



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2020/011
Short name	Ningaloo Conservation Estate ILUA
ILUA type	Body Corporate
Date registered	01/10/2020
State/territory	Western Australia
Local government region	Shire of Carnarvon, Shire of Exmouth

Description of the area covered by the agreement

ILUA Area means the land described in Items 1 to 11 in Schedule 2 and comprising the following areas:

- (a) the Ningaloo Coastal Reserve Land;
- (b) the Ningaloo Marine Park Southern Intertidal Area Land;
- (c) the Cape Range National Park Southern Extension Land;
- (d) the Exmouth Gulf Optional Area;
- (e) the Ningaloo Optional Area;
- (f) the Ningaloo Coastal Strip;
- (g) the Pastoral Access Easements Land;
- (h) the Public Access Easements Land;
- (i) the Red Bluff Camping Lease Land;
- (j) the Red Bluff Access Area Land; and
- (k) the Three Mile Camping Lease Land.

[Maps of the ILUA Area are contained in Schedules 1 and 3 of the agreement. A Land Description is contained in Schedule 2 of the agreement. Copies of Schedules 1, 2 and 3 are 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 as part of the Register of ILUAs:

The agreement area covers approx. 813 sq km located in the vicinity of Coral Bay.]

Parties to agreement

Applicant

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

Other Parties

Party name	Chief Executive Officer of the Department of Biodiversity, Conservation and Attractions
Contact address	c/- State Solicitor's Office David Malcolm Justice Centre 28 Barrack Street Perth WA 6000

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

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

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

Party name Nganhurra Thanardi Garrbu Aboriginal Corporation RNTBC
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

5.1 Force and Effect of this Agreement

This Agreement commences on the Execution Date, except for clauses 7, 9, 10, 11 and 13 which will commence on the Commencement Date, and binds each of the Parties, their successors and permitted assigns.

5.2 Term

Subject to clause 5.3, this Agreement continues indefinitely.

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

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

7.2 Parties' consent to Future Acts

(a) Each of the Parties consents to the following land transactions, with the intent that such statement of consent satisfies the requirement of section 24EB(1)(b) of the Native Title Act in respect of each of them:

- (i) the Ningaloo Coastal Reserve Land Transaction;
- (ii) the Ningaloo Marine Park Southern Intertidal Area Land Transaction;
- (iii) the Cape Range National Park Southern Extension Land Transaction;
- (iv) the Exmouth Gulf Optional Area Land Transaction;
- (v) the Cape Range Ningaloo Optional Area Land Transaction;
- (vi) the Pastoral Access Easements Land Transaction;
- (vii) the Public Access Easements Land Transaction;
- (viii) the Red Bluff Access Area Land Transaction; and
- (ix) a change in the vesting or in the placing of the care, management and control of the land the subject of the Conservation Estate as may be required to give effect to the commitments in clause 13, (together, the **Land Transactions**).

(b) For the avoidance of doubt, each of the consents in paragraph (a) of this clause includes:

- (i) consent to the doing of every act comprised in each of the Land Transactions and any and all things ancillary to the doing of the Land Transactions with the intent that such statement of consent satisfies the requirement of section 24EB(1)(b) of the Native Title Act in respect of each of those things; and
- (ii) the validation of any act comprised in the prior exclusion pursuant to section 143(6d) of the LA Act of any relevant land formerly the subject of a pastoral lease, with the intent that such statement of agreement to validity satisfies the requirements of section 24EBA(1)(a)(i) of the NT Act.

7.4 Agreement to future acts includes exercise of rights

If any of the acts in clause 7.2 is a future act, the Parties irrevocably consent to, in respect of any land that is wholly or partly within the ILUA Area:

- (a) the granting, issue or creation of any Tenure and the exercise of a power to lease or licence under a management order;
- (b) the exercise of any right or the discharge of any obligation, now and in the future, under:
 - (i) the CALM Act and the Biodiversity Conservation Act and any regulations made under those Acts; and
 - (ii) any Tenure;
- (c) the exercise, now and in the future, of the various powers and functions under the CALM Act and the Biodiversity Conservation Act and any regulations made under those Acts, including the preparation and approval of any management plans; and
- (d) 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 Transactions, with the intent that such statement of consent satisfies the requirement of section 24EB(1)(b) of the Native Title Act.

7.6 No Right to Negotiate

- (a) The right to negotiate procedure does not apply to any of the acts referred to in clause 7.2, with the intent that such statement satisfies the requirement of section 24EB(1)(c) of the Native Title Act.

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

Cape Range National Park Southern Extension Land Transaction means the addition, pursuant to Part 4 of the LA Act of the whole of the Cape Range National Park Southern Extension Land to the Cape Range National Park, and its designation as "Class A", and for the avoidance of doubt includes the exclusion pursuant to section 143(6d) of the LA Act of the Cape Range National Park Southern Extension Land from the relevant pastoral lease.

Cape Range Ningaloo Optional Area Land Transaction means the addition, pursuant to Part 4 of the LA Act, of the following areas of land to the Cape Range National Park:

- (a) the Ningaloo Optional Area; and
- (b) the Ningaloo Coastal Strip.

Conservation Estate means:

- (a) the Cape Range National Park;
- (b) the Ningaloo Marine Park;
- (c) the Ningaloo Coastal Reserve; and
- (d) any Exmouth Gulf Optional Tenure created under this Agreement.

Exmouth Gulf Optional Area Land Transaction means in respect of the whole or any part of the Exmouth Gulf Optional Area, as may be determined by the State at its discretion:

- (a) the inclusion of the whole of that land or any portion of it into the Cape Range National Park pursuant to Part 4 of the LA Act; and
- (b) in addition to or alternatively, the creation in respect of the whole of that land or any portion of it, of the following new Tenure:
 - (i) a reserve under section 41 of the LA Act for a conservation purpose, including the placing of the care, control and management of that reserved land jointly with the Commission and the PBC pursuant to section 46 of the LA Act with the power to lease or licence for periods of up to 21 years, and the application of section 5(1)(h) of the CALM Act to that reserved land; and
 - (ii) a reserve under section 41 of the LA Act for the purposes of "Conservation Park", including the vesting of that land in the Commission jointly with the PBC under section 8AA(5) of the CALM Act.

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

Ningaloo Coastal Reserve Land Transaction means:

- (a) the reservation under section 41 of the LA Act over the whole or part of the Ningaloo Coastal Reserve Land of a reserve for the purposes of "Conservation and Recreation";
- (b) the placing of the care, control and management of the Ningaloo Coastal Reserve Land jointly with the Commission and the PBC pursuant to section 46 of the LA Act, including the power to lease or licence for periods of up to 21 years;
- (c) the application of section 5(1)(h) of the CALM Act to the Ningaloo Coastal Reserve Land; and
- (d) any subsequent amendment under section 51 of the LA Act of the boundaries of the reserve created over the Ningaloo Coastal Reserve Land as may be required to:
 - (i) include all or part of the Red Bluff Camping Lease Land;
 - (ii) include all or part of the Three Mile Camping Lease Land;
 - (iii) reflect the outcome of the potential future expansion of the Coral Bay town site town site as contemplated in Recital R;
 - (iv) reflect a decision of the State in relation to the designation of the Ningaloo Coastal Strip and the Ningaloo Optional Area as contemplated in in Recital S; and
 - (v) reflect the outcome of litigation in respect of the Ningaloo Litigation Area.

Ningaloo Marine Park Southern Intertidal Area Land Transaction means the addition of the Ningaloo Marine Park Southern Intertidal Area to the Ningaloo Marine Park pursuant to section 13(1) of the CALM Act.

Pastoral Access Easements Land Transaction means the grant of an access/carriageway easement by the

Minister for Lands under the LA Act to enable access over the Ningaloo Coastal Reserve Land for the benefit of the pastoral lessee from time to time of the Gnaraloo Pastoral Lease and Warroora Pastoral Lease as dominant tenements respectively.

Public Access Easements Land Transaction means the grant of an access/carriageway, public access route, public access easement or road by the Minister for Lands under the LA Act to enable access to and from the Ningaloo Coastal Reserve Land through the relevant pastoral leases over the Public Access Easements Land.

Red Bluff Access Area Land Transaction means the incorporation of the Red Bluff Access Area Land into the Quobba Pastoral Lease, with the intent that the lessee of the Red Bluff Access Area Land will be responsible for the management of that land until it forms part of the Ningaloo Coastal Reserve as contemplated in this Agreement.

Tenure means any lease, licence, permit or other authority that is granted, issued or created under the CALM Act, the LA Act or the Biodiversity Conservation Act and any regulations made under those Acts, following the Land Transactions.

Attachments to the entry

[WI2020_011_Schedule_1_ILUA_Area_and_Agreement_Area.pdf](#)

[WI2020_011_Schedule_2_Land_Description.pdf](#)

[WI2020_011_Schedule_3_Maps_of_Land_Transaction_Areas.pdf](#)

[WI2020_011_Deposited_Plans_and_Annotated_Maps.pdf](#)