

# Extract from the National Native Title Register

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## Determination Information:

**Determination Reference:** Federal Court Number(s): WAD6164/1998; WAD248/2007; WAD181/2012; WAD108/2016  
NNTT Number: WCD2013/004

**Determination Name:** [WF \(Deceased\) on behalf of the Wiluna People v State of Western Australia](#)

**Date(s) of Effect:** 23/01/2015, 1/02/2017

**Determination Outcome:** Native title exists in the entire determination area

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

**Determination Date:** 29/07/2013

**Determining Body:** Federal Court of Australia

### ADDITIONAL INFORMATION:

On 29 July 2013, the Federal Court of Australia made a determination of native title by consent in *WF (Deceased) on behalf of the Wiluna People v State of Western Australia* [2013] FCA 755 (WAD 6164 of 1998; WAD 248 of 2007; WAD 181 of 2012). The determination was to take effect upon the determination of a prescribed body corporate.

On 23 January 2015, the Federal Court determined Tarlka Matuwa Piarku (Aboriginal Corporation) as the prescribed body corporate to hold the native title rights and interests in trust for the Wiluna, Tarlpa and Wiluna #3 native title holders. Consequently, 23 January 2015 is the date the determination took effect.

On 10 March 2016, the Tarlka Matuwa Piarku (Aboriginal Corporation) RNTBC filed a Revised Native Title Determination Application *WAD108/2016 Tarlka Matuwa Piarku (Aboriginal Corporation) RNTBC and State of Western Australia* (variation application) with the Federal Court.

The variation was sought following judgment in *Western Australia v Brown* [2014] HCA 8, for the purpose of varying the determination made on 29 July 2013 to include areas of pastoral improvements as areas where native title exists.

On 1 February 2017, the Federal Court ordered the determination made 29 July 2013 is varied as follows:

Orders 2, 13(a) and 13(b), and Part 2 of Schedule 1, are deleted, and consequential amendments are made to the numbering of that determination; and

the maps in Schedule 7 are varied by removing from the Legend the phrase "Areas where native title does not exist (Schedule 1, Part 2 (paragraphs 2 and 3 only))" and by removing the areas shaded as such.

The determination of native title as varied took effect from 1 February 2017.

This Register entry contains the details of the determination of native title as varied.

**REGISTERED NATIVE TITLE BODY CORPORATE:**

Tarlka Matuwa Piarku Aboriginal Corporation RNTBC  
Trustee Body Corporate  
Suite 28  
Level 3  
82 Beaufort Street  
PERTH Western Australia 6000

*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](http://www.oric.gov.au)*

**ORIGINAL REGISTERED NATIVE TITLE BODY CORPORATE(S):**

Tarlka Matuwa Piarku (Aboriginal Corporation)

*Note: details of the Corporation name change can be found on the Office of the Registrar of Indigenous Corporations website [www.oric.gov.au](http://www.oric.gov.au)*

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

The native title is held by the persons described in Sch 2 (**native title holders**).

1. The native title holders are persons who:
  - (a) have rights in part or all of the Determination Area through descent (whether from a parent or grandparent from the area or who died and is buried in the area), conception and/or birth within the area, long-term residence within the area, high ritual knowledge within the area or responsibility for sites within the area; and
  - (b) who are recognised under the traditional laws and customs by the other native title holders as having rights in the Determination Area.
2. At the date of this Determination, this includes the following persons who are recognised under the relevant traditional laws and customs by the other native title holders as having rights in the Determination Area:
  - (a) the descendants of the union of the following people:
    - (i) Milpuntu/Jack Abbott and Puku/Amy Abbott;
    - (ii) Warilki Anderson and Tjungtawu/Skinny Fannie/Bunnie Stevens;
    - (iii) Maitungkata/Paddy Anderson and Kiliya/Amy Anderson;
    - (iv) Yingkali Manara/Mickey Ingle and Kurutjuli/Miriam;
    - (v) Kunamalaya/Jacky Jackman and Wilunya/Wilana Brown/Jackman;
    - (vi) Peter Gogo and Lady Gogo;
    - (vii) Ngalama/Old Paul Morgan and Wangu;
    - (viii) Lenny Morrison and Fannie Jones/Stevens;
    - (ix) Anthony Jones and May Jones;
    - (x) Charlie Riley and Biddy Riley;
    - (xi) Muddy Patch and Marlala Nanji;
    - (xii) Kurril/Scotty/Ted/Packhorse Rennie Tullock and Daisy Garland;

- (xiii) Piparntjukurr and Kiri/Keri Muru;
- (xiv) Wuli/JimmyWongawol and Lily Munda;
- (xv) Nyarraur/Cutline/Ben Brown and Amy Jackman/Brown;
- (xvi) Nanyi-Nanyi/MrP/Billy Patch and Rosalie Anderson/Patterson; and
- (xvii) Wakukutjara and Yayangarta.
- (b) the descendants of the following people:
  - (i) Cyril Bingham;
  - (ii) Munga/Margaret Long;
  - (iii) Tauwi/Miriam Stewart;
  - (iv) Mimpu/Willy Williams;
  - (v) Ningara Martin;
  - (vi) Mirta-Mirta/Andy Campbell;
  - (vii) Kutulan/Hitler Richards;
  - (viii) Lorna Redman/Stewart;
  - (ix) Nyunyi/Maudie Jackman;
  - (x) Ngalyakarnpal/Barbara Anderson;
  - (xi) Rosy Grant;
  - (xii) Alfie Ashwin;
  - (xiii) Gladys Bingham;
  - (xiv) Adam Bingham;
  - (xv) Christine Bingham;
  - (xvi) James Harris;
  - (xvii) Winya/Minnie;
  - (xviii) Yungkutjuru/Kitty Hill;
  - (xix) Tulkiwa/Jeanie Elliott;
  - (xx) Molly Long;
  - (xxi) Mitjipung/Sandy/Santa Clause;
  - (xxii) Kanturangu/Frank Narrier;
  - (xxiii) Yarlrat/Joe Finch;
  - (xxiv) Pangka Wongawol/Riley;
  - (xxv) Saxon/Jackson Stevens;
  - (xxvi) Yupun;
  - (xxvii) Tjiriltjukul;

- (xxviii) Yutunga/Udunga Kianga;
- (xxix) Yinyiyapa/Ruby Jackson/Parker;
- (xxx) Wungkajtu/George Wongajoe;
- (xxxi) Molly Anderson;
- (xxxii) Eddieman/Edmund/Eddie Redman; and
- (xxxiii) Minnie Wongawol.
- (c) the following people and the descendants of their unions with the listed deceased partner:
  - (i) Jimmy Patch (deceased) and Maxine Warren;
  - (ii) Yalyalyi/Jack Stevens (deceased) and Tilly Gogo/Stevens;
  - (iii) Tjupi-Tjupi/Peter Stewart (deceased) and Tjilpi/Greta Long; and
  - (iv) Yatjuwunga/Peter (deceased) and Katjipil/Daisy Kaddabil.
- (d) the following people and their descendants:
  - (i) Firestick/Barry Abbott;
  - (ii) Nyapala Morgan;
  - (iii) Wendy Redman/Abbott;
  - (iv) Nyulkul-Nyulkul/Dusty Stevens;
  - (v) Creamy Allison;
  - (vi) Monty Allison;
  - (vii) Elizabeth Wongyabong; and
  - (viii) Shirley Wongyabong.
- (e) the following people:
  - (i) Matuwa/Norman Thompson.

#### **MATTERS DETERMINED:**

#### **THE COURT ORDERS THAT:**

1. The determination of native title in Attachment "A" to the orders made by McKerracher J in *WF (Deceased) on behalf of the Wiluna People v State of Western Australia* [2013] FCA 755 (WAD 6164 of 1998; WAD 248 of 2007; WAD 181 of 2012) on 29 July 2013 is varied as follows:
  - (a) Orders 2, 13(a) and 13(b), and Part 2 of Sch 1, are deleted, and consequential amendments are made to the numbering of that determination; and
  - (b) the maps in Sch 7 are varied by removing from the Legend the phrase "Areas where native title does not exist (Schedule 1, Part 2 (paragraphs 2 and 3 only))" and by removing the areas shaded as such.
2. On and from the date of these orders the determination of native title as varied is taken to be in the form of the attached Varied Determination, which is Annexure 1 to these orders.

## **ANNEXURE 1**

### **VARIED DETERMINATION**

#### **THE COURT ORDERS AND DETERMINES THAT:**

##### **Existence of native title (s 225)**

1. Native title exists in relation to the whole of the Determination Area identified in Part 1 of Sch 1, subject to the exclusions in Part 2 of Sch 1 (**Determination Area**).

##### **Native title holders (s 225(a))**

2. The native title is held by the persons described in Sch 2 (**native title holders**).

##### **The nature and extent of native title rights and interests (s 225(b); s 225(e))**

3. Subject to Orders 6 to 8, the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Sch 3 [being areas where there has been no extinguishment of native title or areas where any extinguishment must be disregarded] is the right of possession, occupation, use and enjoyment of that part as against the whole world.

4. Subject to Orders 5 to 8, the nature and extent of the native title rights and interests in relation to each part of the Determination Area referred to in Sch 4 [being areas where the native title right of possession, occupation, use and enjoyment is not available at law including by reason of partial extinguishment] are the following rights or interests:

- (a) the right to access, to remain in and to use that part;
- (b) the right to take and use resources in that part; and
- (c) the right to have access to, maintain and protect places, and areas and objects of importance on or in that part.

##### **Qualifications on native title rights and interests (s 225(b); s 225(e))**

5. The native title rights and interests referred to in Order 4 do not confer:

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

6. The native title rights and interests are exercisable in accordance with and subject to the:

- (a) traditional laws and customs of the native title holders; and
- (b) laws of the State and the Commonwealth, including the common law.

7. For the avoidance of doubt:

- (a) 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; and
- (b) the native title right to take resources in relation to the Determination Area recognised by this determination is a right in native title holders to take resources for the purpose of satisfying their personal, domestic or non-commercial communal needs (including social, cultural, religious, spiritual and ceremonial needs and including by way of sharing and exchange).

8. Notwithstanding anything in this Determination, there are no native title rights and interests in the Determination Area in or in relation to:

- (a) minerals as defined in the *Mining Act 1904* (WA) (repealed) and the *Mining Act 1978* (WA); or
- (b) petroleum as defined in the *Petroleum Act 1936* (WA) (repealed) and in the *Petroleum and Geothermal Resources Energy Act 1967* (WA); or
- (c) geothermal energy resources and geothermal energy as defined in the *Petroleum and Geothermal Energy Resources Act 1967* (WA).

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

9. The nature and extent of other rights and interests in relation to the Determination Area are those set out in Sch 5 (other interests).

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

10. Except as otherwise provided for by law, the relationship between the native title rights and interests and the other interests is as follows:

- (a) the Determination does not affect the validity of those other interests;
- (b) to the extent of any inconsistency between the other interests and 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
- (c) otherwise the other interests co-exist with the native title rights and interests and, for the avoidance of doubt, the doing of an activity required or permitted under those interests prevails over the native title rights and interests and their exercise, but does not extinguish them.

11. Without affecting the operation of para 10 above, the native title holders and the holders of the pastoral leases 3114/654 (Granite Peak), 3114/960 (Millrose), 3114/1049 (Cunyu), 3114/1066 (Prenti Downs), 3114/1067 (Yelma), 3114/1068 (Wongawol), 3114/1069 (Niminga), 3114/1070 (Carnegie) and 3114/1131 (Paroo) (being the current holders of an other interest for the purposes of the Determination) have:

- (a) agreed in writing to the principles which will apply to the exercise of their co- existing rights, subject to any variation as may be agreed from time to time;
- (b) reproduced those principles such as they are agreed as at the date of the Determination in Sch 6; and
- (c) agreed that any rights conferred by those principles do not form part of this determination made for the purposes of ss 94A and 225 of the *Native Title Act*.

**Liberty to apply**

12. The parties have liberty to apply to establish the precise location of the public works and adjacent land and waters identified in relation to any part or parts of the Determination Area referred to in Sch 1, Part 2 of this Determination.

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

13. For the avoidance of doubt, ss 47, 47A and 47B of the Native Title Act respectively apply to the areas described in Sch 8.

## Interpretation

14. In the event of an inconsistency between the written description of areas in the Schedules and the areas depicted on the Maps in Sch 7, the written descriptions shall prevail.

15. In this Determination, unless the contrary intention appears:

**land and waters** respectively have the same meanings as in the Native Title Act;

**resources** means flora, fauna, water and other natural resources; and

**State** means the State of Western Australia.

## SCHEDULE 1

### DETERMINATION AREA

[See Order 1]

#### Part 1 – External Boundaries and areas of land and waters where native title exists

Subject to the exclusions in Part 2, the Determination Area comprises all of the area of land and waters within the external boundaries described in Part 1 marked on the maps in Sch 7 with a blue line (WAD 6164/1998), an orange line (WAD 248/2007) and a yellow line (WAD 181/2012):

#### [WAD 6164/1998 – Wiluna]

1. In relation to WAD 6164/1998, all those land and waters commencing:

#### [Portion 1]

(a) All those lands and waters commencing at the northwestern corner of the western severance of Pastoral Lease 3114/654 (Granite Peak) being a point on the present boundary of Native Title Determination WAD6284/1998 Birriliburu People (Part A) (WC1998/068) and extending easterly and southerly along boundaries of that native title determination to the northernmost northwestern corner of the eastern severance of Pastoral Lease 3114/654 (Granite Peak); Then southerly, generally easterly, again southerly and easterly along boundaries of that pastoral lease to the intersection with the northernmost northwestern corner of Unallocated Crown Land being Lot 4 as shown on Deposited Plan 220354; Then southerly, westerly, again southerly, easterly, again southerly and again easterly along boundaries of that lot to the southwestern corner of Unallocated Crown Land being Lot 3 as shown on Deposited Plan 220354; Then easterly, northerly, again easterly and again northerly along boundaries of that lot to its easternmost northeastern corner being a point on the present boundary of Native Title Determination WAD6284/1998 Birriliburu People (Part A) (WC1998/068); Then extending northerly, westerly, again northerly and northwesterly along boundaries of that native title determination to the intersection with a southern boundary of Native Title Application WAD50/2010 Birriliburu #3 (WC2010/002); Then easterly and northerly along boundaries of that native title application to the westernmost southwestern corner of the eastern severance of Pastoral Lease 3114/1070 (Carnegie); Then northerly, easterly, southerly, generally easterly and generally southerly along boundaries of that severance to the northernmost northeastern corner of Pastoral Lease 3114/1066 (Prenti Downs); Then southerly, westerly and again southerly along boundaries of that pastoral lease to Latitude 26.527203 South; Then southwesterly to Latitude 26.654609 South, Longitude 122.927246 East; Then westerly to easternmost southeastern corner of Pastoral Lease PL K601976 (Windidda); Then northerly, generally westerly, southerly and westerly along boundaries of that pastoral lease to the easternmost northeastern corner of Pastoral Lease 3114/1067 (Yelma); Then southerly and generally westerly along boundaries of that pastoral lease to intersection with a eastern boundary of Pastoral Lease 3114/472 (Lake Violet); Then southerly and westerly along boundaries of that pastoral lease to Longitude 121.017081 East; Then generally northwesterly through the following coordinate positions.

#### LATITUDE (SOUTH) LONGITUDE (EAST)

26.834142	121.016025
26.828110	121.014255
26.818018	121.011107
26.812565	121.008939
26.806880	121.006771

Then northwesterly to the intersection of a western boundary of Pastoral Lease 3114/472 (Lake Violet) at Latitude 26.798382 South; Then northerly and generally westerly along boundaries of that pastoral lease to the southernmost

southeastern corner of the eastern severance of Pastoral Lease 3114/1260 (Millbillillie); Then westerly along the southern boundary of that severance to the intersection with a eastern boundary of Reserve 9699; Then southeasterly along the boundary of that reserve to Latitude 26.758218 South; Then west to a western boundary of Reserve 9699; Then southeasterly along that boundary to the prolongation northerly of the easternmost eastern boundary of Reserve 19456; Then southerly to and southerly, westerly, northerly and easterly along boundaries of that reserve to Longitude 120.193480 East; Then generally northerly and westerly through the following coordinate positions.

**LATITUDE (SOUTH) LONGITUDE (EAST)**

26.703535	120.194485
26.695743	120.194458
26.695836	120.178475

Then westerly to the southeastern corner of the western severance of Pastoral Lease Pastoral Lease 3114/1260 (Millbillillie); Then westerly and northerly along boundaries of that pastoral lease to the intersection with a southern boundary of Pastoral Lease 3114/1131 (Paroo); Then westerly, northerly, again westerly, generally northeasterly and again northerly along boundaries of that pastoral lease to the intersection with the southern boundary of Road No. 7583 (Goldfields Highway); Then generally westerly along the southern boundary of that road to a eastern boundary of Road No. 4274; Then generally northeasterly and generally northerly along boundaries of that road to the westernmost northwestern corner of Pastoral Lease 3114/1049 (Cunyu); Then generally easterly along boundaries of that pastoral lease to the intersection with a western boundary of Pastoral Lease 3114/654 (Granite Peak); Then northerly along that pastoral lease back to the commencement point.

**[Portion 2]**

(b) All those lands and waters commencing from the intersection of a northern boundary of Unallocated Crown Land being Lot 3 as shown on Deposited Plan 220354 with Longitude 122.000000 East; Then due south to Latitude 25.600000 South; Then due east to Longitude 122.100000 East; Then due north to a northern boundary of Unallocated Crown Land being Lot 3 as shown on Deposited Plan 220354; Then westerly along the northern boundary of that lot back to the commencement point.

**[Portion 3]**

(c) All that land comprising Reserve 43016.

**[Exclusions]**

(d) All those lands and waters commencing from the westernmost northwestern corner of Unallocated Crown Land being Lot 27 as shown on Deposited Plan 220011 and extending easterly, northerly and generally easterly along boundaries of that lot to the westernmost corner of Unallocated Crown Land being Lot 8 as shown on Deposited Plan 220011; Then easterly and southerly along boundaries of that lot to a northeastern corner of Unallocated Crown Land being Lot 27 as shown on Deposited Plan 220011; then southerly, easterly and again southerly along boundaries of that lot to Latitude 26.198661 South; Then westerly to Longitude 121.584723 East, Latitude 26.198662 South; Then due south to Latitude 26.248662 South; Then due east to a eastern boundary of Unallocated Crown Land being Lot 27 as shown on Deposited Plan 220011; Then southerly generally westerly, northerly, westerly, northwesterly and northerly along boundaries of that lot back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees

All referenced Deposited Plans and Diagrams are held by the Western Australian Land Information Authority, trading as Landgate.

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 1st May 2013.

For the avoidance of doubt the application excludes any land and waters already claimed by:

Native Title Determination WAD6284/1998 Birriliburu People (Part A) (WC1998/068) as Determined in the Federal Court on the 20th June 2008.

Native Title Application WAD50/2010 Birriliburu #3 (WC2010/002) as Filed in the Federal Court on the 15th March 2010.

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared by: Native Title Spatial Services (Landgate) 3rd July 2013

**[WAD 248/2007 – Tarlpa]**



2. In relation to WAD 248/2007 all those lands and waters commencing at the northernmost northwestern corner of the northwestern severance of Pastoral Lease 3114/1164 (Lake Way) being a point on the present boundary of Native Title Application WAD6164/1998 Wiluna (WC1999/024); Then extending easterly, generally southeasterly, generally northerly and generally easterly along boundaries of that native title application to the easternmost northeastern corner of the eastern severance of Pastoral Lease 3114/1164 (Lake Way). Then southerly and westerly along boundaries of that severance to a eastern boundary of Lot 304 as shown on Deposited Plan 45189; Then westerly and generally northwesterly along the boundaries of that lot to the intersection with a eastern boundary of reserve 9699; Then southerly along the boundary of that reserve to the intersection with the prolongation easterly of a southern boundary of the southwestern severance of Pastoral Lease 3114/1164 (Lake Way); Then westerly to and generally westerly, northerly and northeasterly along boundaries of that pastoral lease to the intersection with the southern boundary of Reserve 12827; Then westerly, northerly and easterly along boundaries of that reserve to the intersection with Pastoral Lease 3114/1164 (Lake Way); Then generally northwesterly, northerly, generally westerly and again northerly along boundaries of that pastoral lease back to the commencement point.

Note: Geographic Coordinates provided in Decimal Degrees

All referenced Deposited Plans and Diagrams are held by the Western Australian Land Information Authority, trading as Landgate.

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 1st May 2013

For the avoidance of doubt the application excludes any land and waters already claimed by: Native Title Application WAD6164/1998 Wiluna (WC1999/024) as accepted for registration on the 24th September 1999.

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared by: Native Title Spatial Services (Landgate) 3rd July 2013

#### **[WAD 181/2012 – Wiluna #3]**

3. In relation to WAD 181/2012 all those lands and waters commencing at the westernmost northwestern corner of Pastoral Lease PL K601976 (Windidda) and extending easterly, northerly, generally easterly, southerly, generally westerly and again northerly along boundaries of that pastoral lease back to the commencement point.

4. For the avoidance of doubt, WAD 181/2012 does not include all those lands and waters comprising Reserve 43016.

Note: Geographic Coordinates provided in Decimal Degrees

Cadastral boundaries sourced from Landgate's Spatial Cadastral Database dated 1st May 2013

Datum: Geocentric Datum of Australia 1994 (GDA94)

Prepared by: Native Title Spatial Services (Landgate) 3rd July 2013

#### **Use of Coordinates:**

Where coordinates are used within the description to represent cadastral or topographical boundaries or the intersection with such, they are intended as a guide only. As an outcome to the custodians of cadastral and topographic data continuously recalculating the geographic position of their data based on improved survey and data maintenance procedures, it is not possible to accurately define such a position other than by detailed ground survey.

#### **Part 2 – Excluded areas**

[See NNTR attachment 1: "Schedule 1 – Determination Area – Part 2 – Excluded areas"]

#### **SCHEDULE 2**

#### **NATIVE TITLE HOLDERS**

##### **[The persons referred to in Order 2]**

1. The native title holders are persons who:

- (a) have rights in part or all of the Determination Area through descent (whether from a parent or grandparent from the area or who died and is buried in the area), conception and/or birth within the area, long-term residence within the area, high ritual knowledge within the area or responsibility for sites within the area; and
- (b) who are recognised under the traditional laws and customs by the other native title holders as having rights in the Determination Area.

2. At the date of this Determination, this includes the following persons who are recognised under the relevant traditional laws and customs by the other native title holders as having rights in the Determination Area:

- (a) the descendants of the union of the following people:
- (i) Milpuntu/Jack Abbott and Puku/Amy Abbott;
  - (ii) Warilki Anderson and Tjungtawa/Skinny Fannie/Bunnie Stevens;
  - (iii) Maitungkata/Paddy Anderson and Kiliya/Amy Anderson;
  - (iv) Yingkali Manara/Mickey Ingle and Kurutjuli/Miriam;
  - (v) Kunamalaya/Jacky Jackman and Wilunya/Wilana Brown/Jackman;
  - (vi) Peter Gogo and Lady Gogo;
  - (vii) Ngalama/Old Paul Morgan and Wangu;
  - (viii) Lenny Morrison and Fannie Jones/Stevens;
  - (ix) Anthony Jones and May Jones;
  - (x) Charlie Riley and Biddy Riley;
  - (xi) Muddy Patch and Marlala Nanji;
  - (xii) Kurril/Scotty/Ted/Packhorse Rennie Tullock and Daisy Garland;
  - (xiii) Piparntjukurr and Kiri/Keri Muru;
  - (xiv) Wuli/Jimmy Wongawol and Lily Munda;
  - (xv) Nyarraur/Cutline/Ben Brown and Amy Jackman/Brown;
  - (xvi) Nanyi-Nanyi/Mr P/Billy Patch and Rosalie Anderson/Patterson; and
  - (xvii) Wakukutjara and Yayangarta.
- (b) the descendants of the following people:
- (i) Cyril Bingham;
  - (ii) Munga/Margaret Long;
  - (iii) Tauwi/Miriam Stewart;
  - (iv) Mimpu/Willy Williams;
  - (v) Ningara Martin;
  - (vi) Mirta-Mirta/Andy Campbell;
  - (vii) Kutulan/Hitler Richards;
  - (viii) Lorna Redman/Stewart;
  - (ix) Nyunyi/Maudie Jackman;

- (x) Ngalyakarnpal/Barbara Anderson;
- (xi) Rosy Grant;
- (xii) Alfie Ashwin;
- (xiii) Gladys Bingham;
- (xiv) Adam Bingham;
- (xv) Christine Bingham;
- (xvi) James Harris;
- (xvii) Winya/Minnie;
- (xviii) Yungkutjuru/Kitty Hill;
- (xix) Tulkiwa/Jeanie Elliott;
- (xx) Molly Long;
- (xxi) Mitjipung/Sandy/Santa Clause;
- (xxii) Kanturangu/Frank Narrier;
- (xxiii) Yarlrat/Joe Finch;
- (xxiv) Pangka Wongawol/Riley;
- (xxv) Saxon/Jackson Stevens;
- (xxvi) Yupun;
- (xxvii) Tjiriltjukul;
- (xxviii) Yutunga/Udunga Kianga;
- (xxix) Yinyiyapa/Ruby Jackson/Parker;
- (xxx) Wungkajtu/George Wongajoe;
- (xxxi) Molly Anderson;
- (xxxii) Eddieman/Edmund/Eddie Redman;and
- (xxxiii) Minnie Wongawol.
- (c) the following people and the descendants of their unions with the listed deceased partner:
  - (i) Jimmy Patch (deceased) and Maxine Warren;
  - (ii) Yalyalyi/Jack Stevens (deceased) and Tilly Gogo/Stevens;
  - (iii) Tjupi-Tjupi/Peter Stewart (deceased) and Tjilpi/Greta Long; and
  - (iv) Yatjuwunga/Peter (deceased) and Katjipil/Daisy Kaddabil.
- (d) the following people and their descendants:
  - (i) Firestick/Barry Abbott;
  - (ii) Nyapala Morgan;
  - (iii) Wendy Redman/Abbott;

- (iv) Nyulkul-Nyulkul/Dusty Stevens;
- (v) Creamy Allison;
- (vi) Monty Allison;
- (vii) Elizabeth Wongyabong; and
- (viii) Shirley Wongyabong.
- (e) the following people:
- (i) Matuwa/Norman Thompson.

### **SCHEDULE 3 WHERE NATIVE TITLE IS EXCLUSIVE POSSESSION**

**[See Order 3]**

The parts of the Determination Area where native title comprises the rights and interests set out in Order 3 are shown generally on the maps in Sch 7 as shaded pink.

### **SCHEDULE 4**

#### **WHERE NATIVE TITLE IS NOT EXCLUSIVE POSSESSION**

[See NNTR attachment 2: "Schedule 4 – Where Native Title is not Exclusive Possession"]

### **SCHEDULE 5**

#### **OTHER INTERESTS**

[See NNTR attachment 3: "Schedule 5 – Other Interests"]

### **SCHEDULE 6 PASTORAL CO-EXISTENCE PRINCIPLES**

**[Referred to in Order 11]**

#### **1. BACKGROUND**

The Determination recognises the native title rights and interests of the Native Title Holders within the Determination Area. Those rights and interests are held on trust by the Wiluna PBC.

The Determination also identifies a number of Pastoral Leases within the Determination Area. Individual Pastoralists hold and exercise rights in accordance with the terms of their respective Pastoral Leases. The Determination recognises that the rights of the Native Title Holders co-exist with the rights of the individual Pastoralists.

This document provides agreed principles by which both the Native Title Holders and Pastoralists will exercise their co-existing rights and interests harmoniously and in accordance with the Determination on those parts of the Pastoral Lease which are part of the Determination Area.

#### **2. DISCUSSION AND NOTICE**

The Pastoralist and the Native Title Holders may discuss matters relating to the exercise of their co-existing rights in a cooperative and consultative manner and will use their respective best endeavours to notify each other of certain upcoming matters.

2.1 The Pastoralist and the Wiluna PBC and/or Native Title Holders may discuss from time to time any matter including (but not limited to):

- (a) safety issues;
- (b) the efficient undertaking of Pastoral Activity;

- (c) relevant business of the Pastoralist;
- (d) places to be avoided temporarily due to Pastoral Activities such as mustering or trapping;
- (e) heritage, cultural and law business issues; and
- (f) issues related to compliance with any Law, including, but not limited to discussions about:
  - (i) camping on the Pastoral Lease;
  - (ii) use of Pastoral Lease roads and tracks, including closure;
  - (iii) the lighting and extinguishment of fires;
  - (iv) consumption of alcohol;
  - (v) control of animals;
  - (vi) the use of fire arms;
  - (vii) soil or other environmental conservation matters (including but not limited to feral animal control); and
  - (viii) heritage issues including the interference with sites or areas of cultural significance.

2.2 The Pastoralist and Wiluna PBC or Native Title Holders will use best endeavours to:

- (a) in the case of the Wiluna PBC / Native Title Holders, provide 48 hours notice to the Pastoralist of the intention to access the Pastoral Lease for the purpose of exercising native title rights and interests; and
- (b) in the case of the Pastoralist, provide reasonable notice of significant Inconsistent Events that are proposed on the Pastoral Lease.

### **3. WASTE AND RUBBISH**

The Native Title Holders acknowledge that the Pastoral Lease should be kept free of waste and rubbish.

3.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease:

- (a) bury all human waste in a suitable manner; and
- (b) do not leave any rubbish on the Pastoral Lease, especially rubbish near water sources when accessing the Pastoral Lease.

### **4. STATION FACILITIES**

The Native Title Holders acknowledge that the Pastoralist is entitled to conduct Pastoral Activities without interference.

4.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease do not:

- (a) use or interfere with Pastoral Lease facilities including buildings, vehicles, fences, plant and equipment, stockyards, dams and watering points and other Pastoral Improvements; or
- (b) interfere with stock.

### **5. VISITS TO HOMESTEAD**

The Native Title Holders acknowledge that the Pastoralist is entitled to retain privacy while at their homestead.

5.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease only call at the homestead between the hours of 6am and 6pm, except in the case of an emergency or as otherwise agreed.

## **6. CAMPING AND ACCESS**

The Pastoralist acknowledges that the Native Title Holders are entitled to camp on and access the Pastoral Lease. The Native Title Holders acknowledge that the Pastoralist is entitled to conduct Pastoral Activities without interruption.

6.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders, when accessing the Pastoral Lease:

- (a) camp:
  - (i) at least 500 meters away from airstrips;
  - (ii) at least two kilometres away from any man-made watering points (including windmills, bores and dams) except where such camping occurs at an agreed Site of Significance;
  - (iii) at least 5km away from the homestead, any freehold areas, stockyards (when in use) and other buildings located on the Pastoral Lease; and
  - (iv) away from station access roads;
- (b) do not access Pastoralist Improvements except watering points, which shall only be accessed for the purpose of obtaining water subject to:
  - (i) Native Title Holders driving at 5km/h in the vicinity of watering points to not unduly disturb watering stock;
  - (ii) watering points being left as they were found; and
  - (iii) no picnicking, loitering or unnecessary noise or activity within 2 kilometres of a watering point, except where it occurs at an agreed Site of Significance;
- (c) take away all waste, litter or rubbish brought with them;
- (d) erect only temporary dwellings or other structures and dismantle them when they leave, unless otherwise agreed between the Pastoralist and a Native Title Holder; and
- (e) do not access man-made watering points that are being used by stock.

## **7. HUNTING**

The Pastoralist acknowledges that the Native Title Holders are entitled to hunt on the land. The Native Title Holders acknowledge the need to practice hunting in a way that does not create a safety risk.

7.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease:

- (a) do not hunt or gather within two kilometres of any improvements;
- (b) do not use any high calibre or high powered firearms;
- (c) use firearms only if a licensed firearm holder and in accordance with the *Firearms Act 1973* (WA); and
- (d) only hunt in a manner that does not present a risk to other persons or their property, including any employees or invitees of the Pastoralist or stock.

## **8. DOGS AND DOG BAITING**

The Native Title Holders acknowledge that dogs can be detrimental to Pastoral Activities and that regular baiting happens on the Pastoral Lease, which puts dogs at risk. The Pastoralist acknowledges that dogs are an integral part of Native Title Holders lives.

8.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease restrain and control any dogs brought onto the Pastoral Lease.

8.2 The Pastoralist shall use their best endeavours to advise the Wiluna PBC and/or any Native Title Holders of the locations of any dog baiting programs that the Pastoralist is undertaking on the Pastoral Lease in an area where the Pastoralist has received prior written notice of a visit.

8.3 The Native Title Holders will not bring dogs onto the Pastoral Lease when agreed in accordance with clause 2. Native Title Holders acknowledge that they bring dogs onto the station at their own risk.

## **9. STATION TRACKS AND ROADS**

The Pastoralist acknowledges that the Native Title Holders can access and use the Pastoral Lease roads and tracks unless there are reasons why these roads and tracks may be inaccessible for various reasons.

9.1 The Pastoralist shall not unreasonably restrict the use of Pastoral Lease roads and tracks by the Native Title Holders.

9.2 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease:

- (a) use vehicles on existing Pastoral Lease roads, tracks and public roads when ever possible;
- (b) when exercising their native title rights in an area not serviced by existing Pastoral Lease roads, tracks and public roads, use the shortest reasonable route from the station track or road to the relevant location; and
- (c) do not travel on roads (including public roads) or tracks on the Pastoral Lease which are declared by State authorities to be closed to traffic due to wet or adverse weather conditions or when agreed in accordance with clause 2, except:
  - (i) in the case of an emergency; or
  - (ii) where the Native Title Holders are on the Pastoral Lease prior to the roads or tracks being closed and need to return to their homes before the road closure has been lifted,

in which case the Native Title Holders shall take all appropriate precautions to avoid damage to such roads or tracks and other affected land.

## **10. GATES**

The Pastoralist acknowledges that the Native Title Holders have a right to access the Pastoral Lease through pastoral gates. The Native Title Holders acknowledge that sometimes pastoral gates may need to be closed in which case alternative arrangements shall be made for access.

10.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease leave gates as they are found, that is, open if they are found open and closed if they are found closed.

10.2 The Pastoralist shall leave gates unlocked unless the Pastoralist considers it reasonably necessary to lock particular gates:

- (a) to ensure proper stock management;
- (b) to control public access; or

(c) for other reasons as are reasonable for the carrying on of Pastoral Activity.

10.3 If the Pastoralist locks particular gates, then the Pastoralist shall advise the Wiluna PBC which gates have been locked and what arrangements can be put in place to enable the Native Title Holders to continue to have access to those locked areas.

## 11. FIRES

The Native Title Holders acknowledge that fire can have a detrimental affect on a Pastoral Lease.

11.1 The Wiluna PBC shall use its best endeavours to ensure that the Native Title Holders when accessing the Pastoral Lease shall:

- (a) ensure that their use of fire is restricted to campfires, cooking fires and fires for ritual and ceremonial purposes, which shall be controlled at all times;
- (b) obey any temporary fire bans that are in place;
- (c) use fire in accordance with the *Bush Fires Act 1954* (WA), associated Regulations and other relevant Laws of Western Australia; and
- (d) not in any circumstances light wildfires (burn-offs).

## 12. PRIVACY

12.1 Each of the Pastoralist and the Native Title Holders shall at all times respect the privacy of the other.

## 13. COMMON LAW HOLDERS' RITUALS AND CEREMONIES

The Pastoralist acknowledges that the Native Title Holders are entitled to conduct ceremonial, ritual and law business activities on the Pastoral Lease and shall not interfere with these activities.

13.1 The Pastoralist shall not intentionally interfere with the ceremonial, ritual or law business activities of the Native Title Holders.

13.2 Where the Wiluna PBC, or a Native Title Holder, has informed the Pastoralist, in accordance with clause 2, the undertaking of a ritual or ceremony or otherwise appear to be conducting a ritual or ceremony on the Pastoral Lease, the Pastoralist shall only engage with the Native Title Holders in order to deal with immediate and significant issues such as:

- (a) threats to persons or property;
- (b) actual injury to or death of persons; or
- (c) damage to property,

unless otherwise invited by a Native Title Holder.

## 14. INTERPRETATION

14.1 In this Document, unless the contrary intention appears, the following words and phrases have following meanings:

**“Determination”** means the determination of native title made by McKerracher J in the Federal Court of Australia on 29 July 2013 in the matter of WAD 6164 of 1998, *W.F. (Deceased) & Ors v the State of Western Australia & Ors*;

**“Determination Area”** means the area of land and waters the subject of the Determination;

**“Inconsistent Event”** is:



- (a) a Pastoral Activity limited in area and duration; or
- (b) a natural event,

which by its nature is inconsistent with Native Title Holders accessing an area of land within the Pastoral Lease to exercise their native title rights and interests where the Pastoral Activity is being undertaken, or the natural event has occurred, and includes (but is not limited to):

- (a) areas where mustering is being carried out;
- (b) areas being used as a temporary stock yard;
- (c) a paddock which has been prepared for sowing or where a crop is growing; or
- (d) areas where weather or other factors make the proposed entry unsafe or potentially hazardous;

**“Native Title Holders”** means the persons described in Sch 2 of the Determination;

**“Pastoral Activity”** means an activity or activities that the Pastoralist is permitted to undertake within the Pastoral Lease in accordance with the terms of the Pastoral Lease and the *Land Administration Act 1997* (WA), including to:

- (a) use, enjoy and develop the Pastoral Lease for purposes consistent with the terms of the Pastoral Lease;
- (b) use the Pastoral Lease for the domestic and recreational purposes of the Pastoralist; and
- (c) authorise others to enter and use the land and waters of the Pastoral Lease for purposes consistent with (a) above.

**“Pastoral Lease”** means the parts of each of the following pastoral stations that are in the Determination Area:

- (a) Paroo Station, described in Crown Lease 15/1980 in relation to all of the parcels of land that is Thadoona Location 4, Kyarra Location 105 and Nabberu Location 38;
- (b) Granite Peak Station, described in Crown Lease 332/1966 in relation to the parcel of land that is Hann Location 7 and Nabberu Location 26;
- (c) Millrose Station, described in Crown Lease 183/1973 in relation to the parcel of land that is Nabberu Location 30;
- (d) Cunyu Station, described in Crown Lease 180/1972 in relation to the parcel of land that is Hann Location 9 and Nabberu Location 28;
- (e) Wongawol Station, described in Crown Lease 261/1993 in relation to all of the parcels of land that is Hann Location 10, Wells Location 4, Yelina Location 1 and Nabberu Location 29;
- (f) Niminga Station, described in Crown Lease 240/1973 in relation to the parcel of land that is Wells Location 2;
- (g) Carnegie Station, described in Crown Lease 59/1974 in relation to the parcel of land that is Wells Location 7;
- (h) Prenti Downs Station, described in Crown Lease 239/1973 in relation to the parcel of land that is Yelina Location 4 and Wells Location 5;
- (i) Yelma Station, described in Crown Lease 224/1973 in relation to the parcel of land that is Nabberu Location

35 and Yelina Location 3;

“**Pastoralist**” means, in relation to each Pastoral Lease the registered lessee of that Pastoral Lease;

“**Prescribed Body Corporate**” means a corporation whose name and address are registered on the National Native Title Register as a prescribed body corporate under section 193(2)(d)(iii) of the *Native Title Act*;

“**Site of Significance**” means a particular place that would be defined as a site under the provisions of the *Aboriginal Heritage Act 1972* (WA) or equivalent Commonwealth legislation, of importance to the Native Title Holders according to Aboriginal custom and tradition; and

“**Wiluna PBC**” means the Prescribed Body Corporate for the Determination.

## SCHEDULE 7

### MAPS

[See NNTR attachment 4: “Schedule 7 - Maps”]

## SCHEDULE 8

### AREAS TO WHICH SECTION 47, 47A OR SECTION 47B APPLIES

#### [Areas referred to in Order 13]

The parts of the Determination Area to which sections 47, 47A or 47B of the *Native Title Act* respectively apply are the following:

1. Section 47 applies to the following pastoral lease (shown generally on the maps in Sch 7 as shaded olive):

Number	Station	Held by
K601976	(formerly 3114/1065)	Windidda Windidda Aboriginal Corporation

2. Section 47A applies to (shown generally on the maps in Sch 7 as shaded blue):

(a) the following reserves:

Number	Purpose	Held by
RES 23985	Use & Benefit of Aborigines	Aboriginal Lands Trust
RES 25670	Use & Benefit of Aborigines	Windidda Aboriginal Corporation
RES 32146	Use & Benefit of Aborigines	Aboriginal Lands Trust
RES 34096	Use & Benefit of Aborigines	Aboriginal Lands Trust
RES 41801	Use & Benefit of Aboriginal Inhabitants	Kukabubba Aboriginal Corporation
RES 42002	Use & Benefit of Aboriginal Inhabitants	Aboriginal Lands Trust

(b) the following fees simple:

#### Certificate of title Held by (when application was made)

CT1356/564	Marruwayura Aboriginal Corporation
CT1356/565	Marruwayura Aboriginal Corporation
CT1356/566	Marruwayura Aboriginal Corporation
CT2052/626	Marruwayura Aboriginal Corporation
CT2070/454	Ngangganawili Aboriginal Community Controlled Health and Medical Services Aboriginal Corporation
CT2095/021	Marruwayura Aboriginal Corporation

3. Section 47B applies to the following areas of unallocated Crown land (shown generally on the maps in Sch 7 as shaded pink):

#### Unallocated Crown land

UCL 2	UCL 13
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UCL 6  
UCL 9  
UCL 10  
UCL 12

UCL 22  
UCL 35  
UCL 36  
UCL 37

**REGISTER ATTACHMENTS:**

1. Schedule 5 - Other Interests, 12 pages - A4, 01/02/2017
2. Schedule 7 - Maps, 18 pages - A4, 01/02/2017
3. Schedule 1 - Determination Area - Part 2 - Excluded areas, 9 pages - A4, 01/02/2017
4. Schedule 4 - Where Native Title is not Exclusive Possession, 23 pages - A4, 01/02/2017

*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.*