



- (c) engaging in spiritual and cultural activities in that area;
- (d) maintaining and protecting places of significance on that area; ~~and~~
- (e) receiving a portion of any traditional resources (not including minerals or petroleum) taken from land or waters in that area by Aboriginal people who are also governed by Western Desert traditional laws and customs; and
- (f) in relation to that part of the Claim Area where the nature and extent of the native title rights and interests is the right to possession, occupation, use and enjoyment to the exclusion of all others (as described in Schedule 3 to the Tjiwarl Determination), controlling access by people who are not common law holders to that part for any reason or no reason.

## SCHEDULE I DETAILS OF THE AFFECTING ACT(S)

Details of the act which it is claimed extinguished or affected native title rights and interests for which compensation is claimed, including:

- (a) the government or other person that did the act and whether the act has been validated; and
- (b) if the act has been validated, how this was done; and
- (c) copies of:
  - (i) all searches of official title registers (such as the title register of crown lands and the land title register of the relevant State or Territory); and
  - (ii) all searches conducted with public bodies and authorities; that identify existing or expired non-native title rights and interests in relation to the land or waters covered by the compensation application.

1. Compensation is claimed for the following acts (**Compensable Acts**) in paragraphs 2 to 18 in this Schedule on the basis that the acts (including the exercise of rights under or pursuant to the acts) have affected (but not wholly extinguished) native title rights and interests in the Claim Area, except that compensation is only claimed:
  - (a) for that part of each act which is within the Claim Area; and
  - (b) insofar as the entitlement to compensation is not subject to the compensation discharge and release under the Body Corporate Indigenous Land Use Agreement registered as "Initial ILUA Tjiwarl and Nickel West Comprehensive Agreement" (WI2018/014) as registered on 8 January 2019.
2. The dedication and creation of the following roads which are sections of the Goldfields Highway:
  - (a) Road 02 on Deposited Plan 19000 dedicated on 30 May 2005;
  - (b) Road 05 with identification DI578441 dedicated on 4 August 2003;
  - (c) Road 06 with identification DJ218893 dedicated on 18 March 2005;
  - (d) Road 07 with identification DJ303793 dedicated on 30 May 2005; and
  - (e) Road 08 with identification DJ887321 dedicated on 24 August 2006.
3. The grant of the following pastoral leases under section 114 of the *Land Act 1933* (WA):
  - (a) 3114/1020 granted on 8 October 1980;
  - (b) 3114/1164 (Lake Way) granted on 18 August 1981;
  - (c) 3114/1177 (Youno Downs) granted on 21 October 1988; and
  - (d) 3114/1232 granted on 11 March 1988.
4. The grant of the following pastoral leases which were renewed under section 120 and 122 of the *Land Administration Act 1997* (WA) on 1 July 2015:
  - (a) Boolygoo Springs (N050557);
  - (b) Depot Springs (N049967);
  - (c) Gidgee (N049747);
  - (d) Lake Way (N050051);
  - (e) Pinnacles (N049812);
  - (f) Yeelirrie (N049508); and
  - (g) Youno Downs (N049934).
5. The creation of Reserve 46801 and the placing of care, control and management of the reserve under the *Land Administration Act 1997* (WA) on 5 August 2002.
6. The construction of water bores and gravel pits recorded in paragraph 4 of Schedule 4 of the Tjiwarl Determination.
7. The taking of native title for the purpose of creating the following easements, and the grant of the easements, recorded in paragraph 5 of Schedule 4 of the Determination for the purpose of a gas pipeline:
  - (a) Easement 1, the subject of a taking order under the *Goldfields Gas Pipeline Agreement Act 1994* (WA) and the *Public Works Act 1902* (WA) dated 29 June 1995;



- (b) Easement 2a, the subject of a taking order under the *Goldfields Gas Pipeline Agreement Act 1994* (WA) and the *Public Works Act 1902* (WA) published in the Government Gazette on 14 June 1996;
- (c) Easement 2b, the subject of a taking order under the *Goldfields Gas Pipeline Agreement Act 1994* (WA) and the *Public Works Act 1902* (WA) published in the Government Gazette on 14 June 1996;
- (d) Easement 3, the subject of a taking order under the *Petroleum Pipelines Act 1969* (WA) and the *Land Acquisition and Public Works Act 1902* (WA) published in the Government Gazette on 23 August 1996;
- (e) Easement 4, the subject of a taking order under the *Petroleum Pipelines Act 1969* (WA) and the *Land Acquisition and Public Works Act 1902* (WA) published in the Government Gazette on 23 August 1996.

8. The grant, ~~and any renewals or extensions~~, of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Bellevue Gold Project):

Mining Leases

- (a) M36/1 granted on 19 January 1983;
- (b) M36/24 granted on ~~17 January 1986~~ 31 December 1985;
- (c) M36/25 granted on ~~17 January 1986~~ 31 December 1985;
- (d) M36/162 granted on ~~6 November 1989~~ 25 October 1989;
- (e) M36/176 granted on ~~4 April 1990~~ 2 April 1990;
- (f) M36/266 granted on ~~28 June 1993~~ 24 June 1993;
- (g) M36/299 granted on ~~22 April 1994~~ 12 April 1994;
- (h) M36/328 granted on ~~4 May 1999~~ 29 April 1999;
- (i) M36/342 granted on ~~4 March 1999~~ 3 March 1999;
- (j) M36/603 granted on ~~25 May 2007~~ 18 May 2007;
- (k) M36/660 granted on ~~23 February 2007~~ 17 February 2007;

Exploration Licences

- (l) E36/535 granted on 23 September 2005;
- (m) E36/919 granted on 5 June 2019;
- (n) E36/920 granted on 5 June 2019;
- (o) E36/924 granted on 5 June 2019; and
- (p) E36/937 granted on 12 February 2020.

~~9. The grant, and any renewals or extensions, of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Kathleen Valley Lithium Project):~~

~~Mining Leases~~

- ~~(a) M36/459 granted on 26 September 1997 29 April 1999;~~
- ~~(b) M36/460 granted on 4 May 1999 29 April 1999; and~~

~~Exploration Licences~~

- ~~(c) E36/879 granted on 11 July 2017.~~

10. The grant, ~~and any renewals~~, of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Cosmos Nickel Mine Project):

Mining Leases

- (a) M36/127 granted on ~~20 April 1989~~ 19 April 1989;
- (b) M36/180 granted on ~~4 July 1990~~ 27 June 1990;
- (c) M36/302 granted on ~~26 May 1994~~ 25 May 1994;
- (d) M36/303 granted on ~~29 September 1994~~ 22 September 1994;
- (e) M36/305 granted on ~~5 August 1994~~ 4 August 1994;
- (f) M36/329 granted on 5 January 2001;
- (g) M36/330 granted on 5 January 2001;



- (h) M36/332 granted on ~~5 September 1995~~ 1 September 1995;
- (i) M36/349 granted on ~~4 March 1999~~ 3 March 1999;
- (j) M36/371 granted on ~~4 March 1999~~ 3 March 1999;
- (k) M36/377 granted on ~~4 March 1999~~ 3 March 1999;
- (l) M36/632 granted on ~~7 March 2006~~ 26 February 2006;
- (m) M36/633 granted on ~~7 March 2006~~ 26 February 2006;
- (n) M36/659 granted on ~~23 February 2007~~ 17 February 2007;

Miscellaneous Licences

- (o) L36/42 granted 28 May 1987;
- (p) L36/118 granted on 11 March 1999;
- (q) L36/119 granted on 11 March 1999;
- (r) L36/145 granted on 2 February 2001;
- (s) L36/148 granted on 23 November 2000;
- (t) L36/159 granted on 20 July 2001;
- (u) L36/171 granted on 24 March 2003;
- (v) L36/172 granted on 24 March 2003;
- (w) L36/189 granted on 16 August 2006;
- (x) L36/194 granted on 17 October 2006; and
- (y) L36/199 granted on 2 March 2007;
- ~~(z) L36/222 granted on 14 December 2016; and~~
- ~~(aa) L36/223 granted on 14 December 2016.~~

11. ~~The grant of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Honeymoon Well Project):~~

Mining Leases

- ~~(a) M53/35 granted on 29 April 1986;~~
- ~~(b) M53/36 granted on 29 April 1986;~~
- ~~(c) M53/55 granted on 8 October 1987;~~
- ~~(d) M53/238 granted on 8 July 1992;~~
- ~~(e) M53/239 granted on 8 July 1992;~~
- ~~(f) M53/240 granted on 8 July 1992;~~
- ~~(g) M53/241 granted on 8 July 1992;~~
- ~~(h) M53/242 granted on 8 July 1992;~~
- ~~(i) M53/949 granted on 18 February 2004;~~

Miscellaneous Licences

- ~~(j) L53/66 granted on 10 January 1995;~~
- ~~(k) L53/89 granted on 28 November 2008;~~
- ~~(l) L53/90 granted on 28 August 2003;~~
- ~~(m) L53/91 granted on 28 November 2008;~~
- ~~(n) L53/92 granted on 28 November 2008;~~
- ~~(o) L53/145 granted on 26 June 2006;~~

Exploration Licences

- ~~(p) E53/1167 granted on 23 April 2007; and~~
- ~~(q) E53/1243 granted on 13 March 2007.~~

12. The grant, and any renewals, of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Gum Creek Gold Project):

Mining Leases

- (a) M53/153 granted on ~~29 June 1990~~ 26 June 1990; and

Miscellaneous Licences



- (b) L53/96 granted on 14 December 1998.
13. The grant, and any renewals or extensions, of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Vivien Gold Project):  
Mining Leases  
 (a) M36/34 granted on ~~29 August 1986~~ 24 August 1986;  
 (b) M36/64 granted on ~~22 September 1988~~ 13 September 1988;  
 (c) M36/111 granted on 24 May 1989;  
 (d) M36/292 granted on ~~23 February 1994~~ 18 February 1994;  
Exploration Licences  
 (e) E36/545 granted on 13 December 2005; and  
 (f) E36/617 granted on 28 March 2008.
14. The grant, and any renewals, of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Kathleen Valley Gold Project):  
 (a) M36/365 granted on ~~4 May 1999~~ 29 April 1999;  
 (b) M36/375 granted on ~~4 March 1999~~ 3 March 1999; and  
 (c) M36/441 granted on ~~4 May 1999~~ 29 April 1999.
15. The grant, and any extensions, of the following mining tenements pursuant to the *Mining Act 1978* (WA) (which the applicant understands are associated with the Mt Anderson Project):  
 (a) E36/602 granted on 26 October 2007;  
 (b) E36/832-I granted on 26 August 2015;  
 (c) E57/577-I granted on 6 May 2005; and  
 (d) E57/675-I granted on 7 January 2008.
16. The grant, and any renewals, of mining tenement M36/580 on ~~23 April 2008~~ 15 April 2008 pursuant to the *Mining Act 1978* (WA).
17. The grant, and any extensions, of the following exploration licences pursuant to the *Mining Act 1978* (WA):  
 (a) E36/856 granted on 18 April 2018;  
 (b) E36/918 granted on 17 February 2020;  
 (c) E36/967 granted on 1 November 2019;  
 (d) E53/1480 granted on 5 February 2010;  
 (e) E53/1926 granted on 24 July 2018;  
 (f) E53/1953 granted on 9 March 2020; and  
 (g) E57/1060 granted on 15 June 2018.
18. The grant of the following ground water licences pursuant to section 5C of the *Rights in Water and Irrigation Act 1914* (WA):  
 (a) 110790 issued on 18 December 2017 (in respect of M36/127, M36/180, M36/349 and M36/371);  
~~(b) 156720 issued on 18 September 2019 (in respect of M53/35, M53/55 and M53/949);~~  
~~(c) 165918 issued on 18 September 2019 (in respect of L53/66);~~  
 (d) 178593 issued on 1 May 2014 (in respect of M36/34);  
 (e) 202960 issued on 21 June 2019 (in respect of M36/24, M36/25 and M36/328); and  
 (f) 202924 issued on 17 June 2019 (in respect of M36/24 and M36/25).
19. The Compensable Acts were attributable to the State of Western Australia.
20. Except to the extent referred to in paragraph 21 below, the Compensable Acts were valid and therefore have not been validated.
21. Compensable Acts referred to in paragraphs 6, 7, 8(g), 10(c)-(e) and (h), ~~11(f)~~ and 13(d) above may have been intermediate period acts. If they were intermediate period acts then they were validated pursuant to s 12A of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA).
22. Except to the extent referred to in paragraph 23 below, the applicant has not conducted searches of official title registers (such as the title register of Crown lands and the land title register of Western



- Australia) that identify existing or expired non-native title rights and interests in relation to the Claim Area.
23. The applicant has in its possession searches conducted by the State of Western Australia which identify existing or expired non-native title rights and interests in relation to the land or waters covered by the compensation application, and which were included in evidence in Native Title Determination applications WAD 228 of 2011 and WAD 302 of 2015 *Narrier and State of Western Australia* (Tjiwarl and Tjiwarl #2). That includes tenure documents for each of the Compensable Acts referred to at paragraphs 2-7, 8(a)-(l), 9(a) and (b), 10(a)-(y), ~~11-12~~-16 and 17(d), copies of which are included as part of Attachment I.
  24. The tenure documents referred to in paragraph 23 included expired non-native title rights and interests in relation to the Claim Area which preceded the Compensable Acts, being:
    - (a) Oil Prospecting Areas OPA 36H and OPA 101H granted pursuant to the *Mining Act 1904* (WA) and the *Mining Act Amendment Act 1920* (WA);
    - (b) various pastoral leases granted under the *Land Act 1933* (WA) and the *Land Administration Act 1997* (WA); and
    - (c) various mining tenements granted under the *Mining Act 1904* and *Mining Act 1978* (WA).

Those documents are contained in electronic form on the DVD which is Annexure PTG2 to Exhibit R9 in proceeding WAD 228 of 2011 and WAD 302 of 2015 *Narrier and State of Western Australia* (Tjiwarl and Tjiwarl #2). A copy of that Annexure can be provided on request.
  25. The applicant is aware of the Compensable Acts referred to in paragraphs 8(m)-(p), 9(c), ~~10(z) and (aa)~~, 17(a)-(c) and (e)-(g) above, as a result of searches of official title registers. Documents evidencing those Compensable Acts are also included as part of Attachment I.
  26. The applicant is aware of the Compensable Acts referred to in paragraph 18 above as a result of notifications under the NTA and/or applicable Western Australian legislation. The applicant does not have copies of tenure documents evidencing those acts.

## SCHEDULE J BASIS FOR APPLICATION

Details of the basis for the compensation application, such as the provision of the Act that deals with the compensation entitlement.

1. The basis for the compensation application in relation to the Compensable Acts referred to in paragraphs 2 and 5 of Schedule I, is that the Compensable Acts are future acts to which Part 2 Division 3 Subdivision K applies, and the applicant is entitled to compensation under section 24KA(5).
2. The basis for the compensation application in relation to the Compensable Acts referred to in paragraph 3 of Schedule I, is that the common law holders were entitled to compensation by operation of section 10 of the *Racial Discrimination Act 1975* (Cth). That entitlement to compensation is now to be determined under section 45 of the NTA.
3. The basis for the compensation application in relation to the Compensable Acts referred to in paragraph 4 of Schedule I, is that the Compensable Acts are future acts to which Part 2 Division 3 Subdivision I applies, and the applicant is entitled to compensation under section 24ID(1)(d) of the NTA.
4. The basis for the compensation application in relation to each Compensable Act referred to in paragraph 6 of Schedule I, is either:
  - (a) that the common law holders were entitled to compensation by operation of section 10 of the *Racial Discrimination Act 1975* (Cth) and that entitlement to compensation is now to be determined under section 45 of the NTA; or
  - (b) that compensation was payable for a permissible future act pursuant to section 23(4) of the NTA (as originally enacted); or
  - (c) that the Compensable Act is a future act to which Part 2 Division 3 Subdivision K applies, and that the applicant is entitled to compensation under section 24KA(5) of the NTA.
5. Subject to paragraphs ~~6~~ and ~~6A~~ below, the basis for the compensation application in relation to the Compensable Acts referred to in paragraphs 7, 8(g)-(p), 9, 10(c)-(n) and (p) ~~(aa)(y)~~, ~~11(a)-(g)~~, 12(b), 13(d)-(f), and 14-18 of Schedule I, is that the Compensable Acts are future acts to which Part 2 Division 3 Subdivision A of the NTA (as originally enacted) applied and the applicant is entitled to