



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2021/004
Short name	Gooniyandi Warlibirri Parks ILUA
ILUA type	Body Corporate
Date registered	15/06/2021
State/territory	Western Australia
Local government region	Shire of Halls Creek, Shire of Derby/West Kimberley

Description of the area covered by the agreement

ILUA Agreement Area means the area comprising:

- (a) the Stage One National Park Area;
- (b) the Future National Park Areas;
- (c) the Future Park Areas;
- (d) the Transfer Land;
- (e) the Easement Areas; and
- (f) the Reserve Access Area,

and which areas are within the Determination Area. The **ILUA Agreement Area** is shown, for identification purposes, on the Map in Schedule 1.

Area #16 means the land or any part of it described in Item 1 of Schedule 4.

Area #17 means the land or any part of it described in Item 2 of Schedule 4.

Area #18 means the land or any part of it described in Item 3 of Schedule 4.

Area #19 means the land or any part of it described in Item 4 of Schedule 4.

Area #20 means the land or any part of it described in Item 5 of Schedule 4.

Area #21 means the land or any part of it described in Item 6 of Schedule 4.

Area #22 means the land or any part of it described in Item 7 of Schedule 4.

Determination means the determination by the Federal Court of Australia in *Sharpe v the State of Western Australia* [2013] FCA 599 (Gooniyandi Combined #2) that native title exists over specified land and waters.

Determination Area means the land and waters where native title has been determined to exist under the Determination and which is described in the Determination as the "Native Title Area" (paragraph 2 of the Determination (Attachment A)).

Easement Areas means Area #16, Area #17, Area #18, Area #19, Area #20, Area #21 and Area #22.

Fossil Downs FP Area means the land or any part of it described in Item 4, Part 3 of Schedule 2.

Fossil Downs Transfer Land means the land or any part of it described in Item 1 (*Fossil Downs Transfer Land Area #1*) and Item 2 (*Fossil Downs Transfer Land Area #2*) in Schedule 5.

Future National Park Areas means Future NP Area #1, Future NP Area #2, Future NP Area #3 and Future NP Area #4.

Future NP Area #1 means the land described in Item 1, Part 2 of Schedule 2.

Future NP Area #2 means the land described in Item 2, Part 2 of Schedule 2.

Future NP Area #3 means the land described in Item 3, Part 2 of Schedule 2.

Future NP Area #4 means the land described in Item 4, Part 2 of Schedule 2.

Future Park Areas means Mt Pierre FP Area, Louisa Downs FP Area, GoGo FP Area, Fossil Downs FP Area, R1588 FP Area, R22256 FP Area, R 23897 FP Area, Water Area #7, Water Area #8, Water Area #9, Water Area #10, Water Area #11 and Water Area #12.

GoGo FP Area means the land or any part of it described in Item 3, Part 3 of Schedule 2.

GoGo Transfer Land Area #3 means the land or any part of it described in Item 3 of Schedule 5.

Louisa Downs FP Area means the land or any part of it described in Item 2, Part 3 of Schedule 2.

Mt Pierre FP Area means the land or any part of it described in Item 1 Part 3 of Schedule 2.

R1588 FP Area means the land described in Item 5, Part 3 of Schedule 2.

R22256 FP Area means the land described in Item 6, Part 3 of Schedule 2.

R 23897 FP Area means the land described in Item 13, Part 3 of Schedule 2.

Reserve Access Area means the land or any part of it described in Item 2 of Schedule 3.

Stage One National Park Area means UCL Area #1, Water Area #1, Water Area #2, Water Area #3, Water Area #4 and Water Area #5.

Transfer Land means the Fossil Downs Transfer Land and the GoGo Transfer Land Area #3.

UCL Area #1 means the land described in Item 1, Part 1 of Schedule 2.

Water Area #1 means the land and waters described in Item 2, Part 1 of Schedule 2.

Water Area#2 means the land and waters described in Item 3, Part 1 of Schedule 2.

Water Area #3 means the land and waters described in Item 4, Part 1 of Schedule 2.

Water Area #4 means the land and waters described in Item 5, Part 1 of Schedule 2.

Water Area #5 means the land and waters described in Item 6, Part 1 of Schedule 2.

Water Area #7 means the land and waters described in Item 7, Part 3 of Schedule 2.

Water Area #8 means the land and waters described in Item 8, Part 3 of Schedule 2.

Water Area #9 means the land and waters described in Item 9, Part 3 of Schedule 2.

Water Area #10 means the land and waters described in Item 10, Part 3 of Schedule 2.

Water Area #11 means the land and waters described in Item 11, Part 3 of Schedule 2.

Water Area #12 means the land and waters described in Item 12, Part 3 of Schedule 2.

[A copy of Schedules 1 to 6 is attached to this Register Extract.

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

The agreement area covers approximately 2,125 sq km and is located east of Fitzroy Crossing.]

Parties to agreement

Applicant

Party name	The State of Western Australia (State)
Contact address	c/- State Solicitor's Office Level 25 David Malcolm Justice Centre 28 Barrack Street Perth WA 6000

Other Parties

Party name Conservation and Parks Commission (Commission)
Contact address c/- State Solicitor's Office
Level 25 David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Gooniyandi Aboriginal Corporation RNTBC (GAC)
Contact address c/- Arra Energy
Unit 5/436 Cambridge Street
Floreat WA 6014

Party name The Chief Executive Officer of the Department of Biodiversity,
Conservation and Attractions acting through the Conservation and Land
Management Executive Body (CEO)
Contact address c/- State Solicitor's Office
Level 25 David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name The Minister for Lands
Contact address c/- State Solicitor's Office
Level 25 David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Period in which the agreement will operate

Start date not specified

End Date not specified

5.1 Force and Effect of this Agreement

(a) This Agreement, other than those provisions referred to in subclause (b), only has force and effect from the Commencement Date.

(b) Clauses 1, 2, 3, 4, 5, 6, 20, 22, 23, 24, 25, 26, 27, 28, 29 and 30 have force and effect from the Execution Date [3 March 2021].

5.2 Term

Subject to clause 5.3, this Agreement continues indefinitely.

5.3 Termination

This Agreement shall terminate only on the occurrence of the following events, whichever is the first to occur (the **Termination Date**):

- (a) the Agreement ceasing under clause 4.7 [Agreement ceases if not registered];
- (b) all Parties agree in writing to end the Agreement;
- (c) the Determination is revoked in accordance with the Native Title Act;
- (d) the Agreement is removed from the Register of Indigenous Land Use Agreements by the Native Title Registrar in accordance with section 199C of the Native Title Act; or
- (e) a Replacement Agreement comes into effect in accordance with clause 21.5(b).

Commencement Date means the date on which this Agreement is registered on the Register of Indigenous Land Use Agreements pursuant to section 24BI of the Native Title Act.

Execution Date means the date on which this Agreement is finally executed by all of the Parties to it.

Native Title Act means the *Native Title Act 1993* (Cth).

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

7.1 Future Acts

Each Party acknowledges that the National Park and Conservation Park Acts, the Access Rights Acts and the Land Transfer Acts may be future acts to which Part 2, Division 3 of the Native Title Act may apply.

7.2 National Park - Stage One National Park Areas and Future National Park Areas

The Parties consent to:

- (a) the reservation of the Stage One National Park Areas for the reserve purpose of "national park" and its classification as class A by orders of the Minister for Lands under sections 41 and 42 of the Land Administration Act;
- (b) the reservation of the Future National Park Areas for the reserve purpose of "national park" by:
 - (i) orders of the Minister for Lands under section 41 of the Land Administration Act; or
 - (ii) orders of the Minister for Lands under section 45(2) of the Land Administration Act by which a Future National Park Areas is added to any national park already created for the Warlibirri National Park;
- (c) the Joint Vesting in the Commission and GAC of each national park reserve and each conservation park reserve referred to in this clause 7.2; and
- (d) in respect of any land referred to in this clause 7.2 that becomes part of the Warlibirri National Park, the grant, issue or creation, from time to time, of any Tenure over it.

7.3 National Park or Conservation Park - Future Park Areas

(a) The Parties consent to:

- (i) the reservation of the Future Park Areas for the reserve purpose of:
 - (A) "national park" by:
 - (1) orders of the Minister for Lands under section 41 of the Land Administration Act; or
 - (2) orders of the Minister for Lands under section 45(2) of the Land Administration Act by which a Future Park Area is added to any national park already created for the Warlibirri National Park; or
 - (B) "conservation park" by:
 - (1) order of the Minister for Lands under section 41 and [sic] of the Land Administration Act; or
 - (2) order of the Minister for Lands under section 45(2) of the Land Administration Act by which a Future Park Area is added to any conservation park already created for the Warlibirri Conservation Park;
 - (ii) the Joint Vesting in the Commission and GAC of each national park reserve and each conservation park reserve referred to in this clause 7.3; and
 - (iii) in respect of any land referred to in this clause 7.3 that becomes part of the Warlibirri Parks, the grant, issue or creation, from time to time, of any Tenure over it.
- (b) Prior to a national park or conservation park reserve being created over a Future Park Area, the CEO must give six (6) months prior written notice to GAC of the State's intention to create the particular reserve (*State's Notice*).
 - (c) The State's Notice must include a clear description of the relevant Future Park Area (*relevant area*) that it is intended will be created as a national park or conservation park reserve.
 - (d) If GAC receives a State's Notice, GAC may revoke the consent it has given in subclause (a) for the creation of a national park or conservation park reserve over the relevant area (*relevant future act*) by written notice advising that consent to the relevant future act is revoked (*GAC Notice*) served on the CEO within six (6) months of and including the date of the State's Notice.
 - (e) If the CEO receives a GAC Notice within the time specified in subclause (d), the relevant future act dealt with by the GAC Notice may not be done by the State Parties and the consent of GAC given in subclause (a) ceases in respect of the relevant area dealt with by the GAC Notice.
 - (f) If the State does not receive a GAC Notice from GAC within the time specified in subclause (d), the State Parties may proceed with the relevant future act without any further notice or consultation with GAC.
 - (g) For the avoidance of doubt, and subject to what subclause (d) provides, the Parties acknowledge that more than one State Notice may be issued in respect of the Future Park Areas.

7.4 Access Right Acts

The Parties consent to, from time to time:

- (a) the grant of a Warlibirri Parks Easement as may be required to give access to land comprising the Warlibirri National Park or the Warlibirri Conservation Park by persons including GAC, the Joint Management Body, the Conservation Parties and the employees, agents, contractors and invitees of them and the Department, as applicable;
 - (b) the grant of a Reserve Access Right as may be required to give access from the Great Northern Highway or nearest road to the Reserve by persons including GAC, and a Management Body and the employees, agents, contractors and invitees of them, as applicable;
 - (c) the grant of Fossil Downs Access Rights over any part of Water Area #5, Water Area #4 and part of Lot 350 on Deposited Plan 419175 (part of Future NP Area #1);
 - (d) the grant of a Fossil Downs Homestead Access Right over any part of Area #16, Area #17 and Area #18; and
 - (e) the grant of a Fossil Downs Pipeline Access Right over any part of Lot 350 on Deposited Plan 419175 (part of Future NP Area #1) and Water Area #4,
- and replacement of any of the above Access Rights from time to time with another form of access right, if required.

7.5 Land Transfer Acts

(a) Subject to subclause (b), the Parties consent to:

- (i) the Fossil Downs Transfer Land being leased to the lessee of the Fossil Downs Pastoral Lease; and
 - (ii) the GoGo Transfer Land Area #3 being leased to the lessee of the GoGo Pastoral Lease,
- by being amalgamated under section 87 of the Land Administration Act with that lease or otherwise dealt with to

achieve that outcome.

(b) The Parties agree that the consent given in subclause (a):

(i) is limited in each case to the situation where the lessee referred to in that subclause has agreed in writing with a State Party to the surrender (however that may be achieved) of an area dealt with in this Agreement from their pastoral lease for adding to the Warlibirri Parks (*lessee future park area*) in exchange for the transfer to it of the land described in subclause (a); and

(ii) is not for a Land Transfer Act to be done for any purpose other than the purpose specified in subclause (b)(i).

7.6 Agreement to Future Acts includes exercise of rights

The Parties acknowledges [*sic*] that the consent to the National Park and Conservation Park Acts, the Access Rights Acts, and the Land Transfer Act includes consent to the doing of all acts involved in effecting the National Park and Conservation Park Acts, the Access Right Acts and the Land Transfer Acts and:

(a) in respect of the National Park and Conservation Park Acts, includes consent to:

(i) classification of it as class A, if required;

(ii) the exercise of any right or the discharge of any obligation, now and in the future, under:

(A) the Conservation and Land Management Legislation and the Biodiversity Conservation Act and any regulations made under those Acts; and

(B) any Tenure; and

(iii) the exercise, now and in the future, of the various powers and functions under the Conservation and Land Management Legislation and the Biodiversity Conservation Act and any regulations made under those Acts, including the preparation and approval of any management plans; and

(iv) the exercise of any right or the discharge of any obligation, now and in the future, that arises under other applicable legislation as a consequence of the land comprising a national park or conservation park; and

(b) in respect of the Access Right Acts, includes consent to:

(i) the exercise of any right or the discharge of any obligation, now and in the future (including works that may be required to keep and maintain the area the subject of each:

(A) Warlibirri Parks Easement;

(B) Reserve Access Right;

(C) Fossil Downs Access Right;

(D) Fossil Downs Homestead Access Right; and

(E) Fossil Downs Pipeline Access Right,

in a condition suitable for its intended use) and, as provided for in the respective Access Right;

(ii) the exercise, now and in the future, of the various powers and functions under the Land Administration Act and any regulations made under that Act and the Conservation Land Management Legislation pursuant to which the relevant Access Right has been granted in respect of any of the:

(A) Warlibirri Parks Easement;

(B) Reserve Access Right;

(C) Fossil Downs Access Right;

(D) Fossil Downs Homestead Access Right; and

(E) Fossil Downs Pipeline Access Right,

and the exercise of any right or the discharge of any obligation, now and in the future, that arises under other legislation applicable to the above interests or rights.

(c) in respect of the Land Transfer Acts, includes consent to:

(i) the exercise of, from time to time, by a party of all rights, powers and obligations to give effect to the acts comprising grant of a lease over the Fossil Downs Transfer Land or the amalgamation of that area with the Fossil Downs Pastoral Lease;

(ii) the exercise by the lessee from time to time of all rights and powers under the lease;

(iii) the performance from time to time of the obligations imposed by the lease;

(iv) the exercise from time to time of all rights, powers, functions and obligations that the State or the Minister for Lands may have under the Land Administration Act and any regulations made under that Act and any other written law:

(A) relating to the exercise of any rights in respect of the lease; or

(B) arising from their interest in the leased premises; and

(v) the doing of any and all things ancillary to the acts referred to in subclause (c)(i) to (iv) inclusive.

7.7 Requirements of section 24EB(1)(b) of the Native Title Act

The Parties agree that each statement of consent in clauses 7.2, 7.3, 7.4, 7.5 and 7.6 is intended to satisfy the requirement of section 24EB(1)(b) of the Native Title Act.

8.1 Non-extinguishment principle

(a) The non-extinguishment principle applies to the Future Acts.

(b) The doing of the Future Acts and the rights and interests created by those acts and any activity that is required or permitted by those acts shall, to the extent of any inconsistency, prevail over the exercise of any native title rights or interests but do not extinguish them.

8.3 No Native Title Act procedures required

(a) In respect of the ILUA Agreement Area if any of the Future Acts are acts to which the Right to Negotiate or any other future act procedure under Division 3 of Part 2 of the Native Title Act (other than Subdivision B) would, apart

from this Agreement apply, the Right to Negotiate and those other future act procedures do not apply to the Future Acts and those acts are valid pursuant to this Agreement.

(b) The Parties intend that the statement in subclause (a) satisfies the requirements of section 24EB(1)(c) of the Native Title Act.

Access Easement means an access/carriageway easement. For the avoidance of doubt, it is intended that the access right permit access by motorised vehicles or other means of motorised transport, with or without machinery, plant and equipment and the right to perform works and other acts from time to time relevant to the establishment of the access and its repair, maintenance and upkeep.

Access Right means Fossil Downs Access Right, Fossil Downs Homestead Access Right, Fossil Downs Pipeline Access Right, Reserve Access Right and Warlibirri Parks Easement or any of them, as the context requires.

Access Rights Acts means the future acts described in clause 7.4 and clause 7.6(b).

Biodiversity Conservation Act means the *Biodiversity Conservation Act 2016* (WA).

Conservation and Land Management Act means the *Conservation and Land Management Act 1984* (WA).

Conservation and Land Management Legislation means the Conservation and Land Management Act and the *Conservation and Land Management Regulations 2002* (WA).

Conservation Parties means the CEO and the Commission.

Department means the Department assisting the Minister for Environment in the administration of the Conservation and Land Management Act from time to time being, at the Execution Date, the Department of Biodiversity, Conservation and Attractions.

Fossil Downs Access Rights includes:

- (a) an easement or licence under the Land Administration Act; and
- (b) if the area to which it relates is within a Warlibirri Park, a licence or other access right under the Conservation Legislation, that allows *authorised stock* (as defined in the Land Administration Act) to be moved on foot across an area covered by the access right.

Fossil Downs Homestead Access Right includes:

- (a) an access/carriageway easement under the Land Administration Act; or
- (b) if the area to which it relates is within a Warlibirri Park, a licence or other access right under the Conservation Legislation, that allows access, including by motorised vehicles (including, with or without plant, equipment and machinery), across the area dealt with by access right to the homestead that is, as at the Execution Date, located on the Fossil Downs Pastoral Lease.

Fossil Downs Pastoral Lease means registered lease N050221 comprising Lot 63 on Deposited Plan 238592 and being the whole of the land in Certificate of Crown Land Title Volume 3010 Folio 899.

Fossil Downs Pipeline Access Right includes:

- (a) an easement under the Land Administration Act; or
- (b) if the area to which it relates is within a Warlibirri Park, a licence or other right under the Conservation Legislation, that allows the Pipeline to be within the area dealt with by the access right (*access area*), to pass and repass over the access area with motorised vehicles (including, with or without plant, equipment and machinery) to maintain, repair and replace the Pipeline.

Future Acts means the National Park and Conservation Park Acts, the Access Rights Acts and the Land Transfer Acts.

GoGo Pastoral Lease means registered lease N049678 comprising Lot 68 on Deposited Plan 238022 and being the whole of the land in Certificate of Crown Land Title Volume 3051 Folio 959.

Joint Management Body means the body established pursuant to an agreement under section 56A of the Conservation and Land Management Act giving effect to a requirement in any of the management plans prepared under section 54 of the Conservation and Land Management Act.

Joint Vesting means a joint vesting of land as provided for in section 8AA(2) of the Conservation and Land Management Act.

Land Administration Act means the *Land Administration Act 1997* (WA).

Land Transfer Acts means the future acts described in clause 7.5 and clause 7.6(c).

Management Body means:

- (a) for the purpose of clause 15.1, and the first Management Order to be granted for the Reserve after the reserve is created, GAC (**First Management Order**); and
- (b) after the First Management Order is revoked or terminates (however that occurs), any person to whom a subsequent Management Order for the Reserve is granted from time to time.

Minister for Environment means the Minister to whom administration of the Conservation and Land Management Act is committed.

National Park and Conservation Park Acts means the future acts described in clause 7.2, 7.3 and clause 7.6(a).

Reserve means a reserve created by order of the Minister for Lands under section 41 of the Land Administration Act over the Reserve Area for the Reserve Purpose.

Reserve Access Right means an Access Easement that may be granted over the Reserve Access Area to give access to the Reserve.

Reserve Area means the land or any part of it (including as identified as the 'final Reserve Area' referred to in clause 15.2(c)) described in Item 1 of Schedule 3.

Reserve Purpose means "For the purposes of the Gooniyandi People's social, cultural and/or economic benefit" or such other reserve purpose as the Minister for Lands may determine.

Right to Negotiate means the right to negotiate procedure under and for the purposes of Subdivision P of Division 3 of Part 2 of the Native Title Act.

State Parties means the State, the Minister for Lands, the Commission and the CEO.

Tenure means, in respect of the ILUA Agreement Area, any lease, licence permit or other authority which is granted, issued or created under the Conservation and Land Management Legislation or the Biodiversity Conservation Act and any regulations made under those Acts following the creation of, or in respect of, any part of the ILUA Agreement Area forming part of the Warlibirri National Park or the Warlibirri Conservation Park.

Warlibirri Conservation Park means each conservation park created on registration of:

- (a) an order reserving a Future Park Area, under section 41 of the Land Administration Act for the purpose of "conservation park"; or
- (b) an order under section 45(2) of the Land Administration Act whereby a Future Park Area is added to a conservation park reserve that has been created as provided in paragraph (a); and includes, as the context requires, all of those conservation parks collectively that have been created, or had Crown land added to it, from time to time.

Warlibirri National Park means each national park created on registration of:

- (a) an order reserving a Stage One National Park Area, any Future National Park Area or any Future Park Area, under section 41 of the Land Administration Act for the purpose of "national park"; or
- (b) an order under section 45(2) of the Land Administration Act whereby a Future National Park Area or a Future Park Area is added to a national park reserve that has been created as provided in paragraph (a); and includes, as the context requires, all of those national parks collectively that have been created, or had Crown land added to it, from time to time.

Warlibirri Parks means the Warlibirri National Park and the Warlibirri Conservation Park.

Warlibirri Parks Easement means an Access Easement that may be granted over Area #16, Area #19, Area #20, Area #21 and Area #22 or any of those areas to give access to reserves that form part of the Warlibirri Parks.

Attachments to the entry

[WI2021_004 Schedule 1 Map of ILUA Agreement Area.pdf](#)

[WI2021_004 Schedule 2 Land Descriptions.pdf](#)

[WI2021_004 Schedule 3 Reserve Area and Reserve Access Area.pdf](#)

[WI2021_004 Schedule 4 Easement Areas.pdf](#)

[WI2021_004 Schedule 5 Transfer Land.pdf](#)

[WI2021_004 Schedule 6 Agreement Area Overview Map, Map Enlargements and Deposited Plans.pdf](#)