



# Extract from Register of Indigenous Land Use Agreements

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<b>NNTT number</b>	WI2022/011
<b>Short name</b>	Ngarluma and Woodside Power Project ILUA
<b>ILUA type</b>	Body Corporate
<b>Date registered</b>	10/03/2023
<b>State/territory</b>	Western Australia
<b>Local government region</b>	City of Karratha

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## Description of the area covered by the agreement

### 4.9 Agreement Area

This ILUA applies to the Agreement Area.

**Agreement Area** - the area depicted as such in the plans and described in Schedule 1.

[A copy of Schedule 1 of the agreement 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 consists of two separate areas, with a combined area of about 12 sq km, located north of the North West Coastal Highway in the vicinity of Dampier.]*

## Parties to agreement

### Applicant

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<b>Party name</b>	Ngarluma Aboriginal Corporation RNTBC (ICN 4511) (NAC)
<b>Contact address</b>	c/- Roe Legal Services Level 10, 16 St Georges Terrace Perth WA 6000

### Other Parties

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<b>Party name</b>	Woodside Energy Ltd (ABN 63 005 482 986) (Woodside)
<b>Contact address</b>	c/- Herbert Smith Freehills GPO Box U1942 Perth WA 6845

## Period in which the agreement will operate

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<b>Start date</b>	not specified
<b>End Date</b>	not specified

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### 2.1 Commencement

(a) Subject to clause 2.1(b), this ILUA commences on the Execution Date.

(b) The provisions of this ILUA which can only be effective once the ILUA is registered on the ILUA Register will take effect on the Registration Date.

## 2.2 Termination

This ILUA will terminate on the earlier of:

- (a) the Parties agreeing in writing to terminate this ILUA;
- (b) no Land Transaction occurring within 7 years of the Registration Date or such later period if any specified by NAC in writing under clause 5.4 whichever is the later;
- (c) the expiry of the Maximum Term;
- (d) the day following the occurrence of a Cessation in Operations Termination Event; or
- (e) this ILUA being removed from the ILUA Register in accordance with section 199C of the NTA.

## 2.3 Cessation in operations

(a) A 'Cessation in Operations Termination Event' will occur where all of the following conditions are met:

- (1) the Commercial Operations Date has occurred in connection with the Project;
  - (2) no electricity has been generated from the Project for more than 3 years after the Commercial Operations Date;
  - (3) NAC has provided Woodside with written notices of its intention to terminate this ILUA under clause 2.2(d) on the basis that the condition in paragraph 2.3(a)(2) has been met;
  - (4) the Recommencement Period has expired; and
  - (5) prior to the expiry of the Recommencement Period, Woodside has not developed and started to diligently implement a plan to recommence the generation of electricity from the Project.
- (b) For the purposes of this clause 2.3, the 'Commercial Operations Date' means the date Woodside determines that sufficient generation, transmission and other infrastructure and equipment has been constructed, tested and commissioned and Woodside has commenced supplying commercial quantities of electricity from the Project to an end customer who is authorised and able to receive and use such electricity.
- (c) For the purposes of clause 2.3(a), the 'Recommencement Period' is:
- (1) the period of 12 months from the date of Woodside receiving notice from NAC under clause 2.3(a)(3); or
  - (2) such later date as Woodside (acting reasonably) nominates in writing to NAC within six (6) months from receiving notice from NAC under clause 2.3(a)(3) taking into account:
    - (A) the circumstances that caused electricity generation from the Project to cease;
    - (B) the nature, scale and cost of the activities required to recommence Woodside supplying and its customers being capable of receiving electricity from the Project; and
    - (C) the interests of NAC and Ngarluma People in the Agreement Area.

**Additional Buffer Site** - a portion of the Buffer Site that is outside the Initial Buffer Site and which Woodside may elect to develop in whole or in part and in stages for the purposes of one or more Expansions, as determined in accordance with clause 5.6.

**Buffer Site** - the portion of the Agreement Area known as the Buffer as depicted in the plans and described in Schedule 1 which Woodside may elect to develop in whole or in part for the purposes of one or more Renewable Energy facilities and related infrastructure and which may be developed on a staged basis.

**Determination** - the determination of native title made by the Federal Court in *Daniel v State of Western Australia* (2005) FCA 536 as varied in *Daisy Moses and Ors v State of Western Australia* (2007) FCAFC 78, in connection with Federal Court proceeding WAD6017/1996.

**Execution Date** - the date of execution of this ILUA by the last Party to execute.

**Expansion** - the addition or expansion of

- (a) one or more Renewable Energy facilities and related infrastructure outside the Initial Buffer Site but within the Buffer Site; or
- (b) the gas fired power plant or other facilities in respect to the Project and/or associated supporting infrastructure outside of the Initial Base Titles but within the Plant & Supporting Infrastructure Site, for which an Expansion Title is required.

**Expansion Title** - one or more of the following State Titles:

- (c) the creation of a reserve or reserves under section 41 of the LAA in respect of all or part of an Additional Buffer Site;
- (d) the issue of a management order or orders, including a power to lease, sub-lease or licence, to
  - (1) the Western Australian Land Authority; or
  - (2) any statutory authority or body corporate established under legislation (other than legislation which provides for the establishment of bodies corporate generally), under section 46 of the LAA in respect of each such reserve or reserves;
- (e) the grant by the State to the Western Australian Land Authority of one or more fee simple interests over all or any part of the Plant & Supporting Infrastructure Site that is not part of the Initial Base Titles and as described in the written notice issued to the State and NAC under clause 5.3(b), and one or more Road Titles needed to access such State Titles.

**Grant** – the grant, creation conferral, re-grant, re-making, renewal, replacement, extension of term, amendment of any estate, interest, right, title, reserve, management order or other things from time to time.

**ILUA Register** - the Register of Indigenous Land Use Agreements established under section 199A of the NTA.

**Initial Base Titles** - one or more of the following State Titles:

(a) the grant by the State to the Western Australian Land Authority of one or more fee simple interests over all or any part of the Plant & Supporting Infrastructure Site that is required as part of the initial phase of the Project and as described in the written notice to the State and NAC under clause 5.3(b); and  
(b) the creation of a reserve or reserves under section 41 of the LAA in respect of the Initial Buffer Site, and issue of a management order or orders, including a power to lease, sub-lease or licence, to:  
(1) the Western Australian Land Authority; or  
(2) any statutory authority or body corporate established under legislation (other than legislation which provides for the establishment of bodies corporate generally),  
under section 46 of the LAA in respect of that reserve or reserves,  
and one or more Road Titles needed to access such State Titles.

**Initial Buffer Site** - the portion of the Buffer Site on which the initial Renewable Energy facility or facilities for the Project will be located which is determined in accordance with clause 5.5.

**LAA** - the *Land Administration Act 1997* (WA).

**Land Transactions** the following acts to the extent that they are Future Acts:

- (a) the Grant of the State Titles;
- (b) the Grant of the Project Titles;
- (c) the Grant of the Road Titles; and
- (d) the conduct of Project Activities.

**Maximum Term** -

- (a) a period of 50 years from the Registration Date including any period of extension of the term of the lease(s) by the exercise of an option or any renewal, replacement or other extension of the lease(s) (other than where paragraph (b) applies); or
- (b) any longer period of time agreed by the Parties in writing after the Execution Date to be the 'Maximum Term' for the purposes of this ILUA.

**Ngarluma People** - the people who are included, identified or described in the Determination as the 'Ngarluma People'.

**Nominee** - a person or entity nominated in writing by Woodside to be the titleholder for a Project Title.

**NTA** - the *Native Title Act 1993* (Cth).

**Plant & Supporting Infrastructure Site** - the portion of the Agreement Area on which the gas fired power plant or other facilities in respect to the Project and/or associated supporting infrastructure will be located, as depicted in the plans in Schedule 1.

**PPA** - the *Petroleum Pipelines Act 1969* (WA).

**Project** - a power project which may consist of:

- (a) a gas fired power plant;
- (b) one or more Renewable Energy facilities which may be developed on a staged basis;
- (c) an electricity transmission line to the Burrup; and
- (d) related infrastructure (which may include battery storage facilities).

**Project Activities** - anything authorised or permitted to be done in the Agreement Area by, or for the benefit of, Woodside, a Woodside Related Body Corporate or Nominee in accordance with a Project Title.

**Project Site** - an area of a Project Title.

**Project Titles** -

- (a) the Grant by the Western Australian Land Authority to Woodside, a Woodside Related Body Corporate or a Nominee of a lease or leases over a total area of no more than 40 hectares of the Plant & Supporting Infrastructure Site for the purpose of a gas fired power plant or other facilities in respect to the Project and/or associated supporting infrastructure and for any ancillary or incidental purposes;
- (b) the Grant of a lease or leases to Woodside, a Woodside Related Body Corporate or Nominee over all or part of the Initial Buffer Site to produce renewable energy and for any ancillary or incidental purposes;
- (c) the Grant of a lease or leases to Woodside, a Woodside Related Body Corporate or Nominee from time to time over all or part of an Additional Buffer Site to produce renewable energy and for any ancillary or incidental purposes;
- (d) the Grant by the State to Woodside, a Woodside Related Body Corporate or Nominee of an easement or easements under the LAA over all or part of the Transmission Corridor for the transmission of power and for any ancillary or incidental purposes and infrastructure; and
- (e) the Grant by the State of any other easements, licences, or other interests, including but not limited to under the LAA or the PPA, to Woodside, a Woodside Related Body Corporate, Nominee or any other third party, from time to time within the Agreement Area for or in connection with the Project, including but not limited to the Road Titles.

**Registration Date** - the date on which this ILUA is registered in the ILUA Register.

**Related Body Corporate** - an entity which is a 'related body corporate', as that term is defined in section 50 of the *Corporations Act 2001* (Cth).

**Renewable Energy** - Includes renewable energy such as wind and solar but does not include biomass or geothermal.

**Road Titles** -

- (a) the Grant of one or more reserves;
- (b) the subdivision, proclamation or dedication; or
- (c) the Grant of any other interest; or
- (d) construction;

for the purposes of establishing one or more private roads and/or a public road to one or more of the Project Sites, including under the *Main Roads Act 1930* (WA) and LAA. that is:

- (e) within the Agreement Area; and
- (f) for or in connection with the Project.

**State** - the State of Western Australia and as the context requires, includes any State government, department, agency, instrumentality, Minister and any body, whether corporate or unincorporated, that is established or continued for a public purpose by or under an Act of the State (including the Minister for Lands and any other body corporate Ministers).

**State Titles** - such of the following titles as Woodside requests the State in writing to grant:

(a) the Grant by the State to the Western Australian Land Authority of one or more fee simple interests in respect of all or part of the Plant & Supporting Infrastructure Site;

(b) the Grant of a reserve or reserves under section 41 of the LAA for the purpose "Buffer area and for ancillary purposes to the Core" (or such other purpose or purposes under section 41 of the LAA as determined by the Minister) in respect of all or part of the Initial Buffer Site;

(c) the issue of a management order or orders, including a power to lease, sub-lease or licence to:

(1) any statutory authority or body corporate established under legislation (other than legislation which provides for the establishment of bodies corporate generally); or

(2) the Western Australian Land Authority,

under section 46 of the LAA in respect of that reserve or reserves referred to in paragraph (b) for a period of time that is not greater than the term of the relevant Project Title that is intended to be granted over the reserve or reserves (including the term of any options that may be exercised to extend the initial term of the relevant Project Title);

(d) the Grant of a reserve or reserves under section 41 of the LAA from time to time for the purpose "Buffer area and for ancillary purposes to the Core" (or such other purpose or purposes under section 41 of the LAA as determined by the Minister) in respect of all or part of an Additional Buffer Site; and

(e) the issue of a management order or orders, including a power to lease, sub-lease or licence, to:

(1) any statutory authority or body corporate established under legislation (other than legislation which provides for the establishment of bodies corporate generally); or

(2) the Western Australian Land Authority,

under section 46 of the LAA in respect of that reserve or reserves referred to in paragraph (d) for a period of time that is not greater than the term of the relevant Project Title that is intended to be granted over the reserve or reserves (including the term of any options that may be exercised to extend the initial term of the relevant Project Title).

**Transmission Corridor** - the portion of the Agreement Area within which any electricity transmission line and associated infrastructure developed by Woodside, a Related Body Corporate or Nominee will be located, as depicted in the plans in Schedule 1.

**Western Australian Land Authority** - the body corporate established under section 5 of the *Western Australian Land Authority Act 1992* (WA) or any successor agency.

**Woodside Related Body Corporate** - a Related Body Corporate of Woodside.

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

**4.2 Parties' consent to and confirmation of validity of Future Acts**

Each Party:

(a) consents to the Land Transactions in accordance with this ILUA;

(b) agrees that the statement of consent in clause 4.2(a) is intended to satisfy the requirements of section 24EB(1)

(b) of the NTA in respect of each Land Transaction; and

(c) agrees that the Land Transactions are valid for the purposes of the NTA to the extent that native title is affected.

**4.4 Grant of the right includes its exercise**

For the avoidance of doubt, the consent to the doing of the Land Transactions referred to in clause 4.2 includes consent to the exercise of any right or obligation created by those acts on the person on whom the right or obligation is conferred.

#### **4.6 Application of the right to negotiate**

(a) The Right to Negotiate Procedure, as set out in Part 2, Division 3, Subdivision P of the NTA, is not intended to apply and does not apply to the Land Transactions on or after the Registration Date.

(b) For the avoidance of doubt, the procedural requirements in Part 2, Division 3, Subdivision P of the NTA do not apply to the Land Transactions described in clause 4.2.

#### **5.2 Other leases and licences**

To avoid doubt, the Land Transactions and the consents provided in clause 4.2 do not include the Grant of leases or licences of all or part of the Buffer Site, by the State, the Western Australia Land Authority or any other statutory authority or body corporate holding a management order in respect of the Buffer Site, which are not Project Titles.

#### **Attachments to the entry**

[WI2022\\_011 Schedule 1 - Map of the Agreement Area, Project Sites, Maitland Industrial Estate and Core.pdf](#)

[WI2022\\_011 Schedule 1 – Schedule 2 External Boundary Written Descriptions.pdf](#)