



Extract from the National Native Title Register

Determination Information:

Determination Reference: Federal Court Number(s): WAD6004/2000
NNTT Number: WCD2013/006

Determination Name: [Cheinmora v State of Western Australia \(No 3\)](#)

Date(s) of Effect: 7/08/2013

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

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

Determination Date: 07/08/2013

Determining Body: Federal Court of Australia

ADDITIONAL INFORMATION:

Not Applicable

REGISTERED NATIVE TITLE BODY CORPORATE:

Balanggarra Aboriginal Corporation RNTBC
Trustee Body Corporate
c/o Kimberley Land Council
P.O. Box 2145
Broome Western Australia 6725

Note: current contact details for the Registered Native Title Body Corporate are available from the Office of the Registrar of Indigenous Corporations www.oric.gov.au

COMMON LAW HOLDER(S) OF NATIVE TITLE:

The native title is held by the descendants of:

Wundangana Waina, Wuju, Amburu, Djirlarmuru, Mitilber/Njorda, Jiani, Akingungka/Nakmara, Rugben, Moolpan/Kandarworl, Boongottor, Matilda Moorajayi, Joonpan/Moorajayi, Maraltadj, Miuron, Moongkama, Purwan, Waapa, Makumuku, Torto/Yilimbiri, Nandjimara, Jalalarimiri/Kolorumari, Puraru, Nandjimara, Yarluwutj, Koolberi, Angela, Moongkama, Yoolyool, Mutumutu, Murungga, Bundamiri, Vernon Dah, Mayaltor, Malangnari, Dz^ngal, Naringa, Wolarmbar, Murlu, Zamin^elli, Mandomiri, G^nambul, Nganawongka, Ng^Inari, Mal^ngu, W^Nu, W^garmiri, Waibela, ^Nuwija, Jidei-ida/Wugad^r, N^lamiri, Malnuben, Gootimurri, Junbabara, Linound^ri, Wungur^ru, Judu, Linound^ri, Jumbabera, Bo, Do^lu, Lau-uri, Wiju/Baluga, Wanguben, Mundjanggal, D^Inga, Mud^ta, Rebern, D^Inga, Med^rda, Aruwund^rdzera, Mal^ngunawal, Galamiri, Angular, Benmiri, Ziranim/Ganggu, M^labu, ^m]ra, Wulangan, Jura/Juradide, Njama, Dagi, Zunggalima, Weni, Njama, Charlie

Plateman, Dickie Kooyoo, Baija, Jeduri, Zunggalima, Mandurga, W[^]ngadju, Nitil, Lura/Gurul, Birim, [^]Ngari, Dumalbon/Tumelben, Merliman, Wangooloo, Wamblma, W[^]rga, Bangudenanga, Birra-rar-raa, Wanjuwila, Wungaruru, Wurawungedzi, Zuandi, Z[^]lubern, G[^]mura, W[^]mbu/Njurnji, Waneigera, J[^]wan, Z[^]Inga, Guri, Banmon, Warin.

For the avoidance of doubt, recognition of the native title rights and interests by this determination includes recognition of the Native Title Holders' ability to transmit those rights and interests to successive generations of Balangarra people in accordance with traditional laws and customs.

MATTERS DETERMINED:

BY CONSENT OF THE PARTIES THE COURT ORDERS THAT:

1. There be a determination of native title in WAD 6004 of 2000 in terms of the Determination as provided for in Attachment 'A' hereof.
2. The Balangarra Aboriginal Corporation ICN 2923 shall hold the determined native title in trust for the native title holders pursuant to s 56(2)(b) of the *Native Title Act 1993* (Cth).

ATTACHMENT "A"

DETERMINATION

THE COURT ORDERS, DECLARES AND DETERMINES THAT:

Existence of native title (s 225 *Native Title Act*)

1 Subject to paragraph 3A, the Determination Area is the land and waters described in Schedule One and depicted on the maps at Attachment One to Schedule One.

2 Subject to paragraph 3, native title exists in the Determination Area in the manner set out in paragraphs 5 to 10.

3 By reason of extinguishment, native title does not exist in relation to those parts of the Determination Area comprising land and waters the subject of the interests identified in Schedule Three and which are generally shaded green on the maps at Attachment One to Schedule One.

3A In relation to the Excluded Area as described in Schedule One, no determination be made and the matter is to continue in case management by a Registrar of the Court.

Native title holders (s 225(a) *Native Title Act*)

4 The native title in relation to the Determination Area is held in common by members of the Balangarra community being the people referred to in Schedule Six.

The nature and extent of native title rights and interests (s225(b) *Native Title Act*) and exclusiveness of native title (s 225(e) *Native Title Act*)

Exclusive rights in relation to certain land

5 Subject to paragraphs 7 and 8, the nature and extent of the native title rights and interests in relation to the areas of land generally shown as shaded pink and brown on the map at Attachment One to Schedule One, being all of the land in the Determination Area which:

(a) has not been the subject of prior extinguishment of native title as described in Schedule Two and Schedule Three; or

(b) has been the subject of prior extinguishment of native title, which extinguishment must be disregarded by operation of s 47, 47A or 47B of the *Native Title Act* as described in Schedule Five,

is the right to possession, occupation, use and enjoyment to the exclusion of all others.

Non-exclusive rights in relation to certain land and waters

6 Subject to paragraph 7, 8 and 9 the nature and extent of the native title rights and interests in relation to the area of land and waters described in Schedule Two and generally shown as shaded orange on the map at

Attachment One to Schedule One, being areas where the native title right to possession, occupation, use and enjoyment to the exclusion of all others is not available at law including by reason of partial extinguishment of native title, is:

- (a) the right to enter, travel over and remain on the land;
- (b) the right to live and camp on the land including erecting shelters and other structures for those purposes;
- (c) the right to hunt, fish, gather and use including by way of sharing or exchange the resources of the land and waters for personal, domestic and communal needs including, but not limited to, cultural or spiritual needs but not for commercial purposes as in accordance with paragraph 7(a)(ii);
- (d) the right to light fires for domestic purposes;
- (e) the right to engage in cultural activities on the land including:
 - (i) visiting places of cultural or spiritual importance and protecting those places by carrying out lawful activities to preserve their physical or spiritual integrity;
 - (ii) conducting and participating in ceremony and ritual including in relation to death;
 - (iii) holding meetings; and
 - (iv) passing on knowledge about the physical and spiritual attributes of the Determination Area and areas of importance on or in the Determination Area.

Qualifications on native title rights and interests

7 The native title rights and interests described in paragraphs 5 and 6:

- (a) are exercisable in accordance with:
 - (i) the laws of the State and the Commonwealth, including the common law; and
 - (ii) the traditional laws and customs of the native title holders for their personal, domestic and communal needs including cultural or spiritual needs but not for commercial purposes.

8 Notwithstanding anything in this Determination:

- (a) there are no native title rights and interest in the Determination Area in relation to:
 - (i) minerals as defined in the *Mining Act 1904 (WA)* (repealed) and the *Mining Act 1978 (WA)*;
 - (ii) petroleum as defined in the *Petroleum and Geothermal Energy Act 1936 (WA)* (repealed) and in the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*;
 - (iii) geothermal energy resources and geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967 (WA)*; or
 - (iv) water captured by the holders of the other interests in accordance with those interests; and
- (b) the nature and extent of native title rights and interests in relation to water in any watercourse, wetland or underground water source as is defined in the *Rights in Water and Irrigation Act 1914 (WA)* as at the date of this Determination is the non-exclusive right to take, use and enjoy that water for personal, domestic and communal needs including cultural or spiritual needs but not for commercial purposes.

9 The native title rights and interests described in paragraph 6 do not confer:

- (a) possession, occupation, use and enjoyment of the land or waters of the Determination Area on the native title holders to the exclusion of all others; nor
- (b) a right to control the access to, or use of, the land and waters, or their resources, of those parts of the Determination Area referred to in paragraph 6.

10 For the avoidance of doubt, subject to the qualifications described in paragraphs 7, 8 and 9, the manner of exercise of native title rights and interests recognised by this Determination is a matter for the native title

holders to determine having regard to, and in accordance with, their traditional laws and customs.

Areas to which sections 47, 47A and 47B of the *Native Title Act* apply

11 Sections 47, 47A and 47B of the *Native Title Act* apply to disregard any prior extinguishment in relation to the areas identified in Schedule Five.

The nature and extent of any other interests (s 225(c) *Native Title Act*)

12 The nature and extent of the other interests in relation to the Determination Area are described in Schedule Four.

Relationship between native title rights and other interests (s 225(d) *Native Title Act*)

13 The relationship between the native title rights and interests described in paragraphs 5 and 6 and the other interests is that:

- (a) to the extent that any of the other interests are 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 interests to the extent of the inconsistency during the currency of the other 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 interests, and the other interests, and the doing of any activity required or permitted to be done by or under the other interests, prevail over the native title rights and interests and any exercise of the native title rights and interests, but, subject to the operation of section 24JB(2) of the *Native Title Act*, do not extinguish them.

Definitions and Interpretation

14 In this Determination, unless the contrary intention appears:

“**Determination Area**” means the land and waters described in Schedule One and depicted on the maps at Attachment One to Schedule One not including the Excluded Area;

“**Excluded Area**” means the land and waters described as the “Excluded Area” in Schedule One;

“**Intertidal Area**” means the area of land and waters between lowest astronomical tide and the mean high water mark; and

“**land**” has the same meaning as in the *Native Title Act*;

“**Native Title Act**” means the *Native Title Act 1993* (Cth);

“**Native Title Holders**” means the persons described in paragraph 4;

“**other interests**” means the legal or equitable estates or interests and other rights in relation to the determination area described in Schedule Four and referred to in paragraph 12;

“**resources**” means flora, fauna and other natural resources such as ochre (except ochres for use in the manufacture of porcelain, fine pottery or pigments), charcoal, stone, soil, wood and resin;

“**waters**” has the same meaning as in the *Native Title Act*;

15 In the event of any inconsistency between the written description of an area in Schedules One, Two, Three, Four or Five and the area as depicted on the maps at Attachment One to Schedule One, the written description prevails.

16 In the event of any inconsistency as to the existence of native title rights and interests in an area of land and waters which is or was covered by interests that are listed in Schedule Two and Schedule Three, Schedule Three prevails.

17 In the event of any inconsistency as to the existence of native title rights and interests in an area of land and waters which is or was covered by interests that are listed in Schedule Two or Schedule Three and Schedule Five, Schedule Five prevails.

SCHEDULE ONE - DETERMINATION AREA

[See NNTR attachment 1: "Schedule One - Determination Area"]

SCHEDULE ONE - MAPS OF THE DETERMINATION AREA

[See NNTR attachment 2: "Schedule One - Maps of the Determination Area"]

SCHEDULE TWO

LAND AND WATERS THE SUBJECT OF NON-EXCLUSIVE NATIVE TITLE

Areas where native title comprises the rights set out in paragraph 6.

Areas the subject of the native title rights and interests described in paragraph 6 of the Determination are:

- (a) the areas of land listed below, which are generally shown as shaded orange on the maps at Attachment One to Schedule One;
- (b) waters not within an area described in Schedule Three; and
- (c) that part of the Wyndham Port area as declared pursuant to s 10 of the *Shipping and Pilotage Act 1967* (WA) generally shown with hatched blue lines on the maps at Attachment One to Schedule One and which is not covered by.
 - (i) the Wyndham Port Area as described in Schedule Three; or
 - (ii) an area described in Schedule Five as an area where section 47A of the *Native Title Act 1993* (Cth) applies.

Notes: Schedule Five identifies areas where any prior extinguishment of native title is to be disregarded. While all care has been taken, the areas in Schedule Five *may* cover areas which are referred to in Schedule Two and, if that occurs, Schedule Five prevails.

For the avoidance of doubt, the maps provided at Attachment One of Schedule One do not depict all of the waters within the Determination Area.

1. Leasehold

Historical

PART 0326/98	3114/1075	71/0361
0396/812	PART 5/0016	PART K0485
0558/98	PART 5/0055	PART K0652
0680/98	PART 5/0056	PART K0653
0836/98	PART 5/0057	PART K0657
PART 1545/98	PART 5/0066	PART K0882
2119/98	PART 71/0086	

Current

2. Reserves

Historical

RES 01117	RES 16808	PART RES 24615
PART RES 01274	PART RES 18166	PART RES 25302
RES 01275	RES 19819	PART RES 25968
PART RES 02889	PART RES 21422	PART RES 30358
RES 04007	PART RES 21453	PART RES 33486
PART RES 07340	RES 21918	DRN 2
RES 09721	RES 22286	
RES 14370	RES 22499	

Current

RES 01126	RES 20359	RES 38740
PART RES 01275	PART RES 20623	RES 40520
RES 08263	RES 26370	RES 42155
RES 08264 the Shire of Wyndham - East Kimberley	PART RES 27441	That portion of RES 22256 which is not vested in
RES 16729	RES 28410	
RES 17421	RES 37677	

SCHEDULE THREE

AREAS WHERE NATIVE TITLE DOES NOT EXIST (Paragraph 3)

Areas of land and waters where, by reason of extinguishment, native title rights and interests do not exist, as described in paragraph 3 of the Determination are the areas listed below which are generally, with the exception of public works, shown as shaded green on the maps at Attachment One to Schedule One:

Note: Schedule Five identifies areas where any prior extinguishment of native title is to be disregarded. While all care has been taken, the areas in Schedule Five *may* cover areas which are referred to in Schedule Three and, if that occurs, Schedule Five prevails.

1. Freehold

(a) Grants of estates in fee simple within the Determination Area including, but not necessarily limited to, the following:

Historical

CT34/4	CT1252/253	CT1390/500
CT34/51	CT1252/254	CT1398/551
CT52/200	CT1252/648	CT1427/433
CT69/25A	CT1252/721	CT1438/520
CT69/32A	CT1252/777	CT1445/617
CT77/26	CT1252/937	CT1449/694
CT83/33A	CT1259/29	CT1501/231
CT112/50A	CT1259/39	CT1527/146
CT179/71A	CT1259/88	CT1527/149
CT179/73A	CT1259/89	CT1546/130
CT179/136A	CT1259/275	CT1546/162
CT223/142	CT1259/393	CT1546/165
CT258/77	CT1259/604	CT1564/270
CT258/138	CT1293/86	CT1605/758
CT258/139	CT1293/133	CT1617/443
CT258/140	CT1293/134	CT1642/255
CT281/164A	CT1293/417	CT1643/907
CT306/200A	CT1293/750	CT1655/11
CT319/8A	CT1293/751	CT1659/28
CT334/23A	CT1293/799	CT1711/772
CT334/171A	CT1316/59	CT1733/530
CT349/77A	CT1316/582	CT1733/531
CT364/50	CT1316/869	CT174/254
CT421/130A	CT1316/985	CT1762/844
CT508/141A	CT1317/11	CT1780/904
CT517/102A	CT1317/92	CT1782/371
CT1031/879	CT1317/93	CT1824/174
CT1070/381	CT1317/95	CT1863/2
CT1105/694	CT1317/127	PART GC13/160
CT1107/151	CT1317/719	GT8/655
CT1131/533	CT1317/720	GT8/656
CT1149/626	CT1318/425	GT8/729
CT1170/84	CT1318/626	
CT1179/165	CT1319/843	

CT1188/513	CT1319/874
CT1188/639	CT1319/975
CT1198/923	CT1319/976
CT1199/470	CT1327/829
CT1208/137	CT1337/983
CT1222/410	CT1344/794
CT1222/505	CT1362/630
CT1222/847	CT1373/305
CT1223/101	CT1373/306
CT1229/330	CT1373/307
CT1245/178	CT1375/102
CT1245/214	CT1384/482
CT1245/370	CT1384/492
CT1245/723	CT1387/753
CT1252/157	CT1387/754

Current

CT67/1A	CT1379/295	CT1710/428	CT2086/520
CT75/128A	CT1379/296	CT1723/899	CT2088/474
CT77/36A	CT1381/106	CT1726/726	CT2091/537
CT79/184A	CT1381/107	CT1730/686	CT2091/725
CT83/153A	CT1381/108	CT1731/98	CT2091/757
CT91/7A	CT1381/109	CT1734/3	CT2097/984
CT91/71A	CT1381/110	CT1743/620	CT2107/838
CT123/59A	CT1381/111	CT1755/446	CT2114/432
CT124/50A	CT1381/112	CT1759/109	CT2114/595
CT126/78	CT1381/113	CT1761/780	CT2116/360
CT126/79	CT1381/124	CT1762/353	CT2133/665
CT179/74A	CT1381/125	CT1765/651	CT2135/885
CT258/163A	CT1381/126	CT1765/839	CT2136/117
CT306/52A	CT1387/752	CT1776/548	CT2137/452
CT319/6A	CT1394/813	CT1782/779	CT2140/978
CT334/66A	CT1399/16	CT1782/780	CT2140/979
CT334/172A	CT1405/141	CT1784/851	CT2144/195
CT334/173A	CT1407/978	CT1784/852	CT2149/401

CT334/174A	CT1435/294	CT1784/853	CT2152/969
CT334/175A	CT1438/978	CT1784/854	CT2152/970
CT340/45A	CT1443/58	CT1784/855	CT2153/270
CT349/3A	CT1443/59	CT1784/856	CT2157/44
CT421/133A	CT1443/60	CT1784/857	CT2158/594
CT440/151A	CT1443/70	CT1784/858	CT2161/78
CT508/77A	CT1443/71	CT1784/859	CT217/722
CT508/78A	CT1446/500	CT1784/860	CT2174/465
CT551/96A	CT1447/501	CT1784/861	CT2176/676
CT551/97A	CT1452/161	CT1784/862	CT2177/46
CT613/162A	CT1452/162	CT1784/863	CT2178/209
CT619/108A	CT1460/750	CT1784/864	CT2178/210
CT721/111	CT1462/488	CT1784/865	CT2178/219
CT1088/75	CT1463/780	CT1784/866	CT2178/220
CT1149/626	CT1471/562	CT1784/868	CT2178/221
CT1185/198	CT1495/545	CT1784/870	CT2179/965
CT1188/639	CT1498/403	CT1784/871	CT2179/966
CT1199/328	CT1500/69	CT1788/193	CT2184/984
CT1222/82	CT1504/11	CT1815/767	CT2184/985
CT1222/241	CT1504/211	CT1824/173	CT2184/986
CT1232/884	CT1520/354	CT1826/143	CT2184/987
CT1245/583	CT1527/147	CT1826/152	CT2184/988
CT1252/254	CT1527/148	CT1831/110	CT2184/989
CT1252/367	CT1528/541	CT1834/3	CT2185/47
CT1252/368	CT1528/542	CT1834/200	CT2185/918
CT1252/476	CT1528/543	CT1843/882	CT2185/919
CT1252/575	CT1537/611	CT1857/722	CT2185/920
CT1252/644	CT1537/694	CT1861/799	CT2185/921
CT1252/648	CT1538/862	CT1866/230	CT2185/922
CT1252/714	CT1538/863	CT1877/937	CT2185/923
CT1252/730	CT1545/569	CT1887/69	CT2185/924
CT1252/744	CT1545/980	CT1888/382	CT2185/925
CT1252/879	CT1546/116	CT1895/734	CT2185/926
CT1259/21	CT1546/159	CT1895/735	CT2185/927

CT1259/22	CT1546/160	CT1896/935	CT2185/928
CT1259/391	CT1546/161	CT1908/511	CT2185/948
CT1259/749	CT1546/163	CT1909/681	CT2186/567
CT1259/932	CT1546/164	CT1912/63	CT2188/611
CT1275/925	CT1546/166	CT1920/783	CT2188/612
CT1279/288	CT1559/138	CT1930/476	CT2205/29
CT1293/17	CT1565/925	CT1937/283	CT2206/971
CT1293/134	CT1566/533	CT1937/742	CT2210/206
CT1293/135	CT1566/534	CT1944/206	CT2210/258
CT1293/282	CT1595/39	CT1945/589	CT2210/261
CT1293/457	CT1595/40	CT1945/590	CT2210/383
CT1293/843	CT1605/709	CT1947/601	CT2213/997
CT1293/941	CT1605/710	CT1947/817	CT2214/149
CT1315/979	CT1605/711	CT1949/121	CT2217/67
CT1316/317	CT1609/798	CT1949/122	CT2218/615
CT1316/993	CT1618/250	CT1949/123	CT2221/42
CT1317/2	CT1628/383	CT1949/130	CT2228/358
CT1317/7	CT1630/242	CT1949/156	CT2227/144
CT1317/12	CT1632/984	CT1958/211	CT2549/703
CT1317/74	CT1633/821	CT1968/854	CT2561/585
CT1317/89	CT1639/221	CT1971/976	CT2574/344
CT1317/91	CT1641/238	CT2044/334	CT2574/345
CT1317/94	CT1641/242	CT2048/756	CT2574/346
CT1317/464	CT1641/244	CT2050/888	CT2574/347
CT1317/567	CT1641/245	CT2053/215	CT2574/348
CT1317/680	CT1643/282	CT2055/201	CT2574/349
CT1317/712	CT1643/905	CT2055/732	CT2574/350
CT1317/721	CT1669/169	CT2057/150	CT1407/978
CT1317/765	CT1669/651	CT2057/158	CT2618/945
CT1318/29	CT1675/892	CT2057/177	CT2676/134
CT1318/339	CT1675/893	CT2059/894	CT2704/973
CT1318/669	CT1676/145	CT2062/980	CT2726/303
CT1323/653	CT1676/146	CT2070/776	CT2726/309
CT1372/120	CT1676/147	CT2076/185	CT2726/317

CT1372/121	CT1678/518	CT2079/62	CT2741/247
CT1372/122	CT1678/519	CT2080/195	CT2758/292
CT1372/182	CT1682/396	CT2081/980	CT2786/41
CT1379/290	CT1687/997	CT2082/234	CT2786/94
CT1379/291	CT1702/938	CT2083/291	CT2794/143
CT1324/801	CT1643/906	CT1972/446	CT2800/725
CT1324/802	CT1645/60	CT1996/940	CT2805/321
CT1329/910	CT1645/61	CT1999/776	CT 2600/54
CT1329/927	CT1645/62	CT1999/777	
CT1330/342	CT1646/342	CT2003/499	
CT1336/710	CT1647/623	CT2016/754	
CT1336/711	CT1654/281	CT2023/804	
CT1351/835	CT1659/344	CT2030/799	
CT1354/126	CT1663/778	CT2033/19	
CT1369/471	CT1667/371	CT2040/220	
CT1372/119	CT1667/373	CT2040/349	
CT1379/294	CT1710/136	CT2083/292	

2. Reserves

(a) The creation of reserves within the Determination Area including, but not necessarily limited to, the following:

Historical

RES 01276	RES 25408	RES 26896
RES 07134	RES 26051	RES 26983
PART RES 08046	RES 26379	RES 27256
PART RES 15273	RES 26482	RES 27889
RES 16869	RES 26484	RES 27890
RES 22661	RES 26485	RES 29261
RES 24384	RES 26488	RES 31271
RES 25326	RES 26489	RES 31451
RES 25327	RES 26641	RES 47015

Current

RES 04298	RES 29323	RES 33896
RES 06067	RES 29443	RES 33992

RES 17921	RES 29606	RES 34221
RES 19746	RES 29616	RES 34279

That portion of RES 22256 which is vested in the Shire of

Wyndham-East Kimberley

RES 30099	RES 34280	
RES 24041	RES 30137	RES 34281
RES 24384	RES 30798	RES 34340
RES 24857	RES 31271	RES 34427
RES 24968	RES 31451	RES 34958
RES 26051	RES 31967	RES 35042
RES 26308	RES 31980	RES 36528
RES 26361	RES 31981	RES 36556
RES 26896	RES 32078	RES 36818
RES 26907	RES 32079	RES 38269
RES 27256	RES 32654	RES 38477
RES 27724	RES 32816	RES 40371
RES 27725	RES 33109	RES 40961
RES 27757	RES 33268	RES 44714
RES 28384	RES 33380	RES 49399
RES 28697	RES 37768	RES 46940
RES 28844	RES 33527	RES 50168
RES 28976	RES 33684	RES 50648
RES 29261	RES 33852	
RES 29308	RES 33880	

3. Leases

(a) The grant of leases within the Determination Area including, but not necessarily limited to, the following:

Historical

332/0712	3116/00530	3116/02288	3116/05973
333/0452	3116/00531	3116/02289	3116/06272
342/3100	PART 3116/00536	3116/02325	3116/06390
338/07561	3116/00739	3116/02468	3116/06403
338/07562	3116/01002	3116/02629	3116/06457

338/07563	3116/01036	3116/02671	3116/06692
338/08338	3116/01050	3116/02710	3116/06854
338/09612	PART 3116/01064	3116/02868	3116/06993
338/09613	3116/01199	3116/02887	3116/07331
338/11001	3116/01284	3116/03003	3116/08051
338/13138	3116/01335	3116/03119	3116/08376
345A/4741	PART 3116/01418	3116/03161	3116/08953
0317/152	3116/01449	PART 3116/03170	3116/09228
0726/152	3116/01594	3116/03202	3116/09550
0876/152	3116/01597	3116/03320	3116/09625
1027/152	3116/01659	3116/03526	3116/09695
1046/152	3116/01732	3116/03597	3116/09790
1677/152	3116/01794	3116/03775	3116/09811
3755/153	3116/02019	3116/03894	3116/09930
4140/153	3116/02022	3116/03998	3116/10198
4459/153	3116/02097	3116/04076	3116/10372
PART 4772/153	3116/02239	3116/04119	3116/10616
4773/153	GE H972121	3116/04123	3116/10629
4803/153	GE I382732	3116/04262	3116/10670
GE I135150	GE H815492	3116/04563	3116/10706
GE K069232	3116/02270	PART 3116/04927	3116/11252
5607/153	3116/02276	3116/04997	PART 3116/11345
PART 5643/153	3116/02278	GE I252354	GE H573309
5645/153	PART 3116/02284	GE I144615	GE H852292
6045/153	3116/02285	3116/05110	GE I126355
3116/00496	3116/02286	3116/05462	GE J139642
3116/00507	3116/02287	3116/05824	

Current

GE H075699	GE I162473	GE L735847
GE H603413	GE I766964	L 17782
GE I012418	GE I837493	GE L735848
GE I027096	GE J234748	
GE I123611	GE K934650	

4. Wyndham Port Area

(a) Wyndham Port Area vested pursuant to section 9 of the *Marine and Harbours Act 1981* (WA) and published in the Government Gazette on 5 February 1982.

For the avoidance of doubt, part of the land and waters which are described as UCL 27 and UCL 240, which includes areas subject to a lease dated 17 February 2011 between the Minister for Transport, KMG Logistics Pty Ltd and Kimberley Metals Group Pty Ltd, is within the Wyndham Port Area as described in Schedule Three and shaded in green on the maps at Attachment One of Schedule One.

5. Roads

(a) The following roads, including closed roads, within the Determination Area:

(i) Those roads shown on Cancelled Public Plans: 505323; 505324; 505325; 505330; and 505332;

(ii) Those roads shown on Deposited Plans: 13383; 144204; 168933; 168934; 168939; 170159; 171448; 172278; 181237; 183763; 185473; 192257; 192258; 202387; 207811; 208245; 208835; 208836; 208837; 209188; 209210; 209511; 209771; 210697; 211095; 211980; 212146; 213682; 214734 and 223236;

(iii) Those portions of the Great Northern Highway shown on Deposited Plans: 167548; 206001; 206002 and 213443;

(iv) That portion of Kangaroo Road in the town of Wyndham, as shown on DG 80/21.09 and on plan Wyndham 4567-111 S.W; and

(v) The following Roads as identified by Road Number: 11469; 12388; 12451; 13110; 13128; 13201; 13948; 13971; 14100; 15107; 15405; 15406; 15955; 15568; 15961; 16177 and 17312.

6. Public Works

(a) Any other public work as defined in the *Native Title Act* and the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) (including the land and waters on which a public work is constructed, established or situated as described in section 251D of the *Native Title Act*) and to which section 12J of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) or section 23C(2) of the *Native Title Act* applies.

SCHEDULE FOUR

OTHER INTERESTS (Paragraph 12)

The nature and extent of the other interests in relation to the Determination Area as at the date of the determination are:

1. Reserves

(a) The rights of persons who have the care, control and management of the following reserves; and

(b) the rights of persons entitled to access and use the following reserves for the respective purposes for which they are reserved, subject to any statutory limitations upon those rights:

RES 01126	RES 20623	RES 28762
RES 01275	RES 25238	RES 34958
RES 08263	RES 26370	RES 37677
RES 08264	RES 26482	RES 38740
RES 16729	RES 27020	RES 40520
RES 17421	RES 27441	RES 42155
RES 20359	RES 28410	RES 46252

2. Wyndham Port declared pursuant to the *Shipping and Pilotage Act 1967 (WA)*

(a) The rights conferred and arising in the Wyndham Port area as declared pursuant to s 10 of the *Shipping and Pilotage Act 1967 (WA)*.

3. Leases

(a) The rights of the holders from time to time of the following leases:

- (i) Pastoral Lease 3114/0962; and
- (ii) Pastoral Lease 3114/1180.

4. Roads

(a) Part King River Road as shown on Deposited Plan 48225, to the extent that Road is not otherwise covered by areas which are set out in Schedule Three as areas where native title does not exist.

5. Mining Tenements

(a) The rights of the holders from time to time of the following mining tenements including their right to use including by servants, agents and contractors such portions of existing roads and tracks in the determination area as necessary to have access to the area the subject of the mining tenement for the purpose of exercising the rights granted by that tenement.

(i) Mining Leases

Tenement ID	Holder	Date Granted
G8000016	KMG Logistics Pty Ltd	08/05/2012

(ii) Miscellaneous Licences

Tenement ID	Holder	Date Granted
L8000056	KMG Logistics Pty Ltd	06/08/2010
L8000059	KMG Logistics Pty Ltd	22/09/2010

Nothing in paragraph 5(a) above allows any upgrade, extension, widening or other improvement to the road or track other than work done to maintain it in reasonable repair and in order to leave it in substantially the same condition as it was prior to its use as contemplated by that paragraph.

6. Telstra Corporation

The rights and interests of Telstra Corporation Limited:

- (a) as the owner or operator of telecommunications facilities within the determination area;
- (b) created pursuant to the *Post and Telegraph Act 1901 (Cth)* the *Telecommunications Act 1975 (Cth)*, the *Australian Telecommunications Corporation Act 1991 (Cth)* and the *Telecommunications Act 1997 (Cth)*, including rights:
 - (i) to inspect land;
 - (ii) to install and operate telecommunications facilities; and
 - (iii) to alter, remove, replace, maintain, repair and ensure the proper functioning of its telecommunications facilities;
- (c) for its employees, agents or contractors to access its telecommunications facilities in and in the vicinity

of the determination area in performance of their duties; and

(d) under any lease, licence or easement relating to its telecommunications facilities in the determination area.

7. Other

(a) Rights and interests, including licences and permits, granted by the Crown in right of the State or of the Commonwealth pursuant to statute or otherwise in the exercise of its executive power including but not limited to the rights and interests of the holders of statutory fishing and pearling interests granted under the *Fish Resources Management Act 1994* (WA), the *Pearling Act 1990* (WA), and the *Fisheries Management Act 1991* (Cth) and any regulations made pursuant to that legislation.

(b) Rights and interests held by reason of the force and operation of the laws of the State (including the *Rights in Water and Irrigation Act 1914* (WA)) and the Commonwealth.

(c) Rights and interests of members of the public arising under common law including but not limited to:

(i) the public right to fish;

(ii) the public right to navigate; and

(iii) the right of any person to use Meat Works Road, Hugo Austla Drive and any other road in the determination area (subject to the laws of the State) over which, as at the date of this determination, members of the public have a right of access under common law.

(d) The right to access the Determination Area by:

(i) an employee, agent or instrumentality of the State;

(ii) an employee, agent or instrumentality of the Commonwealth;

(iii) an employee, agent or instrumentality of any local government authority,

as required in the performance of his or her statutory or common law duty where such access would be permitted to private land.

(e) So far as confirmed pursuant to section 14 of the *Titles (Validation) and Native Title (Effect of Past Acts) Act 1995* (WA) as at the date of this determination, any existing public access to and enjoyment of:

(i) waterways;

(ii) beds and banks or foreshores of waterways;

(iii) beaches; and

(iv) stock routes.

(f) The international right of innocent passage through the territorial sea.

SCHEDULE FIVE

AREAS TO WHICH SECTIONS 47A AND SECTION 47B OF THE *NATIVE TITLE ACT* APPLY

Areas of land within the Determination Area to which sections 47A or 47B of the *Native Title Act 1993* (Cth) apply as described in paragraph 11 of the Determination are the following areas described and listed as being in Schedule Five in the Determination Area table and are generally shown as shaded in brown on the maps at Attachment One to Schedule One:

1. Section 47A

Section 47A of the *Native Title Act* applies to disregard any extinguishment by the creation of prior interests in relation to the following areas within the Determination Area:

- (a) Reserve 27020;
- (b) Reserve 28762;
- (c) Reserve 34958;
- (d) Reserve 25238 (Guda Guda Aboriginal Community); and
- (e) Pastoral Lease 3114/962 (Home Valley).

2. Section 47B

Section 47B of the *Native Title Act* applies to disregard any extinguishment by the creation of prior interests in relation to the following areas within the Determination Area:

Unallocated Crown Land

Those areas of unallocated Crown land which are described in the table below, to the extent those areas are not otherwise covered by the Wyndham Port Area as described in Schedule Two and Schedule Three.

UCL Ref	Description of general location
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UCL 7 (Part)	A triangular area of land historically covered by part of former Pastoral Lease 5/0066 and in the vicinity of the point at which the Gibb River Road crosses the Pentecost River.
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UCL 12 (Part)	An area of land historically covered by part of former Pastoral Lease 5/0066 and generally located to the north, north-east of current Reserve 22256, which is not otherwise covered by the Wyndham Port Area as described in Schedule Two of this determination.
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UCL 105 (part), 194 (part) and 195 (part)	Areas of land historically covered by part of former Pastoral Lease 5/0066, generally located to the south and south-west of Wyndham and which are not within the Wyndham Port Area as that area is described in Schedule Two.
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UCL 27 (part) and UCL 240 (part)	Portions of land which abut the Wyndham Port as vested pursuant to s 9 of the <i>Marine and Harbours Act</i> 1981 generally adjacent to CT1945/590 and which are not within the Wyndham Port Area as that area is described in Schedule Two or Schedule Three.
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UCL 30 (Part), 59, 60, 61, 67	Areas of land to the north of Wyndham, historically covered by part of cancelled Reserve 21453, extending to the northern boundary of that former reserve, then upwards to the south east corner of Reserve 33896 which is closest to cancelled Reserve 21453, and then along the boundary of Reserve 33896 to the northern boundary of former Reserve 7340.
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UCL 31	A block within the Wyndham Port area at the north eastern corner of Cross Way and Reginald Street.
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UCL 32	A block within the Wyndham Port area at the south western corner of Cross Way and Gulley Road.
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UCL 36	A block within the Wyndham Port area at the south eastern corner of Cross Way and Gulley Road.
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UCL 49 (part), 54 (part), 71	Blocks of land within the Wyndham Port area at the northern end of Barytes Road, historically covered by part of former special lease 3116/4927 and special lease 3116/5236 and which are not covered by the Wyndham Port Area as described in Schedule Two.
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UCL 50	A Wyndham Town block on the corner of Ord and Sharpe Streets, formerly subject to licence to occupy 338/08186.
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UCL 51	A Wyndham Town block on Sharpe Street, formerly subject to part of Cancelled Reserve 02889 and otherwise adjoining UCL 50.
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UCL 65, 66, 70, 73	Wyndham Town blocks between Kimberley Street, Durack Road and Eric Street.
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UCL 69, 74, 76, 78, 82	Wyndham Town blocks between Eric Street, Durack Road and Coverley Street and the water depot Reserve 26370.
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UCL 80, 84, 86,88, 91, 94 Wyndham Town blocks between Durack Road, Coverley Street and Ivanhoe Street.

UCL 81 A Wyndham Town block at the north eastern corner of Koolama Street and Kangaroo Drive.

UCL 83 A Wyndham Town block at the north western corner of Koolama Street and Doongan Street.

UCL 85 A Wyndham Town block on Murphy Street.

UCL 87 A Wyndham Town block formerly covered by part of Special Lease 3116/2474.

UCL 89 A Wyndham Town block on Murphy Street.

UCL 90 A Wyndham Town block formerly covered by part of Special Lease 3116/2474.

UCL 92 A Wyndham Town block on Kangaroo Drive.

UCL 93 A Wyndham Town block on Doongan Street.

UCL 95 A Wyndham Town block on Murphy Street.

UCL 96 A Wyndham Town block on Murphy Street.

UCL 97 A Wyndham Town block on Kangaroo Drive.

UCL 98 A Wyndham Town block on Doongan Street.

UCL 99, 100 Wyndham Town blocks on Coverley Street, at the corner of Murphy Street.

UCL 101-104, 106-111, 113, 114, 117,118, 121,122, 124, 125, 127, 128-133,135, 136, 139, 140, 143, 144, 147, 148, 150, 151, 153, 154, 156, 157, 162 Wyndham Town blocks between Kabbarli Street and Koojarra Street, from Mineroo Street to approximately where Kangaroo Drive meets Kabbarli Street.

UCL 134, 137, 141, 145, 149, 152, 155, 158 Wyndham Town blocks on the south side of Koojarra Street between Limpet Street and Minderoo Street.

UCL 169 (part) All that Unallocated Crown Land commencing at the intersection of the southwestern corner of Lot 1234 as shown on Deposited Plan 169897 with a northern side of the Great Northern Highway; then generally northwesterly along sides of that highway to the southernmost southeastern corner of Reserve 35042; then northeasterly, northwesterly, northerly, again northeasterly, again northwesterly, generally southwesterly, generally northwesterly and generally northeasterly along boundaries of that reserve to the southern boundary of Lot 536 as shown on Deposited Plan 206010; then easterly along the boundary of that lot to the western side of Astridge Way; then southerly, easterly and northerly along sides of that road to the intersection with the prolongation westerly of the southernmost southern boundary of Reserve 33896; then approximately 830 metres easterly along that prolongation to a point on the southern boundary of that reserve; then south to a northern boundary of Lot 1234 as shown on Deposited Plan 169897; then northwesterly and southwesterly along the boundaries of that lot back to the commencement point.

Exclusions

All that Unallocated Crown Land comprising Lot 1314 as shown on Deposited Plan 174837; and

All that land comprising Reserve 19746.

UCL 193 Cancelled Reserve 30814

UCL 217 (part), 219 Areas formerly covered by GC13/160.

UCL 224 Parts of cancelled Reserve 21422 to the east of GE I837493 and Reserve 16869.

UCL 226 A triangular area of land south of the Great Northern Highway and north of the access road to Wyndham Airport, generally east of Reserve 36818.

UCL 230, 232-236 Areas of land north of the Great Northern Highway, in the vicinity of Wyndham Airport, historically covered by part of former Pastoral Lease 5/0066 and other leases.

Other areas

(a) Reserve 46252

SCHEDULE SIX

NATIVE TITLE HOLDERS

The native title is held by the descendants of:

Wundangana Waina, Wuju, Amburu, Djirlarmuru, Mitilber/Njorda, Jiani, Akingungka/Nakmara, Rugben, Moolpan/Kandarworl, Boongottor, Matilda Moorajayi, Joonpan/Moorajayi, Maraltadj, Miuron, Moongkama, Purwan, Waapa, Makumuku, Torto/Yilimbiri, Nandjimara, Jalalarimiri/Kolorumari, Puraru, Nandjimara, Yarlwutj, Koolberi, Angela, Moongkama, Yoolyool, Mutumutu, Murungga, Bundamiri, Vernon Dah, Mayaltor, Malangnari, Dz[^]ngal, Naringa, Wolarmbar, Murlu, Zamin[^]elli, Mandomiri, G[^]nambul, Nganawongka, Ng[^]Inari, Mal[^]ngu, W[^]Nu, W[^]garmiri, Waibela, [^]Nuwija, Jidei-ida/Wugad[^]r, N[^]lamiri, Malnuben, Gootimurri, Junbabara, Linound[^]ri, Wungur[^]ru, Judu, Linound[^]ri, Jumbabera, Bo, Do[^]lu, Lau-uri, Wiju/Baluga, Wanguben, Mundjanggal, D[^]Inga, Mud[^]ta, Rebern, D[^]Inga, Med[^]rda, Aruwund[^]rdzera, Mal[^]ngunawal, Galamiri, Angular, Benmiri, Ziranim/Ganggu, M[^]labu, [^]m]ra, Wulangan, Jura/Juradide, Njama, Dagi, Zunggalima, Weni, Njama, Charlie Plateman, Dickie Kooyoo, Baija, Jeduri, Zunggalima, Mandurga, W[^]ngadju, Nitil, Lura/Gurul, Birim, [^]Ngari, Dumalbon/Tumelben, Merliman, Wangooloo, Wamblima, W[^]rga, Bangudenanga, Birra-rar-raa, Wanjuwila, Wungaruru, Wurawungedzi, Zuandi, Z[^]lubern, G[^]mura, W[^]mbu/Njurnji, Waneigera, J[^]wan, Z[^]Inga, Guri, Banmon, Warin.

For the avoidance of doubt, recognition of the native title rights and interests by this determination includes recognition of the Native Title Holders' ability to transmit those rights and interests to successive generations of Balangarra people in accordance with traditional laws and customs.

REGISTER ATTACHMENTS:

1. Schedule One - Determination Area, 30 pages - A4, 07/08/2013
2. Schedule One - Maps of the Determination Area, 15 pages - A3, 07/08/2013

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.