



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2023/003
Short name	Yinggarda Conservation Estate ILUA
ILUA type	Body Corporate
Date registered	08/05/2023
State/territory	Western Australia
Local government region	Shire of Carnarvon, Shire of Upper Gascoyne

Description of the area covered by the agreement

3.1 ILUA Agreement Area

This Agreement applies to the ILUA Agreement Area for the purposes of section 24BC of the Native Title Act.

Conservation Park Area means the land and waters described in Part 2 of Schedule 2.

Determination means the determination by the Federal Court of Australia in *Peck on behalf of the Gnulli Native Title Claim Group v State of Western Australia* [2019] FCA 2090 that native title exists over specified land and waters.

Determination Area means those parts of the land and waters of the Determination Area described in Schedule One of Attachment A to the Determination where native title has been determined to exist, as identified in paragraph 1 of Attachment A and defined in clause 15 of Attachment A as the "Exclusive Area" and the "Non-Exclusive Area".

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

FP Area #1 means the land, or any part of it, described in Item 1, Part 4 of Schedule 2.

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

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

Future Park Areas means FP Area #1, FP Area #2 and FP Area #3.

ILUA Agreement Area means the area comprising the:

- (a) Kennedy Range National Park Reserve;
- (b) National Park Areas;
- (c) Pimbee National Park Areas;
- (d) Conservation Park Area; and
- (e) Future Park Areas,

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

Kennedy Range National Park Reserve means the land and waters comprising Reserve 42474, a class A reserve for the reserve purpose of "national park", as at the Execution Date; and, more particularly being the land and waters comprising Lot 462 on Deposited Plan 240384, the whole of the land comprised in qualified certificate of Crown land title volume 3100 Folio 782 and shown, for identification purposes, on the Overview Map and Map Enlargement 1 in Schedule 3.

National Park Areas means the land and waters described in Part 1 of Schedule 2.

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

Pimbee National Park Areas means the land and waters described in Part 3 of Schedule 2.

Yinggarda Determination Area means that part of the Determination Area that is within the "Yinggarda Area" as defined in clause 15 of the Determination.

[A copy of Schedules 1, 2 and 3 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 a combined area of about 4,115 sq km, located in the vicinity of Gascoyne Junction and approximately 90 km east of Carnarvon.]

Parties to agreement

Applicant

Party name The State of Western Australia through the Minister for Environment
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 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

Party name Yinggarda Aboriginal Corporation RNTBC (ICN 9184) (YAC)
Contact address c/- Yamatji Marlpa Aboriginal Corporation
Level 8, 12-14 The Esplanade
Perth WA 6000

Period in which the agreement will operate

Start date not specified

End Date not specified

4.7 Agreement ceases if not registered

If this Agreement has not been registered as an ILUA in accordance with clause 4.3(a) or clause 4.3(b) within twelve (12) months of the Execution Date, it shall cease and be of no further force or effect unless the CEO and YAC have prior to the expiry of that twelve (12) month period agreed otherwise.

5.1 Force and Effect of this Agreement

(a) This Agreement, other than those provisions referred to in clause 5.1(b), only has force and effect from the Commencement Date.

(b) Clauses 1, 2, 3, 4, 5, 6, 18, 20, 21, 22, 23, 24, 25, 26, 27 and 28 have force and effect from the Execution Date.

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;

(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 19.5(b).

19.5 Replacement or Variation

If the Parties replace this Agreement or amend or vary this Agreement in a way that the Parties agree requires registration (**Replacement Agreement**), the Parties must;

(a) comply with clause 4 of this Agreement in relation to the Replacement Agreement;

(b) terminate this Agreement after registration of the Replacement Agreement; and

(c) advise the Native Title Registrar in writing in accordance with section 199C(1)(c)(ii) of the Native Title Act.

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.

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

7.1 Conservation Estate Acts

Each Party acknowledges that the Conservation Estate Acts are future acts to which Part 2, Division 3 of the Native Title Act may apply.

7.2 Kennedy Range National Park - National Park Areas

The Parties consent to the National Park Areas being added to the Kennedy Range National Park Reserve pursuant to section 45(2)(a) of the Land Administration Act.

7.3 Pimbee National Park - Pimbee National Park Areas

The Parties consent to:

(a) the Pimbee National Park Areas being reserved for the reserve purpose of "national park" and classified as class A reserves by orders of the Minister for Lands under sections 41 and 42 of the Land Administration Act; or

(b) the Reservation of one or more of the Pimbee National Park Areas for the reserve purpose of "national park" and for them to be classified as class A reserves by orders of the Minister for Lands under sections 41 and 42 of the Land Administration Act (**existing national park reserves**) and the addition of the remaining Pimbee National Park Areas to an existing national park reserve (a class A reserve) by order of the Minister for Lands under section 45(2)

(a) of the Land Administration Act.

7.4 Yinggarda Conservation Park - Conservation Park Area

The Parties consent to:

(a) the Conservation Park Area being reserved for the reserve purpose of "conservation park" by order of the Minister for Lands under sections 41 of the Land Administration Act; and

(b) all acts (including the making of any Act, order or other instrument) required to effect a change of the reserve purpose of the Yinggarda Conservation Park to "national park" and classified as a class A reserve.

7.5 Future Park Areas

The Parties consent to:

(a) the Reservation of each of the Future Park Areas for the reserve purpose of "national park" and classified as a class A reserve by:

(i) orders of the Minister for Lands under sections 41 and 42 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 Park Area

is added to the Kennedy Range National Park; or

(b) in respect of Future Park Areas, FP Area #2 and FP Area #3, Reservation for the reserve purpose of "conservation park" by:

(i) order of the Minister for Lands under [section 41 of] the Land Administration Act; or

(ii) order of the Minister for Lands under section 45(2) of the Land Administration Act by which the area is added to the Yinggarda Conservation Park.

7.6 Joint Vesting

The Parties consent to:

(a) the Joint Vesting in the Commission and YAC of the national parks and conservation park that comprise the Conservation Estate (*Note: Chinamans Pool Nature Reserve and One Tree Point Nature Reserve are not mentioned in this clause because they are not part of the ILUA Agreement Area but the intention for the Joint Vesting of those reserves is covered in clause 11.1*); and

(b) the grant, issue or creation, from time to time, of any Tenure over the Conservation Estate within the ILUA Agreement Area.

7.7 Agreement to Conservation Estate Acts includes exercise of rights

The Parties acknowledge that the consent to the Conservation Estate Acts includes consent to the doing of all acts involved in effecting the Conservation Estate Acts and includes consent to:

(a) classification of the national park reserves as class A by order under section 42 of the Land Administration Act, if required;

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

(i) Conservation and Land Management Legislation and the Biodiversity Conservation Act and any regulations made under that Act; and

(ii) any Tenure; and

(c) 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 that Act, including the preparation and approval of any management plans; and

(d) the exercise of any power, duty or right or the discharge of any obligation, now and in the future, that arises under the Land Administration Act or other applicable legislation as a consequence of the land comprising a national park or conservation park.

7.8 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, 7.6 and 7.7 is intended to satisfy the requirement of section 24EB(1)(b) of the Native Title Act.

8.4 No Native Title Act procedures required

(a) In respect of the ILUA Agreement Area if any of the Conservation Estate 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 Conservation Estate Acts and those acts are valid pursuant to this Agreement.

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

Chinamans Pool Nature Reserve means the land and waters comprising Reserve 31444, a class A reserve for the reserve purpose of "conservation and protection of flora and fauna", as at the Execution Date; and, more particularly being the land and waters comprising Lot 1176 on Deposited Plan 91927, the whole of the land comprised in qualified certificate of Crown land title volume 3023 Folio 790 and shown, for identification purposes, on Map Enlargement 3 in Schedule 3.

Conservation Estate means the:

(a) Kennedy Range National Park;

(b) Chinamans Pool Nature Reserve;

(c) One Tree Point Nature Reserve;

(d) Pimbee National Park, when created; and

(e) Yinggarda Conservation Park, when created.

Conservation Estate Acts means the future acts described in clauses 7.2, 7.3, 7.4, 7.5, 7.6 and 7.7.

Conservation and Land Management Act or **CALM 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).

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

Kennedy Range National Park means the Kennedy Range National Park Reserve and includes any addition to the Kennedy Range National Park Reserve of a National Park Area or a Future Park Area that may be made from time to time.

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

One Tree Point Nature Reserve means the land and waters comprising Reserve 28220, a class A reserve for the reserve purpose of "conservation and protection of flora and fauna", as at the Execution Date; and, more particularly being the land and waters comprising Lot 196 on Deposited Plan 161670, the whole of the land comprised in qualified certificate of Crown land title volume 3144 Folio 999 and shown, for identification purposes, on Map Enlargement 3 in Schedule 3.

Pimbee National Park means each reserve that is created from time to time for the reserve purpose of "national park" over any of the Pimbee National Park Areas and includes any addition to any of those reserves of a Pimbee National Park Area that may be made from time to time and, as the context requires, all of those reserves collectively.

Reservation means:

(a) the creation of a reserve for a particular purpose or purposes in the public interests by order of the Minister for Lands under section 41 of the Land Administration Act; or

(b) where a reserve for the requisite reserve purpose exists, adding specified Crown land to that reserve by order of the Minister for Lands under a relevant provision in Part 4 of the Land Administration Act, such as, if applicable, section 45(2).

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.

Tenure means any lease, licence, permit or other authority which is granted, issued, created or renewed under the Conservation and Land Management Legislation or the Biodiversity Conservation Act and any regulations made under that Act.

Yinggarda Conservation Park means the reserve that is created for the reserve purpose of "conservation park" over the Conservation Park Area and includes any addition to it of the FP Area #2 or the FP Area #3 that may be made from time to time.

Attachments to the entry

[WI2023_003 Schedule 1 - Map of ILUA Agreement Area.pdf](#)

[WI2023_003 Schedule 2 - Land Descriptions.pdf](#)

[WI2023_003 Schedule 3 - Overview Map and Map Enlargements.pdf](#)