

## Extract from the National Native Title Register

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### Determination Information:

**Determination Reference:** Federal Court Number(s): WAD77/2005; WAD6003/2000; WAD6185/1998  
NNTT Number: WCD2007/003

**Determination Name:** Brown (on behalf of the Ngarla People) v State of Western Australia

**Date(s) of Effect:** 30/05/2007

**Determination Outcome:** Native title exists in parts of the determination area

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### Register Extract (pursuant to s. 193 of the *Native Title Act 1993*)

**Determination Date:** 30/05/2007

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

On 30 May 2007, the Federal Court made a determination in relation to 'Determination Area A' (Brown on behalf of the Ngarla People v WA [2007] FCA 1025) which includes part of the two Ngarla applications (WAD 6185/1998 and WAD 77/2005) and an area of overlap with the Njamal #10 application (WAD 6003/2000). 'Determination Area B', which includes areas subject to mineral leases (Mount Goldsworthy Lease) and those application areas which overlap the Warrarn application (WAD 82/1998), was not included in that determination. On 6 August 2010, the Federal Court made a determination in relation those parts of 'Determination Area B' which were subject to the mineral leases: Brown (on behalf of the Ngarla People) v State of Western Australia (No. 3) [2010] FCA 859 (Mount Goldsworthy Lease Proceeding). The remainder of 'Determination Area B', being those areas overlapped by WAD 6185/98 Ngarla; WAD 77/2005 Ngarla #2; part WAD 6003/2000 Njamal #10 (as it was on 6 August 2010) and part WAD 82/1998 Warrarn, is yet to be determined. Note that Njamal #10 was subsequently amended on 20 August 2010 and does not now cover the relevant area.

### REGISTERED NATIVE TITLE BODY CORPORATE:

Wanparta Aboriginal Corporation RNTBC  
Trustee Body Corporate  
C/- Maclean Legal  
Suite 156, Level 2, Equus Building, 580 Hay Street  
PERTH Western Australia 6000

### COMMON LAW HOLDER(S) OF NATIVE TITLE:

"Ngarla" means those people who refer to themselves as Ngarla, being persons who:

1. Are the cognatic descendants of persons recognised under traditional laws and customs to be members of the Ngarla language group (including persons who have been adopted into the group according to those laws and customs), in particular the descendants of the following individuals:

(a) Paparumarra (Alec);

- (b) Miriny-Mirinyarra (Horse-boy Jimmy);
- (c) Yintilypirna (Shaw River Smiler);
- (d) Jampa (the father of Warrjirungu);
- (e) Wangkunuru (Cissie);
- (f) Makanykarra (Willy);
- (g) Jurrayngki (Frank);
- (h) Kurlijirri (De Grey Smiler); and
- (i) Yilpiwarna (Arthur Kitil); and

2. Persons who have been incorporated into the Ngarla group under traditional laws and customs, in particular:

- (a) Wiparu (Stephen Stewart) and his children, Stephen Stewart Jnr and Margaret Stewart.

#### **MATTERS DETERMINED:**

BY CONSENT OF THE PARTIES THE COURT ORDERS THAT:

1. In relation to Determination Area A, there be a determination of native title in WAD 6185 of 1998, WAD 0077 of 2005 and part WAD 6003 of 2000 in terms of the Minute of Consent Determination of Native Title attached.
2. The Wanparta Aboriginal Corporation shall hold the determined native title in trust for the native title holders pursuant to section 56(2) of the Native Title Act 1993 (Cth).
3. In relation to Determination Area B, no determination be made and the matters be listed for directions on a date to be fixed to consider the future conduct of the proceedings.
5. The land and waters designated as "Unclaimed Areas" and described in the Third Schedule to the Ngarla and Ngarla 2 (Determination Area A) Minute of Consent Determination of Native Title, being land and waters the subject of valid acts which have wholly extinguished native title, are excluded from the First Applicants' Amended Application for Native Title in WAD 6185 of 1998 and the First Applicants' Application for Determination of Native Title in WAD 0077 of 2007.

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

1. Determination Area A is the land and waters within the Application Area as described in the First Schedule, other than:
  - (a) Determination Area B as described in the Second Schedule; and
  - (b) the Unclaimed Areas as described in the Third Schedule.
2. Native title exists in relation to that part of Determination Area A which is landward of the lowest astronomical tide of the mainland coast in the manner set out in paragraph 5 of this determination.
3. Native title does not exist in relation to that part of Determination Area A which comprises land and waters seaward of the lowest astronomical tide of the mainland coast, as shown on the maps at Attachment 1 to the First Schedule.
4. The native title rights and interests are held in trust by the Wanparta Aboriginal Corporation, a prescribed body corporate for the purposes of section 56 of the Native Title Act 1993 (Cth), for the Ngarla people as common law holders of native title. The Ngarla people are described in the Fifth Schedule.
5. Subject to paragraphs 6, 7, 8 and 9:
  - (1) the nature and extent of the native title rights and interests held by the common law holders are non-exclusive rights to:
    - (a) access, and to camp on, the land and waters;
    - (b) take flora, fauna, fish, water and other traditional resources (excluding minerals) from the land and waters;
    - (c) engage in ritual and ceremony; and

(d) care for, maintain and protect from physical harm, particular sites and areas of significance to the common law holders.

(2) The native title rights and interests set out in sub-paragraph (1) are exercisable in accordance with the traditional laws and customs of the common law holders for personal, domestic and non-commercial communal purposes (including social, cultural, religious, spiritual and ceremonial purposes).

(3) The native title rights and interests set out in sub-paragraph (1) do not confer:

(a) possession, occupation, use and enjoyment on the common law holders to the exclusion of all others; nor

(b) a right to control the access of others to the land and waters of Determination Area A.

6. Notwithstanding anything in this determination the native title rights and interests include the right to take and use ochre to the extent that ochre is not a mineral pursuant to the Mining Act 1904 (WA), but not other minerals and petroleum as defined in the Mining Act 1904 (WA), Mining Act 1978 (WA), the Petroleum Act 1936 (WA) and the Petroleum Act 1967 (WA).

7. Sections 47A and 47B of the Native Title Act 1993 (Cth) apply to disregard any prior extinguishment in relation to the areas described in the Sixth Schedule.

8. The native title rights and interests are subject to and exercisable in accordance with the laws of the State and the Commonwealth including the common law.

9. The nature and extent of other rights and interests in relation to Determination Area A in existence at the date of this determination are those set out in the Fourth Schedule.

10. The relationship between the native title rights and interests described in sub-paragraph 5(1) and the other rights and interests referred to in paragraph 9 ("the other rights and interests") is that:

(a) to the extent that any of the other rights and interests is 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 rights and interests to the extent of the inconsistency during the currency of the other rights and interests; and otherwise,

(b) the existence and exercise of the native title rights and interests do not prevent the doing of any activity required or permitted to be done by or under the other rights and interests, and the other rights and interests, and the doing of any activity required or permitted to be done by or under the other rights and interests, prevail over the native title rights and interests and any exercise of the native title rights and interests, but do not extinguish them.

11. In this determination, unless the contrary intention appears:

"Application Area" means the land and waters described in the First Schedule and depicted on the maps at Attachment 1 to the First Schedule,

"Determination Area A" means the land and waters within the Application Area, other than the land and waters within Determination Area B and the Unclaimed Areas, and depicted on the maps at Attachment 1 to the First Schedule.

"Determination Area B" means the land and waters described in the Second Schedule and depicted on the maps at Attachment 1 to the First Schedule.

"flowing waters" means the following water within Determination Area A:

(a) water which flows, whether permanently, intermittently or occasionally, within any river, creek, stream or brook; and

(b) any natural collection of water into, through, or out of which a river, creek, stream or brook flows;

"land" has the same meaning as in the Native Title Act 1993 (Cth);

"Unclaimed Areas" means the land and waters described in the Third Schedule and depicted on the maps at Attachment 1 to the First Schedule;

"underground water" means water from and including an underground water source, including water that percolates from the ground.

"waters" has the same meaning as in the Native Title Act 1993 (Cth); and "waters" includes flowing and underground water;

12. In the event of any inconsistency between the written description of an area in this determination and the area as

depicted on the maps at Attachment 1 to the First Schedule, the written description prevails.

## FIRST SCHEDULE

### DESCRIPTION OF "APPLICATION AREA"

The Application Area, shown on Attachment 1 to this Schedule, comprises all of the land and waters bounded by the following description:

Commencing at Latitude 19.538238 South, Longitude 119.109466 East, being a point in the Indian Ocean, north of Bedout Island and extending generally easterly, southerly, generally south westerly, generally north westerly and generally northerly passing through the following co-ordinate positions.

LATITUDE (SOUTH)	LONGITUDE (EAST)
19.638431	119.564216
19.455295	120.040771
20.029775	120.053016
20.195848	119.859138
20.330621	119.671676
20.340141	119.642311
20.404909	119.442520
20.505449	119.332382
20.500799	119.188934
20.420333	118.972579
20.442693	118.964721
20.441333	118.887664
20.448278	118.871154
20.457666	118.848831
20.458250	118.823913
20.455583	118.782218
20.298471	118.738441
20.238721	118.750846
20.015390	118.797218
19.813247	118.806571

Thence north easterly back to the commencement point.

Note: Geographic Co-ordinates provided in Decimal Degrees

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared By: Land Claims Mapping Unit, Landgate on 16 February 2007

FIRST SCHEDULE - ATTACHMENT 1 (see Attachments 1 - 7)

### MAPS SHOWING

APPLICATION AREA, DETERMINATION AREA A, DETERMINATION AREA B, UNCLAIMED AREAS AND AREAS

TO WHICH SECTIONS 47A AND 47B OF THE NATIVE TITLE ACT 1993 (CTH) APPLY

SECOND SCHEDULE

"DETERMINATION AREA B"

Determination Area B, shown generally as shaded green on the maps at Attachment 1 to the First Schedule, comprises all of the land and waters bounded by the following description:

1. Land and waters the subject of Mineral Lease (Special Agreement) ML235SA and sections 1, 2, 7, 8 and 9 of Mineral Lease (Special Agreement) ML249SA; and

2. Land and waters within the Application Area also the subject of WAD 0082 of 1998, being:

All those lands and waters commencing at a point on a western boundary of pastoral lease 3114/1281 (Strelley) at Latitude 20.448278 South, Longitude 118.871155 East, and extending generally northerly, generally easterly and generally southerly along boundaries of that pastoral lease to a point on an eastern boundary at Latitude 20.499104 South, Longitude 119.184376 East. Thence generally westerly passing through the following co-ordinate positions:

LATITUDE (SOUTH)    LONGITUDE (EAST)

20.420334            118.972580

20.442694            118.964722

20.441334            118.887665

Thence south westerly back to the commencement point.

Exclusion - Excludes any land and waters covered by Reserve 38564 that fall within the external boundary.

Note:      Geographic Co-ordinates provided in Decimal Degrees

Datum:      Geocentric Datum of Australia 1994 (GDA94)

Prepared By:    Land Claims Mapping Unit, Landgate on 16 February 2007

THIRD SCHEDULE

"UNCLAIMED AREAS"

The following areas, being land and waters where previous exclusive possession acts have occurred and native title has been completely extinguished, have been excluded from the First Applicants' Amended Application for Native Title in WAD 6185 of 1998 and the First Applicants' Application for Determination of Native Title in WAD 0077 of 2007 and are excluded from Determination Area A in accordance with section 61A of the Native Title Act 1993 (Cth) (and section 23C of the Native Title Act 1993 (Cth), and sections 12I and 12J of the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA)).

With the exception of those public works which are captured by the definition at paragraph 6 of this Schedule, all of the following areas are shown generally as shaded orange on the maps at Attachment 1 to the First Schedule:

1. Freehold

- (a) North Location 1 (CT 537/27, subsequently CT 2119/210);
- (b) North Locations 21 and 22 (CT 537/28, subsequently CT 2119/213);
- (c) De Grey Location 2 (CT 1245/276);
- (d) Forrest Location 98 (CT 1383/305, subsequently CT 1834/710);
- (e) Pardu Location 18 (CT 1815/752, subsequently CT 1839/820);
- (f) Shellborough Lot 27 (CT 1208/753);
- (g) Shellborough Lot 28 (CT 1208/810, subsequently CT 2119/212);
- (h) Shellborough Lot 29 (CT 1208/795, subsequently CT 2119/211);
- (i) Shellborough Lot 107 (CT 1009/199, subsequently CT 1011/475);

- (j) Shellborough Town Lot 1 (CT 52/27);
- (k) Shellborough Town Lot 2 (CT 52/28);
- (l) Shellborough Town Lot 3 (CT 244/148);
- (m) Shellborough Town Lot 4 (CT 43/277);
- (n) Shellborough Town Lot 5 (CT 43/278);
- (o) Shellborough Town Lot 6 (CT 39/14);
- (p) Shellborough Town Lot 9 (CT 31/140);
- (q) Shellborough Town Lot 10 (CT 31/270);
- (r) Shellborough Town Lot 12 (CT 28/172);
- (s) Shellborough Town Lot 13 (GT 1/50);
- (t) Shellborough Town Lot 15 (CT 43/344);
- (u) Shellborough Town Lot 16 (CT 43/345);
- (v) Shellborough Town Lot 25 (CT 43/279);
- (w) Shellborough Town Lot 26 (CT 43/280);
- (x) Shellborough Town Lot 63 (CT 118/129);
- (y) Shellborough Town Lot 64 (CT 81/180);
- (z) Shellborough Town Lot 65 (CT 182/106);
- (aa) Shellborough Town Lot 66 (CT 182/107);
- (bb) Shellborough Town Lot 67 (CT 610/171);
- (cc) Shellborough Town Lot 72 (CT 121/33); and
- (dd) Shellborough Town Lot 83 (GT 10/327, subsequently CT 2119/209)

## 2. Vested Reserves

- (a) Reserve 29266 (Forrest Locations 64 and 117) for the purpose of gravel vested pursuant to section 33 of the Land Act 1933 (WA) in the Commissioner of Main Roads on 14 May 1976;
- (b) Reserve 33811 (De Grey) for the purposes of conservation of flora and fauna vested pursuant to section 33 of the Land Act 1933 (WA) in the Western Australian Wildlife Authority on 31 December 1975;
- (c) Reserve 34002 (Forrest Location 133) for the purposes of gravel vested pursuant to section 33 of the Land Act 1933 (WA) in the Commissioner of Main Roads on 14 May 1976;
- (d) Reserve 34578 (De Grey, North Turtle Is) for the purposes of conservation of flora and fauna vested pursuant to section 33 of the Land Act 1933 (WA) in the Western Australian Wildlife Authority on 1 April 1977;
- (e) Reserve 35696 (Forrest Location 151) for the purpose of quarry vested pursuant to section 33 of the Land Act 1933 (WA) in the Commissioner of Main Roads on 1 December 1978.
- (f) Reserve 37818 (De Grey Location 56) for the purposes of quarry site (Main Roads Department) vested pursuant to section 33 of the Land Act 1933 (WA) in the Commissioner of Main Roads on 2 July 1982;
- (g) Reserve 37898 (De Grey Location 54) for the purposes of water supply vested pursuant to section 33 of the Land Act 1933 (WA) in the Minister for Water Resources on 3 September 1982;
- (h) Reserve 37899 (Forrest Location 160) for the purposes of water supply vested pursuant to section 33 of the Land Act 1933 (WA) in the Minister for Water Resources on 3 September 1982;
- (i) Reserve 37900 (Forrest Location 162) for the purposes of radio mast site vested pursuant to section 33 of the Land

Act 1933 (WA) in the Minister for Water Resources on 3 September 1982;

(j) Reserve 38564 (Forrest Location 171) for the purpose of repeater station site vested pursuant to section 33 of the Land Act 1933 (WA) in the Australian Telecommunications Commission on 19 October 1984;

(k) Reserve 38768 (De Grey Location 57- limited depth 15m below surface) for the purposes of microwave translator site vested pursuant to section 33 of the Land Act 1933 (WA) in the Australian Telecommunications Commission on 9 August 1991;

(l) Reserve 38769 (Pardu Location 12- limited depth 15m below surface) for the purposes of microwave translator site vested pursuant to section 33 of the Land Act 1933 (WA) in the Australian Telecommunications Commission on 9 August 1991;

(m) Reserve 39135 (De Grey Location 64 and Pardu Location 19) for the purposes of recreation vested pursuant to section 33 of the Land Act 1933 (WA) in the Shire of East Pilbara on 12 July 1985;

(n) Reserve 41094 (Forrest Location 195) for the purposes of gravel (Main Roads Department) vested pursuant to section 33 of the Land Act 1933 (WA) in the Commissioner of Main Roads on 15 September 1989;

(o) Reserve 41533 (Forrest Location 194) for the purposes of transmitter site vested pursuant to section 33 of the Land Act 1933 (WA) in the Minister for Police and Emergency Services on 28 December 1990;

(p) Reserve 42131 (Pardu Location 21) for the purposes of water bore and campsite vested pursuant to section 33 of the Land Act 1933 (WA) in the Commissioner of Main Roads on 13 November 1992;

(q) Reserve 42526 (De Grey Location 58) for the purposes of repeater station site vested pursuant to section 33 of the Land Act 1933 (WA) in the Australian and Overseas Telecommunications Corporation Ltd on 12 March 1993;

(r) Reserve 12297 for the purposes of Rabbit Proof Fence No.1 (including the Rabbit Proof Fence); and

(s) Port Hedland Port (as described in the First Schedule to the Port Hedland Port Authority Act 1970 (WA)) and vested pursuant to section 19 of the Port Hedland Port Authority Act 1970 (WA) in the Port Hedland Port Authority [currently Lot 372 on Deposited Plan 35620 vested in the Port Hedland Port Authority pursuant to the Port Authorities Act 1999 (WA)].

### 3. Leases

(a) Special Lease 114/0027 granted pursuant to clause 114 of the Land Regulations 1887 on 18 February 1895;

(b) Special Lease 3116/3449 granted pursuant to section 116 of the Land Act 1933 (WA) and the Iron Ore (Mount Goldsworthy) Agreement Act 1964 (WA) for the special purpose of the construction upgrading re-alignment operation and use of a railway on 26 April 1966 [subsequently the subject of Special Lease 3116/6235; currently the subject of Lease GE J/998591];

(c) Special Lease 3116/3462 granted pursuant to section 116 of the Land Act 1933 (WA) and the Iron Ore (Mount Goldsworthy) Agreement Act 1964 (WA) for the special purpose of boring for conserving reticulation and drawing water on 28 April 1966 [subsequently the subject of Special Lease 3116/6140; currently unallocated Crown land];

(d) Special Lease 3116/4253 granted pursuant to section 116 of the Land Act 1933 (WA) and the Iron Ore (Mount Goldsworthy) Agreement Act 1964 (WA) for the special purpose of the re-alignment of portion of railway and the construction re-alignment operation and use of the railway so re-aligned on 6 January 1970 [subsequently the subject of Special Lease 3116/6164; currently the subject of Lease GE J/998593];

(e) Special Lease 3116/4543 granted pursuant to section 116 of the Land Act 1933 (WA) for the special purpose of mining operations (railway re-alignment) on 8 April 1971 [subsequently the subject of Special Lease 3116/5872; currently the subject of Lease GE J/998590];

(f) Special Lease 3116/6387 granted pursuant to section 116 of the Land Act 1933 (WA) for the special purpose of railway on 15 August 1977 [subsequently the subject of Special Lease 3116/6935 (GE I/123591); currently the subject of Lease GE J/998594];

(g) Special Lease 3116/7356 granted pursuant to section 116 of the Land Act 1933 (WA) for the special purpose of service station/road house and caravan park on 15 November 1979;

(h) Special Lease 3116/8652 granted pursuant to section 116 of the Land Act 1933 (WA) for the special purpose of horticulture on 1 July 1983 [currently the subject of lease GE J/120996];

(i) Special Lease 3116/9217 granted pursuant to section 116 of the Land Act 1933 (WA) for the special purpose of housing, agriculture and grazing on 1 April 1985;

- (j) Special Lease 3116/11259 (GE I/150259) granted pursuant to section 116 of the Land Act 1933 (WA) for the special purpose of agriculture on 18 April 1994;
- (k) Special Lease 3116/4849 (GE I/123388) granted pursuant to section 116 of the Land Act 1933 (WA) and the Iron Ore (Mount Goldsworthy) Agreement Act 1964 (WA) for the purpose of construction development maintenance operation and use of radio communications and ancillary installations on 15 July 1974;
- (l) Special Lease 3116/5104 (GE I/123406) granted pursuant to section 116 of the Land Act 1933 (WA) and the Iron Ore (Mount Goldsworthy) Agreement Act 1964 (WA) for the purpose of construction erection development maintenance use and operation of a power transmission line on 19 August 1977;
- (m) Special Lease 3116/11558 (GE I/131351) granted pursuant to section 116 of the Land Act 1933 (WA) for the purposes of tourism and associated activities on 1 July 1995;
- (n) General Lease H/257345 granted pursuant to section 116 of the Land Act 1933 (WA) for the purpose of market gardening on 12 October 1999;
- (o) Mining Lease AM7000269 granted pursuant to the Mining Act 1904 (WA) and the Leslie Solar Salt Industry Agreement Act 1966 (WA) for the purpose of salt on 9 July 1991;
- (p) Mineral Lease AML7000242 granted pursuant to the Mining Act 1904 (WA) and the Leslie Solar Salt Industry Agreement Act 1966 (WA) for the purposes of salt on 18 October 1966; and
- (q) Lease 332/1455 (of Reserve 16473) granted pursuant to section 116 of the Land Act 1933 (WA) for the purpose of grazing on 1 January 1965 [currently the subject of Lease GE J/245076 and Lease 301/DP42630].

#### 4. Dedicated roads and roads set aside, taken or resumed

- (a) Road No. 222 (with a width of 20.12 metres), described as a Main Road from Yeeda Station to the boundary of Kimberley District on the route to Roebourne, gazetted on 17 September 1885, p442;
- (b) Road No. 432 (with a width of 20.12 metres), known as the Condon and Roebourne Road, dedicated pursuant to the Roads Act 1888 (WA), gazetted on 22 June 1894, p587;
- (c) Public Roads (Shellborough Townsite) (with a width of 20.12 metres), dedicated pursuant to the Roads Districts Act Amendment Act 1932 (WA) and marked on the plan of Shellborough Townsite;
- (d) Road No. 2856 (with a width of 20.12 metres) dedicated pursuant to the Roads Act 1902 (WA), gazetted on 6 September 1907, p3065;
- (e) Road No. 4274 (with a width of 20.12 metres) dedicated pursuant to the Roads Districts Act Amendment Act 1932 (WA) and marked on Plan No. 12485;
- (f) Roads No. 6436 and 6437 (each with a width of 20.12 metres) dedicated pursuant to the Roads Districts Act 1919 (WA), gazetted on 6 May 1921, p755;
- (g) Road No. 6441 (with a width of 20.12 metres) set aside, taken or resumed under section 17 of the Public Works Act 1902 (WA), gazetted on 29 April 1921, p699;
- (h) Road No. 6940 (with a width of 20.12 metres) set aside, taken or resumed under section 17 of the Public Works Act 1902 (WA), gazetted on 18 May 1923, p895;
- (i) Road No. 14821 (with a width of 125.29 metres) dedicated pursuant to section 288 of the Local Government Act 1960 (WA), gazetted on 17 November 1972, p4383;
- (j) Roads No. 14969 and 14970 (each with a width of 40.23 metres) dedicated pursuant to section 288 of the Local Government Act 1960 (WA), gazetted on 24 August 1973, p3146;
- (k) Roads No. 105/106, 106/106, 107/106, 108/106, 109/106 and 110/106 (each with a width of 20.12 metres) dedicated pursuant to section 106 of the Land Act 1933 (WA), gazetted on 1 November 1968, p3267;
- (l) Roads No. 16289, 16290, 16291, 16292 and 16293 (each with a width of 20.12 metres) set aside, taken or resumed under section 17 of the Public Works Act 1902 (WA), gazetted on 11 January 1980, p50;
- (m) Public Road (Cape Keraudren Road) (with a width of 40 metres) dedicated pursuant to section 294(a) of the Local Government Act 1960 (WA) marked on Plan No. 16173;
- (n) Dedicated Road shown on Land Administration Miscellaneous Diagram 93579 (with a width of 40 metres) dedicated pursuant to section 56 of the Land Administration Act 1997 (WA);



(o) Dedicated Road shown shaded brown on Deposited Plan 213482 (with a width of 20 metres) dedicated pursuant to section 294A of the Local Government Act 1960 (WA) (inserted by Act 65 of 1975); and

(p) Public Road (Ngarla-Njamal-Jinparinya Road) (with a width of 40 metres) dedicated pursuant to section 294A of the Local Government Act 1960 (WA) (inserted by Act 65 of 1975) marked on Deposited Plan No. 18421.

#### 5. Telecommunications facilities

(a) the Tabba Tabba Optic Fibre Regenerator Site, having an area of 722 square metres, with a station mark located at the south east corner of the Site at Longitude 119°01'08.05" Latitude 20°21'42.62". The boundaries of the Site, by reference to the station mark, are 30 metres north by 20 metres west by 42.19 metres south by 23.42 metres north east;

(b) the Merrimerica Optic Fibre Regenerator Site, having an area of 738 square metres, with a station mark located at the north-west corner of the Site at Longitude 119°48'58.09" Latitude 20°03'37.14". The boundaries of the Site, by reference to the station mark, are 24.25 metres north east by 41.45 metres south by 20.95 metres west by 29.17 metres north; and

(c) the Mt Goldsworthy Optic Fibre Regenerator Site, having an area of 739 square metres, with a station mark located at the north-west corner of the Site at Longitude 119°27'45.67" Latitude 20°18'51.86". The boundaries of the Site, by reference to the station mark, are 24.10 metres north east by 41.24 metres south by 20.97 metres west by 29.35 metres north.

#### 6. Public Works

Any public works as that expression is defined in the Native Title Act 1993 (Cth) and the Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) and to which section 12J Titles (Validation) and Native Title (Effect of Past Acts) Act 1995 (WA) or section 23C(2) of the Native Title Act 1993 (Cth) applies, within the external boundary of the Determination Area including the land and waters defined in section 251D of the Native Title Act 1993 (Cth), are excluded from the Determination Area.

FOURTH SCHEDULE (see Attachment 8)

#### FIFTH SCHEDULE

"Ngarla" means those people who refer to themselves as Ngarla, being persons who:

1. Are the cognatic descendants of persons recognised under traditional laws and customs to be members of the Ngarla language group (including persons who have been adopted into the group according to those laws and customs), in particular the descendants of the following individuals:

- (a) Paparumarra (Alec);
- (b) Miriny-Mirinymarra (Horse-boy Jimmy);
- (c) Yintilypirna (Shaw River Smiler);
- (d) Jarnpa (the father of Warrjirungu);
- (e) Wangkunuru (Cissie);
- (f) Makanykarra (Willy);
- (g) Jurrayingi (Frank);
- (h) Kurlijirri (De Grey Smiler); and
- (i) Yilpiwarna (Arthur Kitil); and

2. Persons who have been incorporated into the Ngarla group under traditional laws and customs, in particular:

- a. Wiparu (Stephen Stewart) and his children, Stephen Stewart Jnr and Margaret Stewart.

#### SIXTH SCHEDULE

Areas within Determination Area A to which sections 47A or 47B of the Native Title Act 1993 (Cth) apply, generally shown as hatched in pink on the maps at Attachment 1 to the First Schedule:

#### 1. Section 47A

Section 47A of the Native Title Act 1993 (Cth) applies to the following areas within Determination Area A:

(a) Reserve 41863 (Forrest Location 225) for the purposes of use and benefit of Aboriginal inhabitants vested pursuant to section 33 of the Land Act 1933 (WA) in the Aboriginal Lands Trust on 6 September 1991;

(b) Lease 39/3 (GE I/154275) granted pursuant to section 9 of the Land Act 1933 (WA) for the purpose of residential and economic development associated with Aboriginal heritage and cultural use on 9 August 1996; and

(c) Lease 39/4 (GE I/150265) granted pursuant to section 9 of the Land Act 1933 (WA) for the purpose of residential and economic development associated with Aboriginal heritage and cultural use on 9 August 1996.

## 2. Section 47B

Section 47B of the Native Title Act 1993 (Cth) applies to the following areas of unallocated Crown land within Determination Area A:

(a) UCL A (being the area formerly the subject of Shellborough Town Lot 17 (Certificate of Title 52/30));

(b) UCL B (being the area formerly the subject of Special Lease 114/0040); and

(c) UCL C (being the area formerly the subject of Special lease 114/0057).

## **REGISTER ATTACHMENTS:**

1. Attachment 1 - FIRST SCHEDULE - ATTACHMENT 1 - MAP 1, 1 page - A4, 30/05/2007

2. Attachment 2 - FIRST SCHEDULE - ATTACHMENT 1 - MAP 1 (enlargements), 1 page - A4, 30/05/2007

3. Attachment 3 - FIRST SCHEDULE - ATTACHMENT 1 - MAP 1 - Enlargement 1, 1 page - A4, 30/05/2007

4. Attachment 4 - FIRST SCHEDULE - ATTACHMENT 1 - MAP 1 - Enlargement 2, 1 page - A4, 30/05/2007

5. Attachment 5 - FIRST SCHEDULE - ATTACHMENT 1 - MAP 1 - Enlargement 3, 1 page - A4, 30/05/2007

6. Attachment 6 - FIRST SCHEDULE - ATTACHMENT 1 - MAP 1 - Enlargement 4, 1 page - A4, 30/05/2007

7. Attachment 7 - FIRST SCHEDULE - ATTACHMENT 1 - MAP 1 - Enlargement 5, 1 page - A4, 30/05/2007

8. Attachment 8 - FOURTH SCHEDULE - Nature and extent of other rights and interests, 6 pages - A4, 30/05/2007

*Note: The National Native Title Register may, in accordance with s. 195 of the Native Title Act 1993, contain confidential information that will not appear on the Extract.*