
139.632440	25.829874
139.646598	25.864625
139.670194	25.895515
139.688213	25.919540
139.707090	25.926833
139.728970	25.957294
139.744844	25.968019

Then south-easterly to a point on the southern border of Queensland (being the northern border of South Australia) at Longitude 139.780453 East; then westerly along the said southern border of Queensland to the point of commencement.

- 2 The following areas of land and waters are excluded from the Queensland Determination Area:
- (a) those lands and waters within the Queensland External Boundary, which at the time the native title determination application was made could not be claimed in accordance with s 61A of the NT Act;
    - (i) were the subject of one or more Previous Exclusive Possession Acts, within the meaning of s 23B of the NT Act; and
    - (ii) to which none of ss 47, 47A or 47B of the NT Act applied at the time of the native title determination application;
  - (b) Specifically, and to avoid any doubt, the land and waters described in (a) above includes:

- (i) the tenure based exclusions under ss 23B(2) and 23B(3) of the NT Act to which s 20 of the *Native Title (Queensland) Act 1993* (Qld) applies; and
- (ii) the land and waters on which any public work, as defined in s 253 of the NT Act, is or was constructed, established or situated, and to which ss 23B(7) and 23C(2) of the NT Act and to which s 21 of the *Native Title (Queensland) Act 1993* (Qld) applies, together with any adjacent land or waters in accordance with s 251D of the NT Act.

### **Reference datum**

Geographical coordinates have been provided by the Queensland Government, Client Mapping Services.

Geographical coordinates are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees.

### **Data reference and source**

Topographic features referenced to GEODATA TOPO 250K – Series 3  
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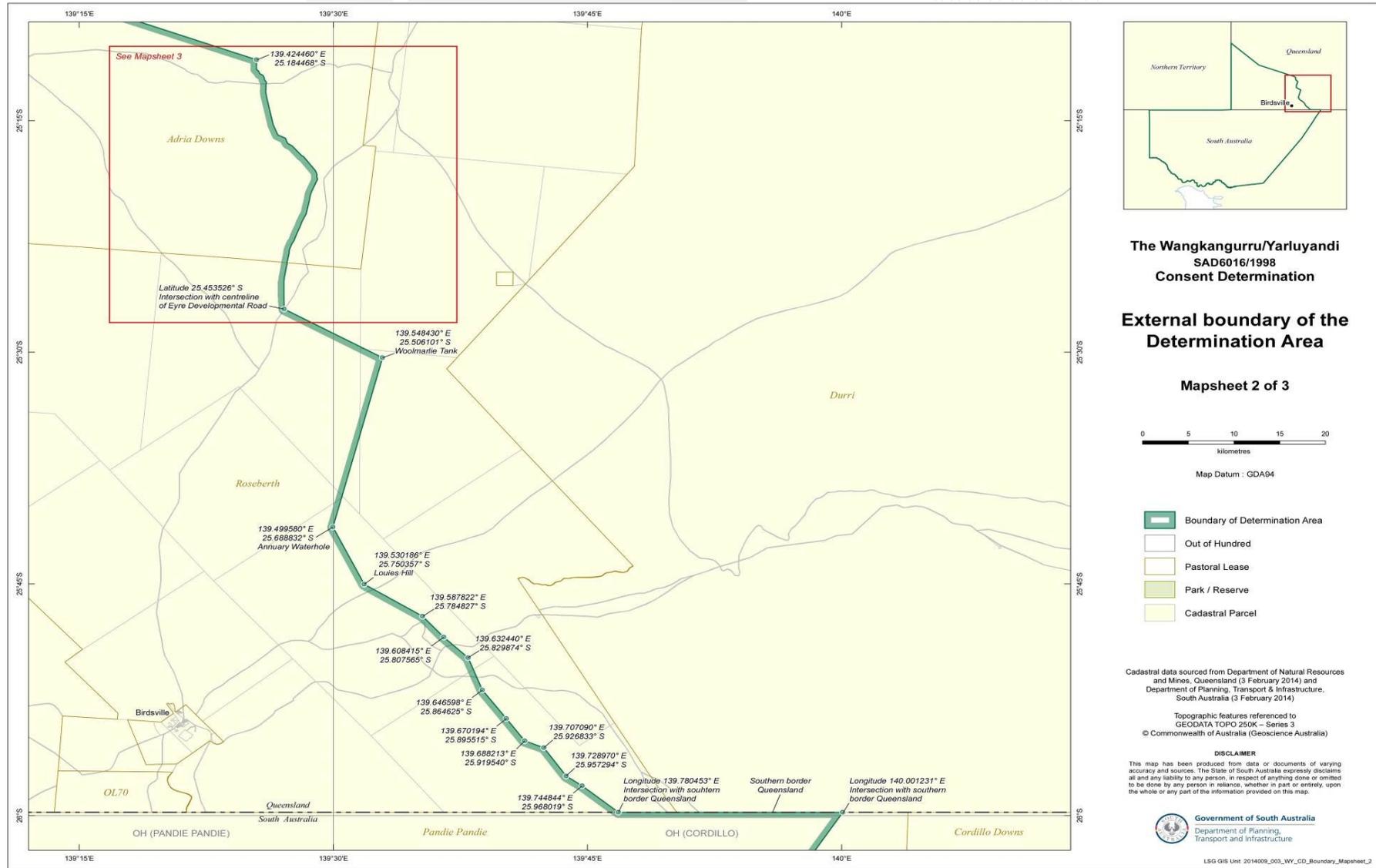
Cadastral data sourced from Department of Natural Resources and Mines, Queensland (3 February 2014).

### **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 of the custodians of cadastral and topographical 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.

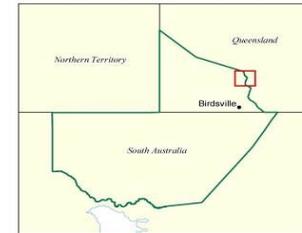
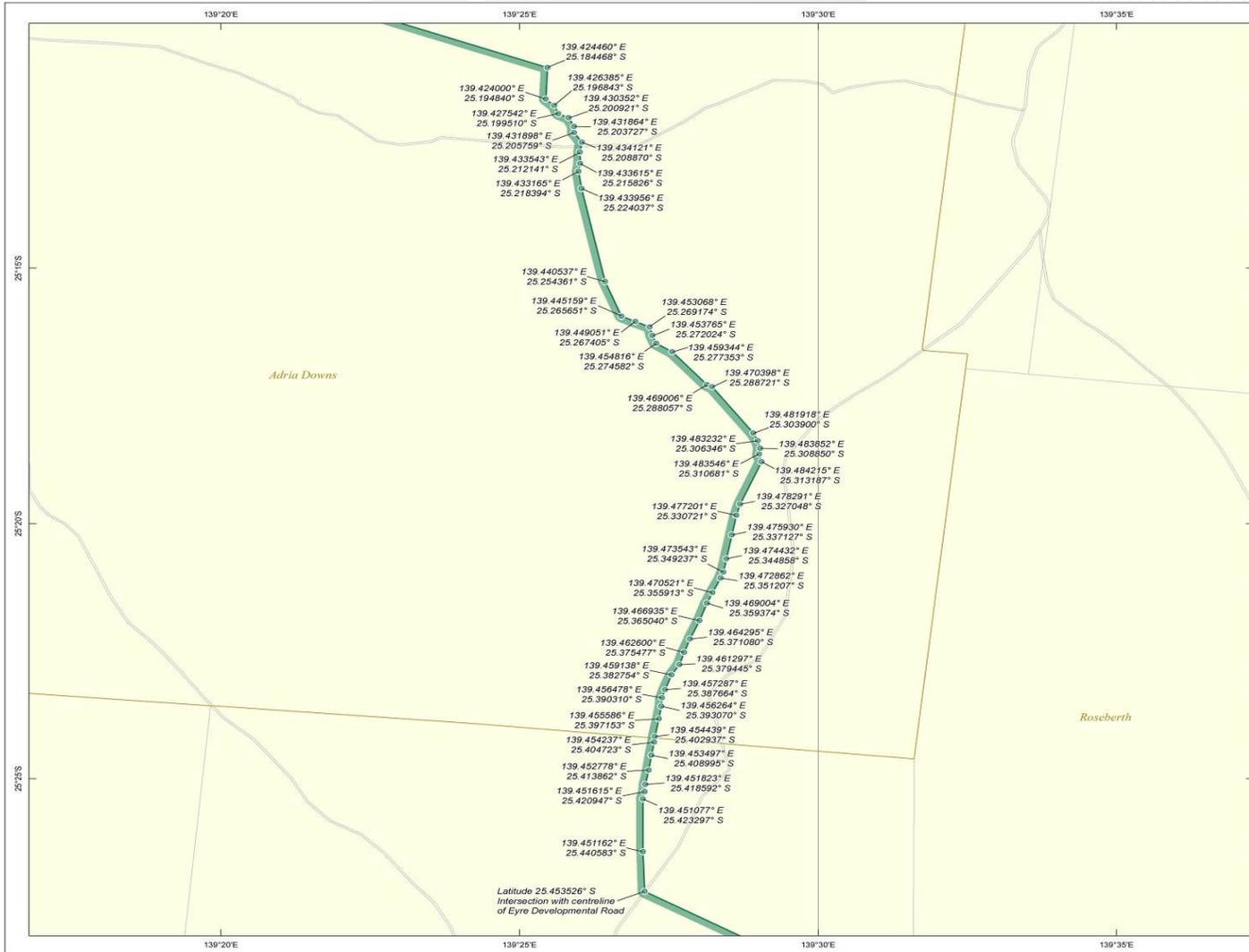


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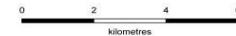
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**The Wangkangurru/Yarluyandi  
SAD6016/1998  
Consent Determination**

**External boundary of the  
Determination Area**

**Mapsheet 3 of 3**



Map Datum - GDA94

- Boundary of Determination Area
- Out of Hundred
- Pastoral Lease
- Park / Reserve
- Cadastral Parcel

Cadastral data sourced from Department of Natural Resources and Mines, Queensland (3 February 2014) and Department of Planning, Transport & Infrastructure, South Australia (3 February 2014)

Topographic features referenced to GEODATA TOPO 250K - Series 3 © Commonwealth of Australia (Geoscience Australia)

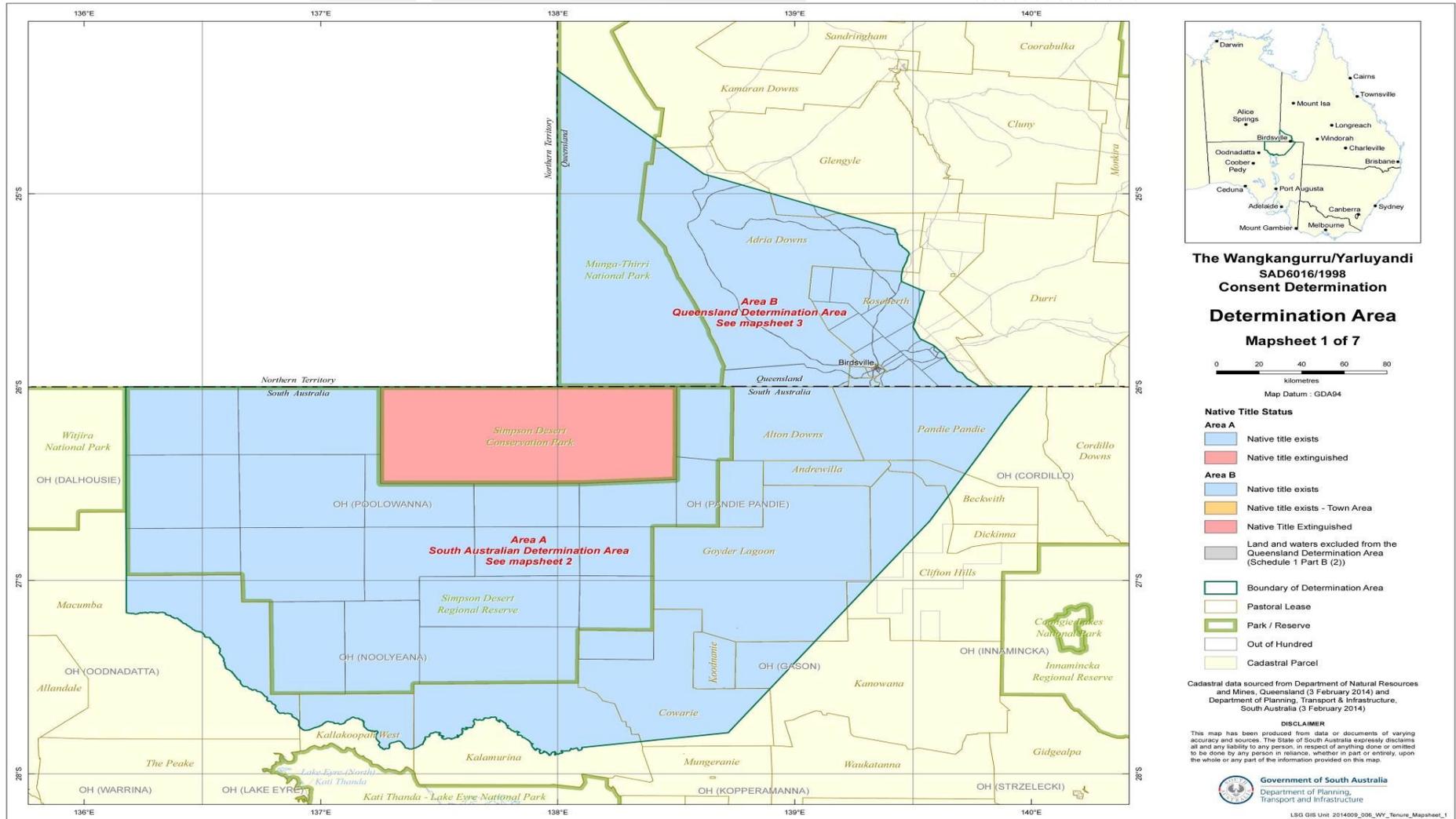
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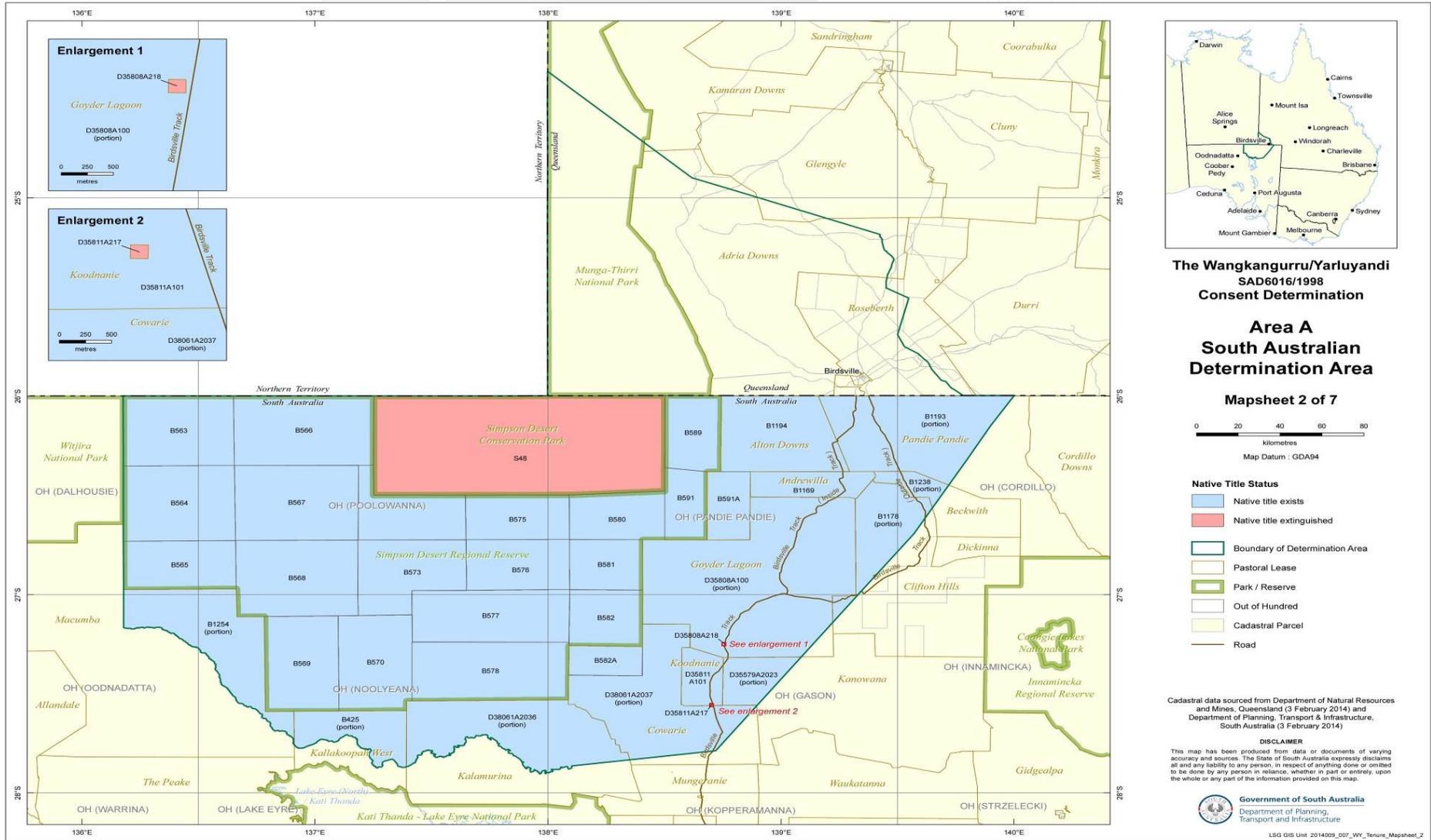
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# DETERMINATION AREA



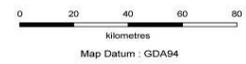
# AREA A – SOUTH AUSTRALIAN DETERMINATION AREA



**The Wangkangurru/Yarluyandi  
SAD6016/1998  
Consent Determination**

**Area A  
South Australian  
Determination Area**

**Mapsheet 2 of 7**



- Native Title Status**
- Native title exists
  - Native title extinguished
  - Boundary of Determination Area
  - Pastoral Lease
  - Out of Hundred
  - Cadastral Parcel
  - Road

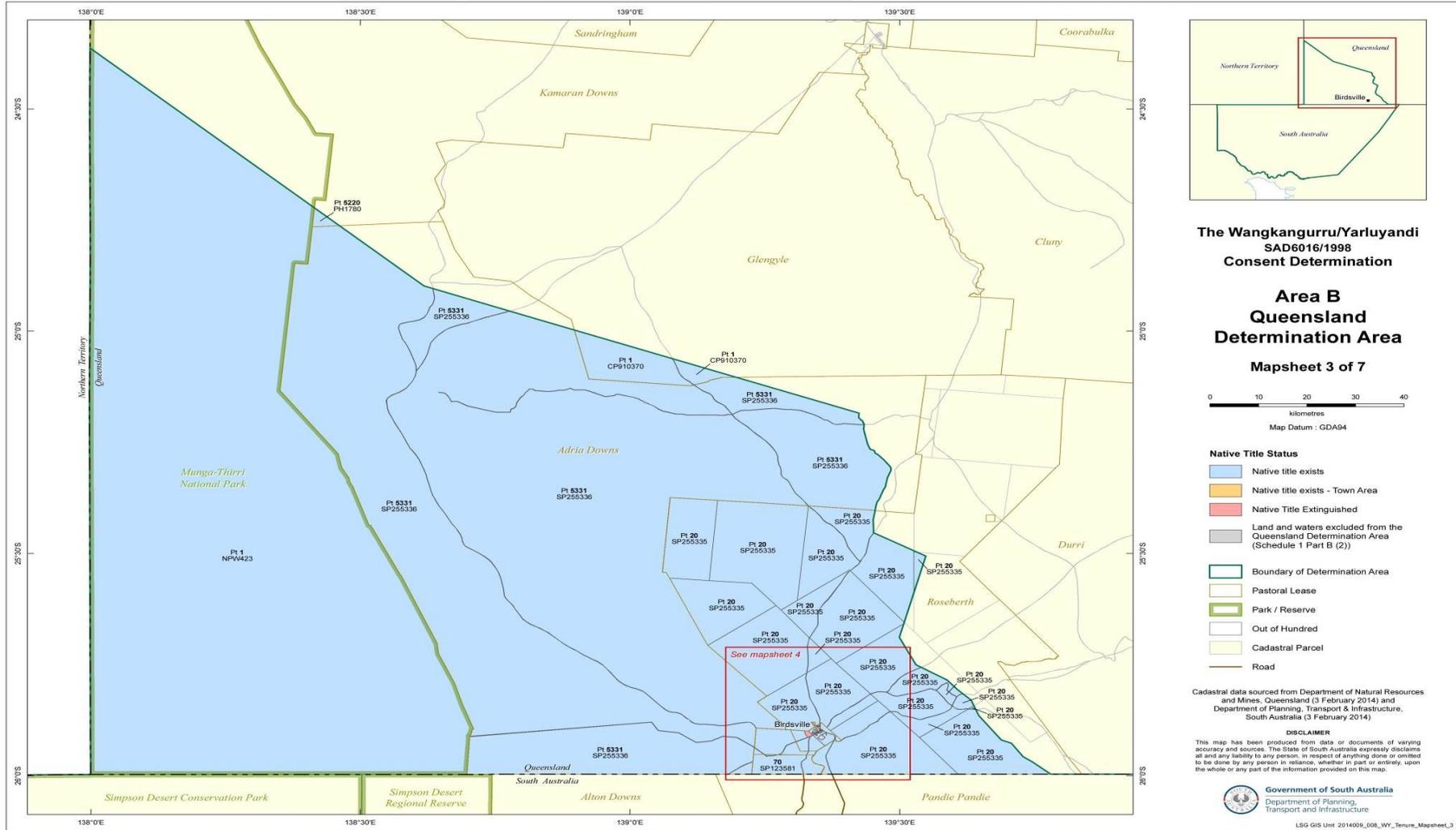
Cadastral data sourced from Department of Natural Resources and Mines, Queensland (3 February 2014) and Department of Planning, Transport & Infrastructure, South Australia (3 February 2014)

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This map has been produced from data or documents of varying accuracy and sources. The State of South Australia expressly disclaims all and any liability to any person, in respect of anything done or omitted to be done by any person in reliance, whether in part or entirely, upon the whole or any part of the information provided on this map.

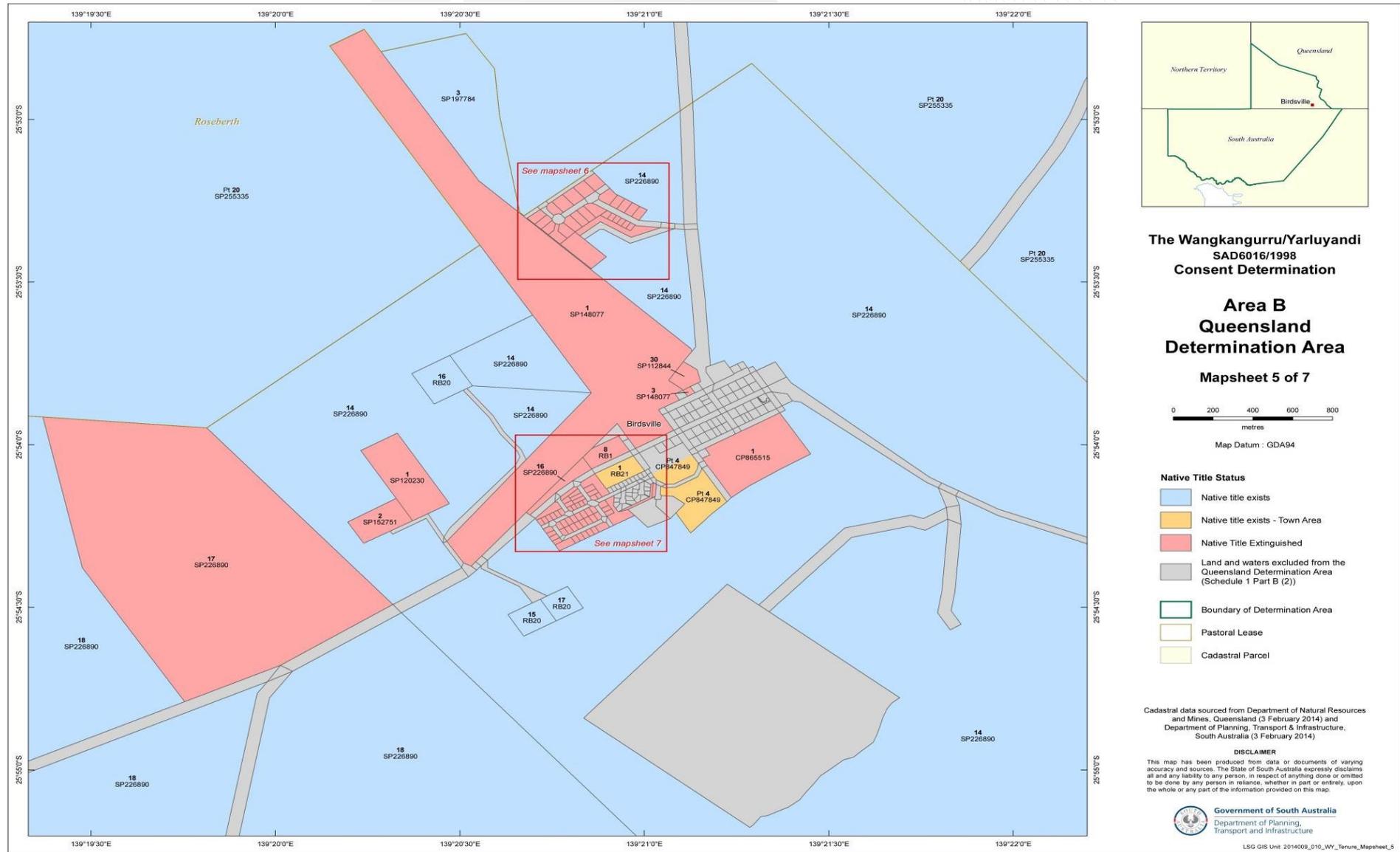


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# DETERMINATION AREA





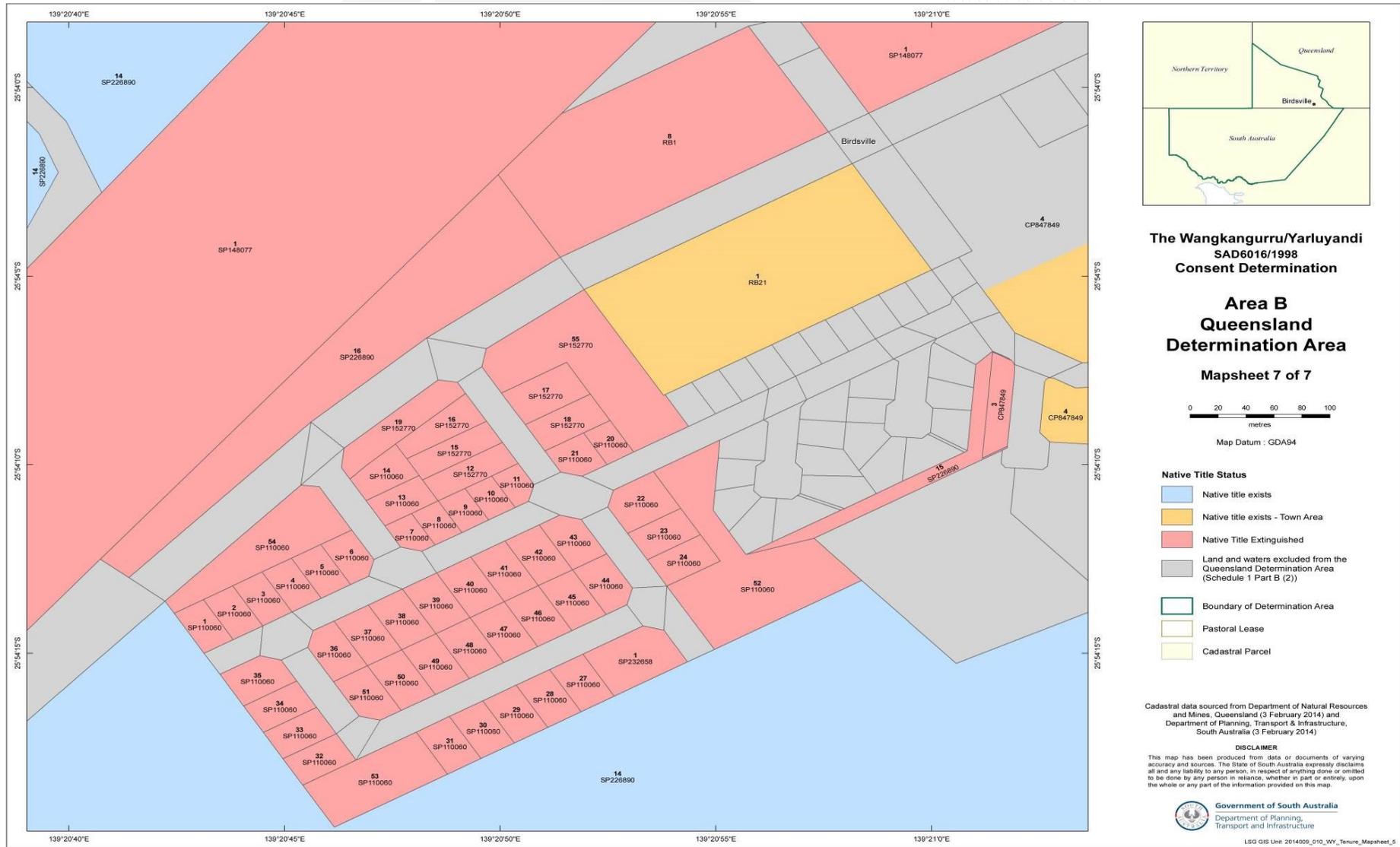


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**SCHEDULE 3 – LAND AND WATERS WHERE NATIVE TITLE EXISTS (NATIVE TITLE LAND)**

**PART A - SOUTH AUSTRALIA**

Subject to Order 13 and items 1, 2 and 3 of Schedule 4, native title exists in the lands and waters described below where they lie within the external boundary of the Determination Area:

<b>DCDBID</b>	<b>HUNDRED NAME</b>	<b>TITLE REFERENCE</b>	<b>DESCRIPTION</b>
H830600B568	OH(POOLOWANNA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830600B573	OH(POOLOWANNA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H831400B578	OH(NOOLYEANA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H831400B577	OH(NOOLYEANA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830600B576	OH(POOLOWANNA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830700B581	OH(PANDIE PANDIE)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830700B591	OH(PANDIE PANDIE)	CR5775/576	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830700B591A	OH(PANDIE PANDIE)	CL1327/10	Alton Downs Pastoral Lease
H830800B1193	OH(CORDILLO)	CL1350/18	Pandie Pandie Pastoral Lease
H831400B425	OH(NOOLYEANA)	CL1628/21	Kallakoopah West Pastoral Lease
H830700B580	OH(PANDIE PANDIE)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830500B564	OH(DALHOUSIE)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830600B567	OH(POOLOWANNA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
D38061A2036	OH(GASON)	CL1323/22	Kalamurina Pastoral Lease

H831500B582A	OH(GASON)	CL1311/41	Cowarie Pastoral Lease
H830600B572	OH(POOLOWANNA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830700B589	OH(PANDIE PANDIE)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830700B1178	OH(PANDIE PANDIE)	CL1597/90	Clifton Hills Pastoral Lease
H831400B570	OH(NOOLYEANA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830600B575	OH(POOLOWANNA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
D35811A101	OH(GASON)	CL1342/26	Koodnanie Pastoral Lease
H830700B1169	OH(PANDIE PANDIE)	CL1323/33	Andrewilla Pastoral Lease
H830800B1238	OH(CORDILLO)	CL1597/91	Beckwith Pastoral Lease
H831300B1254	OH(OODNADATTA)	CL1607/55	Macumba Pastoral Lease
H831400B569	OH(NOOLYEANA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H831500B582	OH(GASON)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
D35808A100	OH(GASON)	CL1323/47	Goyder Lagoon Pastoral Lease
H830600B566	OH(POOLOWANNA)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
D35579A2023	OH(GASON)	CL1323/48	Kanowana Pastoral Lease
H830500B563	OH(DALHOUSIE)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830500B565	OH(DALHOUSIE)	CR5755/976	SIMPSON DESERT REGIONAL RESERVE GAZ 22/12/1988
H830700B1194	OH(PANDIE PANDIE)	CL1327/10	Alton Downs Pastoral Lease
D38061A2037	OH(GASON)	CL1311/41	Cowarie Pastoral Lease

**PART B – QUEENSLAND**

Subject to Orders 10, 11, 12, 14, 15, 16 and 17 non-exclusive native title exists, as described in Order 8, in respect of all of the land and waters described in the following table:

Area Description
Lot 14 on SP226890 formerly part of Lot 14 balance on RB19
Lot 15 on RB20
Lot 16 on RB20
Lot 17 on RB20
Lot 1 on CP848262
That part of Lot 1 on NPW423 which falls within the Queensland External Boundary
Lot 3 on SP197784 formerly part of Lot 20 on CP848263
That part of Lot 20 on SP255335 which falls within the Queensland External Boundary, and formerly described as: <ul style="list-style-type: none"> <li>a) That part of Lot 20 on CP848263 which falls within the Queensland External Boundary;</li> <li>b) that part of Lot 3 on RB7 delineated by stations Q-4-A-Q on SP120216; and</li> <li>c) that part of Lot 4 balance on G25073 exclusive of Lot 1 on SP120216 and Lot 70 on OL004.</li> </ul>
Lot 18 on SP226890 formerly described as: <ul style="list-style-type: none"> <li>a) that part of Lot 3 on RB7 delineated by stations B-C-H-3-4-B on SP120216; and</li> <li>b) that part of Lot 4 balance on G25073.</li> </ul>
Lot 70 on SP123581 formerly described as Lot 70 on OL004
That part of Lot 5220 on PH1780 which falls within the Queensland External Boundary
That part of Lot 1 on CP910370 formerly Lot 5308 on PH1673 which falls within the Queensland External Boundary

That part of Lot 5331 on SP255336 formerly Lot 5331 on PH1781 which falls within the Queensland External Boundary
---

That part of the Diamantina River located between lot 70 on SP123581 and lot 20 on SP255335.
--

**PART C – QUEENSLAND (Town Areas)**

Subject to Orders 10, 11, 12, 14, 15, 16 and 17 non-exclusive native title exists, as described in Order 9, in respect of all of the land and waters described in the following table:

Area Description
------------------

Lot 1 on RB21
---------------

That part of Lot 4 on CP847849 exclusive of former Florence Street and Lots 603-610 Sec VI on plan RB17
---

**SCHEDULE 4 - AREAS WHERE NATIVE TITLE HAS BEEN EXTINGUISHED**

- 1 Native title rights have been extinguished in the areas on which any Public Work, as defined in s 253 of the *Native Title Act* (including the land defined in s 251D of the *Native Title Act*) which is or was constructed, established or situated prior to 23 December 1996, or commenced to be constructed or established on or before that date.
- 2 In respect of Area A of the Determination Area:
  - (a) Public Works constructed, established or situated after 23 December 1996 have had such effect as has resulted from Part 2, Division 3 of the NT Act or as agreed pursuant to the Wangkangurru Yarluyandi Claim Settlement ILUA (SA);
  - (b) native title rights have been extinguished over all roads which have been delineated in a public map pursuant to s 5(d)(II) of the *Crown Lands Act 1929* (SA) or s 70(3) or (4) of the *Crown Land Management Act 2009* (SA) or which have otherwise been validly established pursuant to South Australian Statute or common law as shown in brown on the maps in Schedule 2; and
  - (c) native title has been extinguished over the following parcels:

DCDBID	HUNDRED	TITLE REFERENCE	RESERVE NAME
H830600S48	OH(POOLOWANNA)	CR5435/455	SIMPSON DESERT CONSERVATION PARK GAZ 14/12/1967
D35808A218	OH(GASON)	CR5236/280	Digital Radio Conc Res GAZ 26/9/1996 ('Sugar Bunny')
D35811A217	OH(GASON)	CR5392/538	Digital Radio Conc Res GAZ 26/9/1996 ('Booloo Maree')

- 5 In respect of Area B of the Determination Area native title does not exist in respect of all of the land and waters described in the following table:

<b>Area Description</b>
Lot 15 on SP226890 formerly part of Lot 14 balance on RB19
Lot 16 on SP226890 formerly part of Lot 14 balance on RB19
Lot 3 on SP148077 formerly part of Lot 14 balance on RB19
Lot 17 on SP226890 formerly part of Lot 4 balance on G25073
Lot 1 on CP 865515
Lot 1 on SP148077
Lot 8 on RB1
Lot 30 on SP112844
Lot 3 on CP847849
Lot 2 on SP152751
Lot 2 on SP107134 formerly part of Lot 14 balance on RB19
Lot 7 on SP107134 formerly part of Lot 14 balance on RB19
Lot 8 on SP107134 formerly part of Lot 14 balance on RB19
Lot 9 on SP107134 formerly part of Lot 14 balance on RB19
Lot 10 on SP107134 formerly part of Lot 14 balance on RB19
Lot 11 on SP107134 formerly part of Lot 14 balance on RB19
Lot 12 on SP107134 formerly part of Lot 14 balance on RB19
Lot 13 on SP107134 formerly part of Lot 14 balance on RB19
Lot 14 on SP107134 formerly part of Lot 14 balance on RB19
Lot 15 on SP107134 formerly part of Lot 14 balance on RB19

Lot 16 on SP107134 formerly part of Lot 14 balance on RB19
Lot 17 on SP107134 formerly part of Lot 14 balance on RB19
Lot 18 on SP107134 formerly part of Lot 14 balance on RB19
Lot 19 on SP107134 formerly part of Lot 14 balance on RB19
Lot 20 on SP107134 formerly part of Lot 14 balance on RB19
Lot 21 on SP107134 formerly part of Lot 14 balance on RB19
Lot 22 on SP107134 formerly part of Lot 14 balance on RB19
Lot 23 on SP107134 formerly part of Lot 14 balance on RB19
Lot 24 on SP107134 formerly part of Lot 14 balance on RB19
Lot 25 on SP107134 formerly part of Lot 14 balance on RB19
Lot 26 on SP107134 formerly part of Lot 14 balance on RB19
Lot 27 on SP107134 formerly part of Lot 14 balance on RB19
Lot 1 on SP197783 formerly part of Lot 14 balance on RB19
Lot 3 on SP197783 formerly part of Lot 14 balance on RB19
Lot 4 on SP197783 formerly part of Lot 14 balance on RB19
Lot 5 on SP197783 formerly part of Lot 14 balance on RB19
Lot 6 on SP197783 formerly part of Lot 14 balance on RB19
Lot 7 on SP197783 formerly part of Lot 14 balance on RB19
Lot 1 on SP110060 formerly part of Lot 14 balance on RB19
Lot 2 on SP110060 formerly part of Lot 14 balance on RB19
Lot 3 on SP110060 formerly part of Lot 14 balance on RB19

Lot 4 on SP110060 formerly part of Lot 14 balance on RB19
Lot 5 on SP110060 formerly part of Lot 14 balance on RB19
Lot 6 on SP110060 formerly part of Lot 14 balance on RB19
Lot 7 on SP110060 formerly part of Lot 14 balance on RB19
Lot 8 on SP110060 formerly part of Lot 14 balance on RB19
Lot 9 on SP110060 formerly part of Lot 14 balance on RB19
Lot 10 on SP110060 formerly part of Lot 14 balance on RB19
Lot 11 on SP110060 formerly part of Lot 14 balance on RB19
Lot 13 on SP110060 formerly part of Lot 14 balance on RB19
Lot 14 on SP110060 formerly part of Lot 14 balance on RB19
Lot 20 on SP110060 formerly part of Lot 9 on RB14
Lot 21 on SP110060 formerly part of Lot 9 on RB14
Lot 22 on SP110060 formerly part of Lot 14 balance on RB19
Lot 23 on SP110060 formerly part of Lot 14 balance on RB19
Lot 24 on SP110060 formerly part of Lot 14 balance on RB19
Lot 27 on SP110060 formerly part of Lot 14 balance on RB19
Lot 28 on SP110060 formerly part of Lot 14 balance on RB19
Lot 29 on SP110060 formerly part of Lot 14 balance on RB19
Lot 30 on SP110060 formerly part of Lot 14 balance on RB19
Lot 31 on SP110060 formerly part of Lot 14 balance on RB19
Lot 32 on SP110060 formerly part of Lot 14 balance on RB19

Lot 33 on SP110060 formerly part of Lot 14 balance on RB19
Lot 34 on SP110060 formerly part of Lot 14 balance on RB19
Lot 35 on SP110060 formerly part of Lot 14 balance on RB19
Lot 36 on SP110060 formerly part of Lot 14 balance on RB19
Lot 37 on SP110060 formerly part of Lot 14 balance on RB19
Lot 38 on SP110060 formerly part of Lot 14 balance on RB19
Lot 39 on SP110060 formerly part of Lot 14 balance on RB19
Lot 40 on SP110060 formerly part of Lot 14 balance on RB19
Lot 41 on SP110060 formerly part of Lot 14 balance on RB19
Lot 42 on SP110060 formerly part of Lot 14 balance on RB19
Lot 43 on SP110060 formerly part of Lot 14 balance on RB19
Lot 44 on SP110060 formerly part of Lot 14 balance on RB19
Lot 45 on SP110060 formerly part of Lot 14 balance on RB19
Lot 46 on SP110060 formerly part of Lot 14 balance on RB19
Lot 47 on SP110060 formerly part of Lot 14 balance on RB19
Lot 48 on SP110060 formerly part of Lot 14 balance on RB19
Lot 49 on SP110060 formerly part of Lot 14 balance on RB19
Lot 50 on SP110060 formerly part of Lot 14 balance on RB19
Lot 51 on SP110060 formerly part of Lot 14 balance on RB19
Lot 52 on SP110060 formerly part of Lot 14 balance on RB19
Lot 53 on SP110060 formerly part of Lot 14 balance on RB19

Lot 54 on SP110060 formerly part of Lot 14 balance on RB19
Lot 12 on SP152770 formerly part of Lot 14 balance on RB19
Lot 15 on SP152770 formerly part of Lot 14 balance on RB19
Lot 16 on SP152770 formerly part of Lot 14 balance on RB19
Lot 17 on SP152770 formerly part of Lot 9 on RB14
Lot 18 on SP152770 formerly part of Lot 9 on RB14
Lot 19 on SP152770 formerly part of Lot 14 balance on RB19
Lot 55 on SP152770 formerly part of Lot 14 balance on RB19
Lot 1 on SP232658 formerly part of Lot 14 balance on RB19
Lot 1 on SP120230

## **SCHEDULE 5 - OTHER INTERESTS**

The nature and extent of the Other Interests in relation to the Native Title Land are the following as they exist as at the date of determination:

### **PART A – GENERAL**

- 1 The rights and interests of all parties to the Indigenous Land Use Agreements listed in Schedule 6 and Schedule 7 arising by reason of those agreements.
- 2 The rights and interests of Telstra Corporation Limited (or its corporate successor):
  - (a) as the owner or operator of telecommunications facilities on the Native Title Lands;
  - (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 existing and new telecommunications facilities;
    - (iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its existing and any new telecommunications facilities;
    - (iv) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity of the Native Title Land in performance of their duties; and
  - (c) under any lease, licence, access agreement or easement relating to its telecommunications facilities in the Native Title Land.

### **PART B – SOUTH AUSTRALIA**

- 3 The interests created by the following pastoral leases:

<b>Lease Name</b>	<b>Pastoral Lease Number</b>	<b>Crown Lease Number</b>
Macumba	2528	Volume 1607 Folio 55

Kallakoopah West	2534	Volume 1628 Folio 21
Kalamurina	2412	Volume 1323 Folio 22
Cowarie	2389	Volume 1311 Folio 41
Koodnanie	2414	Volume 1342 Folio 26
Kanowana	2386	Volume 1323 Folio 48
Goyder Lagoon	2385	Volume 1323 Folio 47
Clifton Hills	2387	Volume 1597 Folio 90
Andrewilla	2413	Volume 1323 Folio 33
Alton Downs	2390	Volume 1327 Folio 10
Pandie Pandie	2406	Volume 1350 Folio 18
Beckwith	2387A	Volume 1597 Folio 91

- 4 The interests of the Crown in right of the State of South Australia;
- 5 In relation to the NPWA Reserve set out in Part A of Schedule 3:
  - (a) the rights and interests of the Crown in right of the State of South Australia pursuant to the *National Parks and Wildlife Act 1972* (SA);
  - (b) the rights and interests of the public to use and enjoy the NPWA Reserve consistent with the *National Parks and Wildlife Act 1972* (SA); and
  - (c) the interests of persons to whom valid or validated rights have been granted under the *National Parks and Wildlife Act 1972* (SA).
- 6 The interests of persons to whom valid or validated rights and interests have been granted or recognised by the Crown in right of the State of South Australia, or by the Commonwealth of Australia pursuant to statute or otherwise in the exercise of executive power including, but not limited to, rights and interests granted or recognised pursuant to

the *Crown Land Management Act 2009* (SA), *Crown Lands Act 1929* (SA), *Mining Act 1971* (SA), *Petroleum and Geothermal Energy Act 2000* (SA) and *Opal Mining Act 1995* (SA), all as amended from time to time.

- 7 Rights or interests held by reason of the force and operation of the laws of the State of South Australia or of the Commonwealth.
- 8 The rights to access land by an employee or agent or instrumentality of the State of South Australia, the Commonwealth or other statutory authority as required in the performance of his or her statutory or common law duties where such access would be permitted to private land.
- 9 The rights and interests of Permian Oil Pty Ltd (ACN 104 456 386) (Permian):
  - (a) as one of the holders of Petroleum Exploration Licences PEL 87 and PEL 424 ('Permian Exploration Licences') granted pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (b) as the owner or operator of flowlines and other infrastructure reasonably necessary for and incidental to the Permian Exploration Licences pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (c) created pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA); and
  - (d) for the employees, agents or contractors of Permian to enter the Native Title Land to access the rights and interests of Permian and to do all things necessary or appropriate to exercise those rights and interests in, or in the vicinity of, the Native Title Land in performance of their duties;
  - (e) of access and ingress to and egress from the area of a licence held under the *Petroleum and Geothermal Energy Act 2000* (SA) by authorisation of the licence holder.
- 10 The rights and interests of Stuart Petroleum Pty Ltd (ACN 059 146 226) (Stuart Petroleum):

- (a) as the holders of Petroleum Exploration Licences PEL 288, PEL 289, PEL 290 and PEL 331 (“Stuart Petroleum Exploration Licences”) granted pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (b) as the owner or operator of other infrastructure reasonably necessary for and incidental to the Stuart Petroleum Exploration Licences pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (c) created pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (d) for the employees, agents or contractors of Stuart Petroleum to enter the Native Title Land to access the rights and interests of Stuart Petroleum and to do all things necessary or appropriate to exercise those rights and interests in, or in the vicinity of, the Native Title Land in performance of their duties; and
  - (e) of access and ingress to and egress from the area of a licence held under the *Petroleum and Geothermal Energy Act 2000* (SA) by authorisation of the licence holder.
- 11 The rights and interests of Victoria Oil Exploration (1977) Pty Ltd (ACN 008 898 431) (Victoria Oil):
- (a) as one of the holders of Petroleum Exploration Licences PEL 87 and PEL 424 (“Victoria Oil Exploration Licences”) granted pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (b) as the owner or operator of other infrastructure reasonably necessary for and incidental to the Victoria Oil Exploration Licences pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (c) created pursuant to the *Petroleum and Geothermal Energy Act 2000* (SA);
  - (d) for the employees, agents or contractors of Victoria Oil to enter the Native Title Land to access the rights and interests of Victoria Oil and to do all things necessary or appropriate to exercise those rights and interests in, or in the vicinity of, the Native Title Land in performance of their duties; and

- (e) of access and ingress to and egress from the area of a licence held under the *Petroleum and Geothermal Energy Act 2000* (SA) by authorisation of the licence holder.

## **PART C – QUEENSLAND**

12 The rights and interests of the holders of the following:

- (a) Pastoral Holding Term Lease 236411 comprising Lot 20 on SP 255335 and known as Roseberth;
- (b) Pastoral Holding 4/5220 comprising Lot 5220 on PH1780 and known as Kamaran Downs;
- (c) Pastoral Development Holding 4/5308 comprising Lot 1 on CP910370 and known as Glengyle; and
- (d) Pastoral Development Holding 4/5331 comprising Lot 5331 on SP255336 and known as Adria Downs.

13 The rights and interests of the parties under the Memorandum of Understanding between the Wangkangurru/Yarluyandi Native Title Claim Group and the Wangkamahdla/Wangkamanha People dated 20 February 2013 (attached as Annexure A to this Schedule).

14 The rights and interests of the State of Queensland and the interests of any permittees, licensees or authorities pursuant to the *Nature Conservation Act 1992* (Qld) and subordinate legislation relating to the management of Lot 1 on NPW423 (Munga Thirri National Park).

15 The rights and interests of the State of Queensland and the Diamantina Shire Council to access, use, operate, maintain and control the dedicated roads in that part of the Native Title Land located in the State of Queensland, and the rights and interests of the public to use and access the roads.

- 16 The rights and interests of the Diamantina Shire Council for that part of the Native Title Land located in the State of Queensland and within its Local Government Area, including:
- (a) its powers, functions, responsibilities and jurisdiction under a Local Government Act;
  - (b) its rights and interests under any interest in land or waters within the Determination Area including under any lease, licence, access agreement, easement or reserve in the Determination Area;
  - (c) the rights to use, operate, maintain, replace, restore, remediate, repair and otherwise exercise all other rights as owners and operators of infrastructure, structures, earthworks, access works, facilities and other improvements within the Determination Area;
  - (d) the rights under any agreements between Council and third parties which relate to land or water in the Determination Area;
  - (e) the rights of its employees, agents and contractors to enter upon the Determination Area for the purpose of performing their powers and responsibilities under paragraphs (a) to (d); and
  - (f) the rights and interests of the State of Queensland in Reserves, the rights and interests of the trustees of those Reserves and of the persons entitled to access and use those Reserves for the respective purpose for which they are reserve.
- 17 The rights and interests of Ergon Energy Corporation Limited (ACN 087 646 062):
- (a) as the owner and operator of any “works” as that term is defined in the *Electricity Act 1994* (Qld) within the Native Title Land;
  - (b) as a distribution entity and holder of a distribution authority under the *Electricity Act 1994* (Qld);
  - (c) created under the *Electricity Act 1994* (Qld) and the *Government Owned Corporations Act 1993* (Qld); including:

- (i) rights in relation to any agreement relating to the Native Title Land existing or entered into before the date on which these Orders are made;
- (ii) rights to enter the Native Title Land by its employees, agents or contractors to exercise any of the rights and interests referred to in this paragraph; and
- (iii) to inspect, maintain and manage any works in the Native Title Land.

18 So far as confirmed pursuant to s 212(2) of the NT Act and s 18 of the *Native Title (Queensland) Act 1993* (Qld) as at the date of the Determination, any existing public access to, and enjoyment of, the following places in that part of the Native Title Land located in the State of Queensland:

- (a) Waterways;
- (b) Beds and banks of waterways;
- (c) Stock routes; and
- (d) Areas that were public places at the end of 31 December 1993.

19 The rights and interests of members of the public arising under the common law, including but not limited to the following:

- (a) the public right to fish.

20 Any other rights and interests:

- (a) Held by the State of Queensland or Commonwealth of Australia; or
- (b) Existing by reason of the force and operation of the Laws of the State of Queensland or the Commonwealth of Australia.

**ANNEXURE A TO SCHEDULE 5 – CONFIDENTIAL (document not included in orders)**

**AGREEMENT dated the 20<sup>th</sup> day of February 2013**

**BETWEEN**

**THE WANGKANGURRU/YARLUYANDI NATIVE TITLE CLAIM GROUP by ARTHUR AH CHEE, BRENDA SHIELDS, HAYDYN BROMLEY, SHARON LUCAS AND LINDA CROMBIE (deceased)**

**AND**

**THE WANGAMADLA/WANGKAMANHA PEOPLE**

Note: This confidential document is not to be inspected without the leave of the Court.

**SCHEDULE 6 – DETAILS OF INDIGENOUS LAND USE AGREEMENTS IN THE  
DETERMINATION AREA - SOUTH AUSTRALIA**

**A. PROPOSED ILUAS**

1. Wangkangurru Yarluandi Native Title Claim Settlement Indigenous Land Use Agreement (Body Corporate Agreement)
2. Wangkangurru Yarluandi Parks (Simpson Desert Regional Reserve and Simpson Desert Conservation Park) Indigenous Land Use Agreement (Body Corporate Agreement)
3. Wangkangurru Yarluandi Alton Downs Pastoral Indigenous Land Use Agreement
4. Wangkangurru Yarluandi Clifton Hills Pastoral Indigenous Land Use Agreement
5. Wangkangurru Yarluandi Cowarie Pastoral Indigenous Land Use Agreement
6. Wangkangurru Yarluandi Kalamurina Pastoral Indigenous Land Use Agreement
7. Wangkangurru Yarluandi Macumba Pastoral Indigenous Land Use Agreement
8. Wangkangurru Yarluandi Pandie Pandie Pastoral Indigenous Land Use Agreement

**B. PREVIOUSLY EXECUTED ILUA**

1. Wangkangurru Yarluandi Petroleum Conjunctive ILUA (Area Agreement)  
S12011/023 executed on 24/06/2011 Registered on 02/03/2012.

**SCHEDULE 7 - DETAILS OF INDIGENOUS LAND USE AGREEMENTS IN THE  
DETERMINATION AREA – QUEENSLAND**

**A. PROPOSED ILUAS**

1. Arthur Ah Chee, Haydyn Bromley, Belinda Shields, Sharon Lucas, Raelene Hudson (Deceased) and Linda Crombie (deceased) on their own behalf and on behalf of the Wangkangurru/Yarluyandi People, Wangkangurru/Yarluyandi Aboriginal Corporation the State of Queensland, and Wangkangurru/Yarluyandi Aboriginal Corporation RNTBC as parties to the Munga Thirri National Park Protected Areas Indigenous Land Use Agreement (body corporate agreement), which was authorised on 16 August 2014 and executed by Arthur Ah Chee, Haydyn Bromley, Belinda Shields, Sharon Lucas and Raelene Hudson (Deceased) on their own behalf and on behalf of the Wangkangurru/Yarluyandi People, Wangkangurru/Yarluyandi Aboriginal Corporation and the State of Queensland and that agreement once it becomes registered as a body corporate ILUA following execution of the agreement by the Registered Native Title Body Corporate.

**B. PREVIOUSLY EXECUTED ILUAS**

2. Arthur Ah Chee, Brenda Shields, Haydyn Bromley, Raelene Hudson (deceased), Sharon Lucas and Linda Crombie (deceased) on behalf of the Wangkangurru/Yarluyandi People and Ergon Energy Corporation (ACN 087 646 062) as parties to the Indigenous Land Use Agreement registered on 30 January 2013.
3. Arthur Ah Chee, Brenda Shields, Haydyn Bromley, Sharon Lucas, Linda Crombie (deceased) and Raelene Hudson (deceased) on behalf of the Wangkangurru/Yarluyandi People and Diamantina Shire Council as parties to the indigenous land use agreement registered on 10 January 2013.

**SCHEDULE 8**

No. SAD6016 of 1998

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

**Applicants**

Second Applicant:	Haydyn Bromley
Third Applicant:	Linda Crombie (Deceased)
Fourth Applicant:	Sharon Lucas
Fifth Applicant:	Brenda Shields
Sixth Applicant:	Raelene Hudson (deceased)

**Respondents**

Respondent:	State of Queensland
Respondent:	South Australian Native Title Services Ltd
Respondent:	Diamantina Shire Council
Respondent:	Australian Wildlife Conservancy
Respondent:	Anthony William Brook
Respondent:	David Brook
Respondent:	Gary Francis Brook
Respondent:	Jenna Louise Brook
Respondent:	Karen Liana Brook
Respondent:	Brooklands Pastoral Company Pty Ltd
Respondent:	Broschul Pty Ltd
Respondent:	John Gwynne Hughes
Respondent:	Geoffrey Lyle Morton
Respondent:	Ann Sharon Oldfield
Respondent:	S Kidman & Co Ltd
Respondent:	Charles Simpson
Respondent:	Ergon Energy Corporation Limited
Respondent:	Permian Oil Pty Ltd
Respondent:	Victoria Oil and Exploration (1977) Pty Ltd
Respondent:	South Australian Apiarists Association Inc

**IN THE FEDERAL COURT OF AUSTRALIA  
SOUTH AUSTRALIA DISTRICT REGISTRY  
GENERAL DIVISION**

**SAD 6016 of 1998**

**BETWEEN:**           **ARTHUR AH CHEE**  
                                  **Applicant**

**AND:**                 **STATE OF SOUTH AUSTRALIA**  
                                  **Respondent**

**JUDGE:**             **MANSFIELD J**

**DATE:**              **3 OCTOBER 2014**

**PLACE:**             **PELICAN POINT**

**REASONS FOR JUDGMENT**

**INTRODUCTION**

1           This application is for the determination that native title should be recognised to exist and to have existed at least since European settlement over a very substantial area of land in the north east of South Australia and the south west of Queensland (the Determination Area). It is remote and extraordinary country. It was only in the mid-1870s that European settlement first made a presence in the area.

2           The area to be so recognised covers approximately 60,600 square km in the far north/north east of South Australia (the South Australian Determination Area) and approximately 19,000 square km in south western Queensland (the Queensland Determination Area). The South Australian Determination Area includes the Simpson Desert Conservation Park and the Simpson Desert Regional Reserve. Together, these reserves comprise approximately 36,000 square km with the remaining area predominantly comprising land held under pastoral lease.

3           The Simpson Desert is located within the driest region of the Australian continent and has an average rainfall of between 150 - 200 mm per year. It is a remote and arid landscape characterised by parallel sand dunes, salt pans and spinifex. The Desert is underlain by the Great Artesian Basin and there are some naturally occurring springs, as well as man-made bores, in the area. In some years the area can be subject to flooding due to tropical rainfall

events, creating temporary lakes and waterholes. Temperatures in the area can range from freezing on winter mornings, with summer temperatures reaching up to 50°C.

4 The Queensland Determination Area, in the south western corner of that State, includes some 10,000 square kilometres of the Munga-Thirri National Park with its remarkable sand dunes, and the township of Birdsville. The Park is some 75-80 km west of Birdsville, which is also within the Queensland Determination Area, alongside the Diamantina River and so the area includes part of what is called the Channel Country of central and southern west Queensland.

5 The Court is asked to make orders that the Wangkangurru/Yarluyandi People were and are the traditional owners of the Determination Area. It is important to emphasise the nature of the orders sought. The Court is not granting the land to those people. It is declaring that the Wangkangurru/Yarluyandi People have and always have had the traditional rights and interests in the Determination Area.

6 The orders are made under the *Native Title Act 1993* (Cth) (the NT Act). On behalf of all Australian people, it recognised in its Preamble that Aboriginal people inhabited this country for many many years prior to European settlement and were progressively dispossessed of their lands. The Preamble records that, by the overwhelming vote of the people of Australia, the Constitution was amended to enable laws such as the NT Act to be passed to facilitate the recognition by our shared legal system of the native title rights and interests in land which existed at the time of European settlement.

7 The determination is made with the consent of the State of South Australia and of the State of Queensland and all of the respondents whose interests might be affected by the Orders to be made, including the Diamantina Shire Council, and those who have pastoral or mining interests in any part of the Determination Area. The consent of the two States indicates that the whole of the Australian community shares in, and supports, recognising that status of the Wangkangurru/Yarluyandi People.

## THE LEGISLATIVE REQUIREMENTS

8 Section 223 of the NT Act defines native title as:

- (1) ... the communal, group or individual rights and interests of Aboriginal peoples ... in relation to land or waters, where:
  - (a) the rights and interests are possessed under the traditional laws

acknowledged, and the traditional customs observed, by the Aboriginal peoples ...; and

- (b) the Aboriginal peoples ..., by those laws and customs, have a connection with the land or waters; and
- (c) the rights and interests are recognised by the common law of Australia.

9 Those requirements have been much discussed. Where, as here, the Court is asked to make a determination by consent using its powers under s 87 of the NT Act, the means by which the Court can be satisfied of the elements of the definition of native title is a straightforward one.

10 In *Starkey v State of South Australia* [2014] FCA 924, Allsop CJ referred extensively to the remarks of Keane CJ in *King on behalf of the Eringa Native Title Claim Group v State of South Australia* [2011] FCA 1387, especially at [19]-[22]. Chief Justice Allsop said at [20]-[21]:

... Keane CJ affirmed the practice of the Court to rely upon the processes of the relevant State or Territory about the requirements of s 223 being met to be satisfied that the making of the agreed orders is appropriate. That is because each State and Territory has developed a protocol or procedure by which it determines whether native title (as defined in s 223) has been established. As Keane CJ said, that is because the relevant State or Territory acts in the public interest and as the public guardian in doing so. His Honour noted that the State or Territory has access to anthropological, and where appropriate, archaeological, historical and linguistic expertise. It has a legal team to manage and supervise the testing as to the existence of native title in the claimant group. Consequently, the Court must, of course, preserve to itself the question whether it is satisfied that the proposed orders are appropriate in the circumstances of each particular application, generally the Court reaches the required satisfaction by reliance upon those processes. They are commonly explained in the joint submissions of the parties in support of the orders agreed. I have had the benefit of such joint submissions in this instance.

That approach reflects the comments of North J in *Lovett on behalf of the Gunditjmarra People v State of Victoria* [2007] FCA 474 at [36]-[37] that:

The Act [Native Title Act] is designed to encourage parties to take responsibility for resolving proceeding without the need for litigation. Section 87 must be construed in this context. The power must be exercised flexibly and with regard to the purpose for which the section is designed.

In this context, when the court is examining the appropriateness of an agreement, it is not required to examine whether the agreement is grounded on a factual basis which would satisfy the Court at a hearing of the application. The primary consideration of the Court is to determine whether there is an agreement and whether it was freely entered into on an informed basis: *Nangkiriny v State of Western Australia* (2002) 117 FCR 6; [2002]

FCA 660, *Ward v State of Western Australia* [2006] FCA 1848. Insofar as this latter consideration applies to a State party, it will require the Court to be satisfied that the State party has taken steps to satisfy itself that there is a credible basis for an application: *Munn v Queensland* (2001) 115 FCR 109; [2001] FCA 1229.

11 Hence, as contemplated by s 87, the Court may make the orders proposed by consent and without a full hearing, provided that:

- (1) the period specified in the notice given under s 66 of the NT Act has ended and there is an agreement on the terms of a proposed determination of native title in relation to the Determination Area: s 87(1)(a) and (b);
- (2) the terms of the proposed determination are in writing and are signed by or on behalf of each of the relevant parties: (s 87(1)(b);
- (3) the Court is satisfied that an order in, or consistent with, the terms of the proposed determination would be within its power: s 87(1)(c);
- (4) the Court considers that it would be appropriate to make the orders sought: s 87(1A) and (2); and
- (5) the orders sought comply with s 94A of the NT Act, which deals with the requirements of native title determination orders as specified in s 225 of the NT Act.

These reasons for judgment explain why the Court is satisfied of those matters.

12 In addition, the authorities indicate that the Court should have regard to the following before making determinations of native title by consent:

- (1) whether all parties likely to be affected by an order have had independent and competent legal representation;
- (2) whether the rights and interests that are to be declared in the determination are recognisable by the law of Australia or the State in which the land is situated; and
- (3) that all of the requirements of the NT Act are complied with.

Again, these reasons for judgment explain why the Court is satisfied of those matters.

13 It is important to address those matters because the recognition given by the orders to be made will apply not just between the parties who have participated in the proceeding, but to all the people of Australia: *Munn (for and on behalf of the Guggari People) v The State of Queensland* (2001) 115 FCR 109 (*Munn v Queensland*).

14 The formal requirements referred to are clearly satisfied. The period of notice imposed under s 66 has clearly elapsed. A signed copy of the agreed orders has been filed with the Court. No objection to the proposed orders has been given.

15 There are more substantive requirements imposed by s 87(1A)(a) and (2) which require that, for the Court to make the proposed consent determination of native title without a hearing, the Court must be satisfied that it would be appropriate to do so. In addition, because the orders seek a determination of native title, they must comply with s 94A of the NT Act which requires the proposed orders to set out details of the matters mentioned in s 225 of the NT Act.

16 Section 225 defines a determination of native title as:

A determination...whether or not native title exists in relation to a particular area (the **determination area**) of land or waters and, if it does exist, a determination of:

- (a) who the persons, or each group of persons, holding the common or group rights comprising the native title are; and
- (b) the nature and extent of the native title rights and interests in relation to the determination area; and
- (c) the nature and extent of any other interests in relation to the determination area; and
- (d) the relationship between the rights and interests in paragraphs (b) and (c) (taking into account the effect of this Act); and
- (e) to the extent that the land or waters in the determination area are not covered by a non-exclusive agricultural lease or a non-exclusive pastoral lease—whether the native title rights and interests confer possession, occupation, use and enjoyment of that land or waters on the native title holders to the exclusion of all others.

## CONSIDERATION

17 In *Munn v Queensland*, Emmett J at [29]-[30] expressed the view that the Court needs to be satisfied at least that the State, through competent legal representation, is satisfied as to the cogency of the Applicant's evidence and has considered the interests of the community generally.

18 The Court has, in many other cases determined pursuant to s 87 of the NT Act, been prepared to rely upon the processes of the relevant state or territory government about the requirements of s 223 being met to be satisfied that the making of the agreed orders is

appropriate: see eg *Far West Coast Native Title Claim v State of South Australia (No 7)* [2013] FCA 1285; *Dodd v State of South Australia* [2012] FCA 519; *Lovett (on behalf of the Gunditjamara People v Victoria* [2007] FCA 474; *Yungngora People v Western Australia* [2007] FCA 588; *King v Northern Territory* [2011] FCA 582; *Nelson v Northern Territory* [2010] FCA 1343.

19 The State of South Australia has developed a rigorous process for assessing the evidence in native title claims against the requirements of the NT Act. This process is outlined in the State's published policy document Consent Determinations in South Australia: A Guide to Preparing Native Title Reports (CD Policy). The State of South Australia has, in accordance with its published CD Policy, conducted a lengthy and rigorous assessment of the evidence provided in support of this claim where it falls within this State. It has assessed anthropological and historical evidence submitted by the claimants, and has made its own independent inquiries.

20 The State of Queensland was provided with evidence in support of the Wangkangurru/Yarluyandi Application by the applicant and also had regard to other material available to it on a confidential basis. The evidence considered by the State includes:

- (a) the connection report and genealogies prepared by Dr Kingsley Palmer and Ms Lyn Coad on behalf of the applicant, dated September 2011 (the Palmer/Coad Report);
- (b) the transcript of proceedings and Report of the Land Tribunal in relation to Aboriginal Land Claim – Wangkangurru (Simpson Desert) Land Claim No 156 dated December 1994; and
- (c) the research report prepared by Dr Rita Farrell for the National Native Title Tribunal, dated February 2008 (the Material).

21 The Material was assessed by the State of Queensland for the purpose of determining whether a credible basis for the Wangkangurru/Yarluyandi Application existed and whether the requirements of s 223(1) of the NT Act were met. That assessment was carried out on behalf of the State of Queensland by a senior anthropologist employed by Aboriginal and Torre Strait Islander Land Services, Queensland Department of Natural Resources and Mines, and a Principal Lawyer employed by Crown Law. Concerns held by the State of Queensland following its initial assessment of the Material were addressed in a conference with Dr Kingsley Palmer held in Adelaide on 11 December 2012, followed by an exchange of correspondence.

22 That careful process has led to the State of Queensland being satisfied that the requirements of s 223(1) of the NT Act have been met, and to its consent to a determination of native title pursuant to s 87 of the NT Act.

23 That careful and thorough process, together with the level of satisfaction that both States have reached on the relevant issues, and their consent to the proposed determination, is explained by reference to the available evidence.

24 I accept that material has the qualities and content referred to in the submissions. It enables the Court to be satisfied that it has the power to make the orders sought and that it is appropriate to do so. I adopt the submissions for the following section of these reasons, identifying why the elements of s 223 of the NT Act are satisfied.

25 The Palmer/Coad Report concluded that the contemporary society is defined by membership of the Wangkangurru and/or Yarluyandi language group(s). Membership of the language group is by way of cognatic filiation and accordingly, because there may be more than one line of descent, language group identity is not necessarily exclusive. For example, an individual could claim both a Wangkangurru and a Yarluyandi language group identity.

26 While filiation is the principal requirement for the assertion of rights to this country, it is only considered to provide potential rights. The realisation and exercise of rights to country is conditional upon the possession of knowledge of the country and its spiritual and mythical propensities and qualities (mura).

27 Birth on country can bolster claimed rights but is not sufficient in and of itself to give rise to rights to country in the absence of a filiative link. Birthplace, however, is considered to be of special significance, providing grounds for asserting a special attachment to a particular area within one's broader ancestral country.

28 Ethnographic literature makes reference to the Wangkangurru and Yarluyandi, variously spelled, within the claim area at the time of the first sustained contact with Europeans in the area, being the mid-1870s. The early ethnographic literature also identified other groups within the claim area and its surrounds (ten groups in total were identified from the study of the early ethnography). The Palmer/Coad Report considered that this large number of named groups indicates they are likely to have been non-exclusive local identifying names and not "indicative of discrete or autonomous landed entities". Given the number of names, some groups may have been quite small and some names, such as

Wangkangurru, may have been of general application, perhaps being the name of the language members of the group commonly spoke. In their opinion, these groups were likely to have been inter-dependent, sharing cultural beliefs and practices and exercising rights together over diverse areas. The Applicant's experts concluded that, notwithstanding the reference to a number of groups in the early ethnographic literature, at the time of sovereignty there were likely to have been only four "language groups" in the area, namely the Wangkangurru, the Yarluyandi, the Ngameni and the Karanguru.

29           Based on evidence from early accounts (views endorsed by Luise Hercus and other later writers), the Wangkangurru, the Yarluyandi, the Ngameni and the Karanguru can be understood as comprising a single society or community at sovereignty.

30           Only two of those four groups remain. It is considered that the Ngameni and the Karanguru have either died out or, more likely, were absorbed by the two surviving groups. The process of succession by the surviving groups to the country of the Ngameni and Karanguru was, according to the experts, a result of the close cultural ties and the shared laws and customs of those four groups.

31           While the State of South Australia's experts, Drs Fergie and Lucas, approached the evidence in a slightly different fashion to Dr Palmer, they did not ultimately dispute the conclusion that the contemporary claimants are the relevant society for native title purposes. In their opinion, this conclusion was strongly supported by the genealogical data collected in the Palmer/Coad Report and prepared by Ms Coad which demonstrates a complex web of inter-relatedness and intermarriage amongst those who were evidenced in the claim area at or around the time of first contact.

32           I am also satisfied that the proposed determination describes, in accordance with the evidence, those persons who are members of the native title holding group, and that the description is sufficient to identify the native title holding group, and its society, and satisfies the requirements of the NT Act.

33           The date of acquisition of sovereignty for this area was 1788. However, as noted above, the first period of sustained contact with Europeans in the Determination Area was not until the mid-1870s. The evidence supports the conclusion that, at that time, the Wangkangurru, Yarluyandi, Ngameni and Karanguru were in occupation of the Determination Area.

34 The evidence also supports the view that the Applicants are the descendants of those in possession of the country at the date of effective sovereignty.

35 The continued existence and vitality of laws and customs governing membership and rights to country of the native title holding group is an important requirement. A key aspect of that identity is membership of the Wangkangurru and/or Yarluyandi language group through descent. Early ethnographic literature and subsequent material by Luise Hercus, who undertook considerable linguistic studies in the claim area from the 1970s, suggests that rights to country were obtained through succession to the mythology relevant to locations (mura) predominantly by patrilineal descent, although inheritance of Mardu (totemic identity giving rise to secondary rights to that country connected to the Mardu totem) was matrilineal.

36 The Applicant's experts consider that at the time of sovereignty those who occupied the area recognised a system of named, exogamous moieties. There were two moieties: matari and kararu. An inherited totem was also associated with the moiety system.

37 Based on evidence gathered, the Applicant's experts concluded that the moiety system is no longer part of contemporary practice. The evidence provided suggests there is still knowledge of the totem system, and certain rules are still adhered to (for example that you do not eat your totem) although it seems there is now some element of choice with regard to inheritance of the totem. The Palmer/Coad Report concludes that, although the relationship between moiety and totem is no longer part of contemporary practice and there have been some changes in the manner of totemic acquisition, totemic relationships still play an important part in the claim group's assertion and articulation of relationships with the natural world.

38 The evidence suggests that amongst the contemporary claimant group there has been a shift away from a system of rights to land obtained through patrilineal descent to a system of cognatic filiation. The experts agreed that this shift is firmly rooted in the customary system of traditional law and custom.

39 While some of the detail of the mythology that would have been present at sovereignty has been lost, there was evidence of individuals with a detailed knowledge of narratives and their associated places. Many of the claimants consider that the mythic beings, or mura, have a contemporary reality. The Palmer/Coad Report concludes that knowledge continues to be of central importance to the claimants and that this is based on customary

principles. It concluded that kinship terms recorded in the early ethnography are comparable with those Wangkangurru kin names recorded by Hercus, and that a large number of Wangkangurru kin terms are recalled by the claimants.

40 The Palmer/Coad Report also summarises records in the early ethnography relating to ritual practices including rights of passage, corroboree and increase rituals. However, while it records details of two older claimants who underwent initiation rituals in their youth, ritual practices associated with initiation and rites of passage are no longer performed or part of contemporary Wangkangurru/Yarluyandi practice. Similarly, while older claimants retain some memory of “travelling rituals” or corroborees, they no longer form part of contemporary practice. There is contemporary evidence of burial and mortuary practices consistent with those recorded in early ethnography including, among other things, accounts of placing sticks and logs over graves and avoiding mention of the deceased’s name.

41 The Palmer/Coad Report provides evidence of knowledge and use of natural resources across the claim area which are accepted as constituting a body of customary knowledge. The evidence supports the conclusion that this knowledge has been learnt by the claimants from their parents, grandparents and elders, and as such demonstrates a continuous process of transmission of knowledge which one can readily infer has continued from sovereignty.

42 Consequently, despite some cultural losses that have occurred since sovereignty, there remains a body of traditional law and custom sufficient for a consent determination that has had continued existence and vitality and that their observance has continued “substantially uninterrupted” since sovereignty.

43 The evidence is that there have been significant demographic changes in the claim area following European settlement. The Simpson Desert heartlands were no longer inhabited on a permanent basis after about 1900 and there was a further movement of people away from cattle stations and towards towns in the 1960s. Nevertheless, connection to their country is retained by contemporary claimants through the continued practice of laws and customs related to “ownership” of mura and rights to country deriving from that knowledge. There is evidence of continued occupation and use of the claim area by the members of the claim group, as well as knowledge of the claim area and its resources. There is evidence of duties to care for country, including places associated with mura and mikiri (desert wells). Evidence was provided by the claimants identifying several mikiri sites and other significant

sites. While evidence of contemporary connection to the central Simpson Desert region was slight, it is likely that even at the time of sovereignty the area would only have been sporadically visited and use was likely to have been limited largely to areas in which water was available from mikiri.

44 It is accepted that the continued acknowledgement and observance of traditional laws and customs by this claim group relating to locations only infrequently visited is sufficient to sustain a spiritual relationship with the land and therefore maintain rights in the whole area. Consequently, it is appropriate to accept for the purposes of a consent determination that members of the native title claim group have, by their laws and customs, a connection to the country claimed.

45 The rights and interests to be recognised are set out at Order 8 of the proposed determination. They are consistent with the rights and interests that would have been observed traditionally. They are also consistent with rights recognised by the Federal Court elsewhere in South Australia.

46 The informants to the Palmer/Coad Report explained that they consider they have certain rights which they can freely exercise over the claim area. The rights discussed included the rights to:

- (1) visit, camp and stay;
- (2) make a fire ;
- (3) gather bush foods;
- (4) hunt for meat including goanna, kangaroo and rabbit;
- (5) fish and take yabbies and crabs;
- (6) take seeds;
- (7) take gum;
- (8) cook;
- (9) collect ochre; and
- (10) practice cultural activities.

47 The Palmer/Coad Report provides evidence of continued knowledge of bush and other resources of the claim area together with evidence of their contemporary utilisation. It

also provides evidence that this knowledge has been transmitted to the current generation of claimants from previous generations.

48 It also provided evidence of the conduct of ceremonies and cultural activities on the claim area and the transmission of knowledge regarding matters of cultural and religious significance. Evidence was also provided of mortuary practices and of grave sites on the claim area.

49 Consequently, it is appropriate to proceed on the basis that the native title rights and interests claimed arise from the claimants' traditional laws and customs and that they have evolved from the native title rights and interests as they were likely to have been at sovereignty.

50 Section 225 of the NT Act specifies what the proposed determination must include.

51 It clearly describes the external boundaries of the Determination Area, and sets out with particularity those areas where native title exists (Native Title Land) (Order 4), and those areas within the Determination Area where native title is extinguished (Order 5).

52 For the purpose of s 225(a) of the NT Act, Order 7 defines the group of native title holders and the criteria by which they have group membership.

53 For the purpose of s 225(b) of the NT Act, Order 8 sets out the nature and extent of the native title rights and interests in the Determination Area and Orders 11 to 15 set out the general limitations on their exercise.

54 For the purpose of s 225(c) of the NT Act, Order 16 of the proposed determination sets out the nature and extent of other interests in the Native Title Land. That has been informed by tenure searches undertaken and by input from other respondent parties to the claim. There has been ample opportunity for any other interest holders in the area to identify themselves and join as parties to the claim. These tenure searches have not identified any other relevant interest holders in the Determination Area.

55 For the purpose of s 225(d) of the NT Act, Order 17 describes the relationship between the native title rights in Order 8 and those other rights in Order 16.

56 For the purpose of s 225(e) of the NT Act the native title rights and interests recognised in the Determination are non-exclusive.

## CONCLUSION

57 Agreement has been reached between the principal parties to these proceedings on the terms of the proposed determination and signed copies of the Agreement under s 87 of the NT Act have been filed with the Court. Signatories include the South Australian Native Title Services Ltd, who is the native title service provider for the Determination Area, the Diamantina Shire Council, Ergon Energy Corporation, the Australia Wildlife Conservancy and represented mining and pastoral interests.

58 The Wangkangurru Yarluyandi native title claim was filed with this Court on 21 August 1997 and was amended on 13 March 2009 and 8 October 2009. Full notification by the National Native Title Tribunal under s 66 of the NT Act (using tenure current at the time) closed on 7 May 2001.

59 All of the parties to the Determination have had independent and competent legal advice in the proceeding.

60 A full tenure history of the Determination Area has been obtained and assessed. All the parties with an interest in that portion of the claim which might affect them have been consulted. This has allowed the two States and the Applicants to agree those areas where native title has been extinguished by prior grant of tenure or activities and to record those areas with specificity in the proposed determination. These matters are recorded in Schedule 4 to the Orders to be made.

61 On the basis of all that material, in my view it is appropriate, and within its power, for the Court to make the orders proposed pursuant to s 87.

62 I note that immediately following the making of the Determination, the State of South Australia, the Applicant and the nominated native title holding body will execute the Wangkangurru Yarluyandi Claim Settlement ILUA. The Wangkangurru Yarluyandi Claim Settlement ILUA provides for a process, as the alternative to Division 3 Part 2 of the NT Act, pursuant to which the State of South Australia may undertake future acts on Native Title Land in the Determination Area. In addition, the Wangkangurru Yarluyandi Settlement ILUA addresses the provision of compensation in full and final settlement of the existing compensation liability pursuant to the NT Act in relation to the South Australian Determination Area. This means that all issues relating to native title in the South Australian portion of the claim will be finally resolved.

63 I note further that a series of Indigenous Land Use Agreements as listed in Schedule 6 to the proposed determination are to be executed at the same time, relating to the South Australian section of the Determination Area.

64 There are also a series of proposed Indigenous Land Use Agreements as described in Schedule 7 to the proposed determination to be executed in due course in relation to the Queensland Determination Area: see Orders 16 and 17, Schedule 5 Part A Clause 1.

65 In accordance with ss 55 and 56 of the NT Act, Order 19 determines that the native title hereby recognised is to be held in trust, and Order 20 identifies the prescribed body corporate for the purposes of s 57(2) of the NT Act.

66 For the above reasons, the Court should and does give effect to the agreement of the parties. Accordingly, the Court makes a determination of native title in favour of the Wangkangurru/Yarluyandi People in the agreed terms.

I certify that the preceding sixty-six (66) numbered paragraphs are a true copy of the Reasons for Judgment herein of the Honourable Justice Mansfield.

Associate:

Dated: 3 October 2014