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James Potter - Lawyer

5 May 2014

INDIGENOUS LAND USE AGREEMENT

SMALL SCALE MINING AND EXPLORATION ACTIVITIES
NORTH QUEENSLAND AREA

WESTERN YALANJI PEOPLE

AN AREA AGREEMENT UNDER SUBDIVISION C
DIVISION 3 PART 2 OF THE *NATIVE TITLE ACT 1993*

2012

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INDIGENOUS LAND USE AGREEMENT

AGREEMENT dated.....day of.....2012

BETWEEN William Steven Brady, Graham Brady, Desmond Brickey (Brickie), Thomas Mitchell and Dell Riley ("**Native Title Parties**") **on their own behalf and on behalf of the Western Yalanji People**

AND Western Yalanji Aboriginal Corporation RNTBC ICN 3326 ("**Western Yalanji PBC**")

AND State of Queensland ("**State**")

AND North Queensland Miners Association Incorporated ("**NQMA**")

RECITALS

- A. The State proposes to grant Mining Tenements in the ILUA Area.
- B. The Western Yalanji PBC is the Registered Native Title Body Corporate for that part of the ILUA Area shown as Part A on the map in Schedule 1.
- C. The Native Title Parties are the Registered Native Title Claimants in relation to the Native Title Claims which cover that part of the ILUA Area shown as Part B on the map in Schedule 1.
- D. The Native Title Parties on their own behalf and on behalf of the Western Yalanji People claim to hold Native Title in relation to that part of the ILUA Area shown as Part C on the map in Schedule 1.
- E. The NQMA represents the interests of the North Queensland mining industry.
- F. The Native Title Parties, the Western Yalanji PBC, the NQMA and the State have negotiated this Agreement which deals with amongst other things, consent to the grant of Mining Tenements in the ILUA Area.
- G. Subject to the terms and conditions of this Agreement, the Parties agree, amongst other things, to the grant of Mining Tenements in the ILUA Area.
- H. The ILUA provides for a Small Scale Miner to execute an Opt in Deed and assume the rights and obligations of the Grantee Party in this ILUA.

- I. The ILUA also provides for a Small Scale Miner who has signed an Opt in Deed to assign his obligations under the Opt in Deed to another Small Scale Miner or to a person which is not a Small Scale Miner.
- J. This Agreement is entered into as an Indigenous Land Use Agreement and is intended by the Parties to be registered under Subdivision C, Division 3, Part 2 of the NTA to enable Mining Tenements to be validly granted in the ILUA Area.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

In this Agreement:

Aboriginal Cultural Heritage has the meaning given in the ACHA.

Aboriginal Cultural Heritage Protocol means the protocol contained in Schedule 4.

Aboriginal Cultural Heritage Find means a Significant Aboriginal Object or an artefact or other evidence of indigenous occupation that is likely to be a Significant Aboriginal Object found in the course of Mining Activities.

Aboriginal Cultural Heritage Finds Protocol means the protocol contained in Schedule 5.

Act attracting the expedited procedure has the meaning given in the NTA.

ACHA means *Aboriginal Cultural Heritage Act 2003* (Qld).

Address for Service means the contact details contained in Schedule 11 or amended in accordance with clause 35.

Agreed Acts means the acts consented and agreed to under clause 7 and clause 8.

Agreement or **ILUA** means this agreement and the schedules to this agreement.

Ancillary Rights means any or all of the following:

- (a) a referable dam licence;
- (b) a water pumping licence;
- (c) a tree clearing permit.

Application means an application for a Mining Tenement within the ILUA Area.

Application Area means the land described in an Application.

Assignee means the person to whom the Grantee intends to assign its rights and obligations under clause 25.

Business Day means any day, other than a Saturday, Sunday or a public holiday in the State of Queensland.

Business Hours means the hours between 8:30am and 4:30pm in Queensland on a Business Day.

Claims means any claim, proceeding, action, cause of action, demand, damages, costs, losses or expenses.

Commencement Date means the date on which the last Party signs this Agreement.

Company Limited by Guarantee has the meaning given in the *Corporations Act 2001* (Cth).

Compensation Entitlements means any compensation, right or entitlement including a right to damages or the like whether monetary or otherwise, under any law with respect to:

- (a) the consents for the Agreed Acts;
- (b) the doing and validation of the Agreed Acts;
- (c) the effect, if any, of the Agreed Acts on Native Title;
- (d) the effect on Native Title of the exercise of rights or discharge of obligations in connection with the Agreed Acts;
- (e) any effect of the application of the Non-extinguishment Principle on Native Title in the ILUA Area;

Confidential Information has the meaning given in clause 23.

CPI Number means the all groups consumer price index for the City of Brisbane as determined by the Australian Bureau of Statistics or other authority or instrumentality which publishes the index or any replacement measure.

Cultural Heritage Duty of Care has the meaning given in the ACHA.

Date of Assignment is the date referred to in clause 26.3 or clause 26.6, as applicable.

Deed of Assumption for Non-Small Scale Miner means the Deed in Schedule 7.

Deed of Assumption for the RNTBC means the Deed in Schedule 8.

Deed of Assumption for Small Scale Miner means the Deed in Schedule 6.

Dispute has the meaning given in clause 22.1.

Dispute Notice has the meaning given in clauses 22.2.

EPA means the *Environmental Protection Act 1994* (Qld).

Exclusion Zone means an area identified in an Inspection Report in which a Significant Aboriginal Area or a Significant Aboriginal Object is located and where no Mining Activities are to occur.

Expiry Date means the date that is 5 years from the Registration Date.

Exploration Interest means:

- (a) a Prospecting Permit;
- (b) an Exploration Permit; or

(c) a Mineral Development Licence.

Exploration Permit has the meaning given in the MRA.

Exploration Permit (Low Impact) means the grant of an exploration permit under the MRA, which is an Act attracting the expedited procedure and is subject to the NTPCs.

Financial Year means a year commencing on 1 July and ending on 30 June.

Force Majeure Event means an event or circumstance that:

- (a) is beyond the reasonable control of the party affected by the event or circumstance;
- (b) causes or results in a default or delay in that party performing obligations under this Agreement,

and includes fire, lightning, explosion, flood, earthquake, storm, cyclone, force of nature, ceremony according to Aboriginal tradition, chemical contamination, riots, civil disturbance, war, strikes, lockouts, industrial disputes, action or inaction by, or order of, a court, government or other authority and the breakdown or failure of any equipment or machinery.

Future Act has the meaning given in the NTA.

GPS means Global Positioning System equipment.

GPS Coordinates means coordinates (AMG or longitude/latitude) on the GDA94/MGA94 datum.

Grantee Party means a Small Scale Miner who:

- (a) has made an Application; and
- (b) has executed an Opt in Deed and provided a copy of the executed deed to the Native Title Parties, the Western Yalanji PBC, NQMA and the State in accordance with clause 25.

GST means a tax in the nature of a goods and services tax levied or imposed by the Commonwealth Government of Australia.

GST Law means the *A New Tax System (Goods and Services Tax) 1999* (Cth).

ILUA Area means the area depicted and described in Schedule 1.

Indigenous Land Use Agreement has the meaning given in the NTA.

Input Tax Credit has the meaning given in the GST Law.

Inspection means an inspection undertaken by the Inspection Team for the purposes of preparing an Inspection Report.

Inspection Report means the report referred to in clause 6 of Schedule 4.

Inspection Team means a minimum of two representatives of the Western Yalanji People or of persons nominated by the Western Yalanji PBC or as otherwise agreed under clause 5.2(b) of the Aboriginal Cultural Heritage Protocol to conduct an Inspection.

Invoice means an invoice for the compensation payable under clause 12 and calculated in accordance with the rates specified in Schedule 3.

Land Council means the North Queensland Land Council Native Title Representative Body Aboriginal Corporation ICN 1996 and for the purposes of clause 5.1 and Schedule 9 includes the Cape York Land Council Aboriginal Corporation ICN 1163.

Land Court means the Land Court established under the *Land Court Act 2000* (Qld).

Level 1 Environmental Authority means an environmental authority issued under the EPA in respect of a Level 1 Mining Project.

Level 1 Mining Project has the meaning given in the EPA.

Level 2 Environmental Authority means an environmental authority issued under the EPA in respect of a Level 2 Mining Project whether code compliant or not and with or without conditions.

Level 2 Mining Project has the meaning given in the EPA.

Mineral Development Licence has the meaning given in the MRA.

Mining Activities means activities that may be carried out pursuant to an Exploration Interest or Mining Interest under the MRA but limited to activities that may be conducted pursuant to a Level 2 Environmental Authority if required under the EPA.

Mining Claim has the meaning given in the MRA.

Mining Interest means a Mining Claim or a Mining Lease.

Mining Lease has the meaning given in the MRA.

Mining Tenement means a Prospecting Permit, Mining Claim, Exploration Permit, Mineral Development Licence or Mining Lease.

Month means a calendar month.

MRA means the *Mineral Resources Act 1989* (Qld).

Native Title and Native Title Rights and Interests has the meaning given in the NTA.

Native Title Agreement has the meaning given in the ACHA.

Native Title Claims means native title determination applications made in the Federal Court of Australia with the following references: QUD6008/99 and QUD6003/01.

Native Title Claim Group has the meaning given in the NTA.

Native Title Holders has the meaning given in the NTA.

Native Title Parties means William Steven Brady, Graham Brady, Desmond Brickey (Brickie), Thomas Mitchell and Dell Riley.

Native Title Registrar has the meaning given in the NTA.

Nominated Body means the Western Yalanji PBC.

Non-Extinguishment Principle has the meaning given in the NTA.

NQMA means the North Queensland Miners Association Incorporated.

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

NTPCs mean the Native Title Protection Conditions relevant to the grant of an Exploration Permit (Low Impact) as determined by the Minister administering the MRA from time to time.

Operator has the meaning given in the *Mining and Quarrying Safety and Health Act 1999* (Qld).

Opt in Deed means the Deed in Schedule 2.

Parties means the Native Title Parties, the State, the Western Yalanji PBC and NQMA.

Plan of Operations has the same meaning as in Chapter 5 Part 7 of the EPA.

Proposed Work Area means the specific areas where a Grantee Party intends to conduct Mining Activities.

Prospecting Permit has the meaning given in the MRA but does not include a Prospecting Permit issued for pegging purposes.

Public Company has the meaning given in the *Corporations Act 2001*.

Recipient means, in respect of Supply made under this Agreement, the person obliged to pay for that Supply.

Recommendation Dispute has the meaning given in clause 8.1 of Schedule 4.

Recommendation Dispute Notice has the meaning given in clause 8.1 of Schedule 4.

Recommendations has the meaning given in clause 7.1 of Schedule 4.

Register means the Register of Indigenous Land Use Agreements under the NTA.

Registered Native Title Body Corporate has the meaning given in the NTA.

Registered Native Title Claimant has the meaning given in the NTA.

Registration means the entry of this Agreement by the Native Title Registrar on the Register.

Registration Date means the date this Agreement is entered on the Register.

Relevant Agency means relevant State agency administering the ACHA.

Right to Negotiate means the statutory obligations contained in Subdivision P Division 3 Part 2 of the NTA.

Significant Aboriginal Area means an area of particular significance to the Native Title Parties and the Western Yalanji PBC because of either or both of the following:

- (a) Aboriginal tradition;
- (b) the history, including contemporary history, of any Aboriginal party for the area.

Significant Aboriginal Object is an object of particular significance to Aboriginal people because of either or both of the following:

- (a) Aboriginal tradition;
- (b) the history, including contemporary history, of an Aboriginal party for an area.

Single Integrated Project means a mining operation where two or more Mining Interests consented to under this Agreement are listed in a single royalty return required to be provided by a Grantee under the MRA.

Site Senior Executive has the meaning under the *Mining and Quarrying Safety and Health Act 1999*.

Small Scale Miner means a person who:

- (a) is not a Public Company or an entity that controls a Public Company; and
- (b) is not a proprietary company the shareholding of which is to any extent owned or held directly or indirectly by a Public Company; and
- (c) is not a Company Limited by Guarantee or an entity that controls a Company Limited by Guarantee; and
- (d) is not the holder of any number of Exploration Permits that together allow exploration on land in Queensland exceeding an aggregate total area of 150 Sub-blocks; and
- (e) is not the holder of any number of Mineral Development Licences that together allow activities on land in Queensland exceeding an aggregate total area of 150 hectares; and
- (f) is not the holder of any number of Mining Leases that together allow mining on land in Queensland exceeding an aggregate total area of 300 hectares, except where the Native Title Parties or the Western Yalanji PBC agree in writing to an aggregate not exceeding a total of 500 hectares in recognition of existing Mining Leases covering multiple Watercourses.

State means State of Queensland.

Sub-block has the meaning given in the MRA.

Supplier means, in respect of a particular Supply made under this Agreement, the person entitled to payment for that Supply.

Supply has the meaning given in the GST Law.

Taxable Supply has the meaning given in the GST Law.

Tax Invoice has the meaning given in the GST Law.

Threshold Amount has the meaning given in clause 14.6.

Threshold Amount Report has the meaning given in clause 14.4.

Watercourse has the meaning given in the *Water Act 2000*.

Western Yalanji People means the Native Title Claim Group for the Native Title Claims.

Western Yalanji PBC means Western Yalanji Aboriginal Corporation RNTBC ICN 3326.

Windfall Year has the meaning given in clauses 14.2 and 14.3.

2. INTERPRETATION

2.1 In this Agreement:

- (a) headings are for ease of reference only and do not affect the meaning of this Agreement;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule to this Agreement and a reference to this Agreement includes any schedules;
- (e) a reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced;
- (f) a reference to 'A\$', '\$A', 'dollar' or '\$' is a reference to Australian currency;
- (g) a reference to a specific time for the performance of an obligation is a reference to that time in the State of Queensland;
- (h) a reference to a Party includes the party's heirs, executors, successors permitted assigns and nominees;
- (i) words and expressions importing natural persons include partnerships, bodies corporate, associations and government agencies and departments;
- (j) a reference to any legislation or regulations is construed the same way as a reference to an Act or a provision of an Act is construed in s 10 of the *Acts Interpretation Act 1901* (Cth) or the same way as a reference to a law is construed in s 14H of the *Acts Interpretation Act 1954* (Qld), as applicable;

- (k) in the event of any inconsistency between the definition of the ILUA Area and the map contained in Schedule 1, the definition of the ILUA Area prevails;
- (l) an agreement, acknowledgement, representation or warranty on the part of two or more persons binds them jointly and severally; and
- (m) an agreement, acknowledgement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally.

3. COMMENCEMENT

- 3.1 Clauses 1 to 6 and 9 to 38 commence on the Commencement Date.
- 3.2 Clauses 7 and 8 commence on the Registration Date.

4. TERM OF AGREEMENT

- 4.1 Subject to clause 4.4, clauses 7.1, 7.2, and 7.3 will expire on the Expiry Date.
- 4.2 Notwithstanding clause 4.1, this Agreement will continue to apply to Mining Tenements that were granted in reliance on this Agreement prior to the Expiry Date and Mining Tenements that were granted in reliance on this Agreement prior to the Expiry Date and renewed pursuant to clause 7.4 before or after the Expiry Date.
- 4.3 Where Native Title has been extinguished over the whole or part of the ILUA Area, the Aboriginal Cultural Heritage Protocol and the Aboriginal Cultural Heritage Finds Protocol apply.
- 4.4 The Expiry Date may be extended by a further period of five (5) years if all Parties agree.
- 4.5 If a Party wishes to extend the Expiry Date under clause 4.4, that Party will give notice to that effect to the other Parties no later than twelve (12) months before the Expiry Date.
- 4.6 No later than one (1) month after receipt of a notice under clause 4.5, the other Parties will notify the Party who provided the notice, of their acceptance or non-acceptance of the extension.

5. AUTHORITY TO ENTER AGREEMENT

- 5.1 The Native Title Parties represent and warrant that:
 - (a) they have the authority to enter into this Agreement on behalf of the Western Yalanji People;
 - (b) all reasonable efforts have been made (including consultation with the Land Council) to ensure that all persons who hold or may hold Native Title in relation to the ILUA Area have been identified; and
 - (c) all of the persons so identified have authorised the making of this Agreement in accordance with section 251A of the NTA.
 - (d) before entering into this Agreement they informed the Land Council of their intention to enter into this Agreement.

5.2 The Native Title Parties on their own behalf and on behalf of the Western Yalanji People claim to hold Native Title in relation to all land and waters in parts B and C of the ILUA Area, including land and waters that are not subject to the Native Title Claims.

5.3 The Western Yalanji PBC represents and warrants that:

- (a) it has authority to enter into this Agreement;
- (b) it has informed the Land Council of its intention to enter in this Agreement and has consulted with and considered the views of the Land Council about this Agreement;
- (c) it has consulted with, and obtained the consent of, the common law holders in accordance with the *Native Title (Prescribed Body Corporate) Regulations 1999* in relation to the making of a native title decision; and
- (d) it has complied with its Rulebook for the purposes of entering into the ILUA.

5.4 While details of this Agreement are entered on the Register, this Agreement is, by operation of the NTA, binding on all Native Title Holders in relation to any part of the ILUA Area as if they were the Native Title Parties.

6. STATEMENTS FOR THE PURPOSES OF THE NTA

6.1 The Parties state as follows:

- (a) this Agreement is intended to be registered as an area agreement under Subdivision C, Division 3, Part 2 of the NTA and regulation 7 of the *Native Title (Indigenous Land Use Agreements) Regulations 1999* (Cth);
- (b) this Agreement applies to the ILUA Area; and
- (c) Subdivision P, Division 3, Part 2 of the NTA is not intended to apply to the Agreed Acts described in clauses 7 and 8.

7. AGREED ACTS

7.1 The Parties consent to the grant of the following in the ILUA Area:

- (a) Prospecting Permits, with a Level 2 Environmental Authority if required under the EPA;
- (b) Mineral Development Licences with a Level 2 Environmental Authority;
- (c) Mining Claims with a Level 2 Environmental Authority; and
- (d) Mining Leases with a Level 2 Environmental Authority,

to a Grantee Party.

7.2 If the NTPCs are a condition of the grant of an Exploration Permit with a Level 2 Environmental Authority the Parties consent to the grant of an Exploration Permit to a Grantee Party.

- 7.3 The Parties consent to the grant of Ancillary Rights relevant to a Mining Tenement the grant of which was consented to under this Agreement.
- 7.4 The Parties consent to the renewal of the Mining Tenements the grant of which was consented to under this Agreement, over the same or smaller area as the grant at the time of renewal, on the same terms and conditions as the grant at the time of renewal and for the same or shorter term as the grant at the time of renewal, if the Grantee Party has complied with its obligations under clause 12. For the avoidance of doubt, if a Mining Tenement is renewed pursuant to this clause 7.4, this clause 7.4 will also apply to any subsequent renewals of the grant of the renewed Mining Tenement.

8. AMENDMENT TO THE MINING TENEMENTS

- 8.1 The Parties consent, subject to clauses 8.4 – 8.9, to the rights attaching to Mining Leases the grant of which was consented to under this Agreement and made to a Grantee Party, being varied as follows:
- (a) addition of another mineral;
 - (b) addition of an additional purpose;
 - (c) addition of additional surface area;
 - (d) consolidation of Mining Leases; and
 - (e) variation of the land used as access in relation to the land the subject of a Mining Lease.
- 8.2 The Parties consent, subject to clauses 8.4 to 8.9, to the rights attaching to Mining Claims the grant of which was consented to under this Agreement and made to a Grantee Party, being varied as follows:
- (a) addition of another mineral;
 - (b) variation of the land used as access in relation to the land the subject of a Mining Claim.
- 8.3 The parties consent, subject to clauses 8.4 to 8.9 to the rights attaching to Mineral Development Licences the grant of which was consented to under this Agreement and made to a Grantee Party, being varied as follows:
- (a) variation of the land used as access in relation to the land the subject of a Mineral Development Licence; and
 - (b) addition of another mineral;
 - (c) addition of excluded land.
- 8.4 A Grantee Party who is seeking to rely on a consent under clauses 8.1 to 8.3, must notify the Native Title Parties and the Western Yalanji PBC of the proposed variation and invite each of them to request a meeting if they wish to discuss the proposal, at least twenty (20) Business Days prior to lodging the application seeking the variation (Amendment Application).

8.5 If no request for a meeting under clause 8.4 is made within ten (10) Business Days of receipt of the notice:

- (a) the Grantee Party may lodge the Amendment Application together with evidence that the notice requirement in clause 8.4 has been satisfied, and a statutory declaration stating that no meeting has been requested and provide a copy of the Amendment Application to the Native Title Parties or the Western Yalanji PBC; and
- (b) the Parties agree that the consents referred to in clauses 8.1 to 8.3 become unconditional upon lodgement of the Amendment Application.

8.6 If the Native Title Parties or the Western Yalanji PBC request a meeting, the Grantee Party will use its best endeavours to hold such a meeting within ten (10) Business Days of receipt of the request and the Grantee Party and the party requesting the meeting will conduct negotiations in good faith with a view to reaching agreement on the proposed variation.

8.7 The Grantee Party agrees to give favourable consideration to a request by the Native Title Parties or the Western Yalanji PBC for an agreed contribution towards their reasonable costs in attending and participating in the meeting referred to in clause 8.6.

8.8 If agreement referred to in clause 8.6 to the proposed variation is reached:

- (a) the Grantee Party may lodge the Amendment Application together with evidence of the written agreement; and
- (b) the Parties agree that the consents referred to in clauses 8.1 to 8.3 become unconditional upon lodgement of the Amendment Application.

8.9 If the Parties do not reach agreement referred to in clause 8.6, prior to a Right to Negotiate process being notified, the variations may be agreed during that process and clause 8.8 will apply to that agreement.

9. COMPLIANCE WITH ABORIGINAL CULTURAL HERITAGE PROTOCOL

9.1 The Native Title Parties, the Western Yalanji PBC and the Grantee Party:

- (a) acknowledge that the Aboriginal Cultural Heritage Protocol (at Schedule 4) and the Aboriginal Cultural Heritage Find Protocol (at Schedule 5) impose obligations on the Native Title Parties, the Western Yalanji People, the Western Yalanji PBC and the Grantee Party; and
- (b) must comply with the obligations in those Protocols.

9.2 The Parties agree that:

- (a) prior to Registration, this Agreement is “another agreement” in accordance with section 23(3)(a)(iii) of the ACHA;
- (b) upon Registration:
 - (i) this Agreement is a “Native Title Agreement” in accordance with section 23(3)(a)(iii) of the ACHA; and

- (ii) compliance with Schedule 4 and Schedule 5 by the Grantee Party is taken to be compliance with the Cultural Heritage Duty of Care.

10. NON-EXTINGUISHMENT PRINCIPLE

The Parties acknowledge and agree that the Non-Extinguishment Principle applies to the Agreed Acts to the extent they are Future Acts.

11. REGISTRATION BY THE NATIVE TITLE REGISTRAR

- 11.1 The Native Title Parties, the Western Yalanji PBC and the NQMA authorise the State on behalf of the Parties to apply for Registration. This is a statement for the purposes of sub-regulation 7(2)(b) of the *Native Title (Indigenous Land Use Agreements) Regulations 1999*.
- 11.2 All Parties must take any steps necessary to aid the Registration.
- 11.3 Upon execution of this Agreement, the Native Title Parties will request the Land Council to certify this Agreement under section 203BE(1)(b) of the NTA for the purposes of section 24CG(3)(a) of the NTA and will provide the State with the written statement and reasons referred to in section 203BE(6) of the NTA.
- 11.4 If this Agreement is not certified in accordance with clause 11.3, the Native Title Parties will provide a statement to the State setting out the grounds on which the Native Title Registrar should be satisfied that the representations and warranties in clause 5 have been met in accordance with section 251A and section 24CG(3)(b) of the NTA.
- 11.5 Upon execution of this Agreement, the Western Yalanji PBC will ensure that a statement in terms contained in Schedule 9 is executed and provided to the State.

12. COMPENSATION PAYMENT

- 12.1 The Grantee Party must notify the Nominated Body within ten (10) Business Days of receipt of the notice of the grant or renewal of a Mining Tenement the grant or renewal of which was consented to under this Agreement and provide the following information to the Nominated Body:
 - (a) the date of the grant or renewal of the Mining Tenement; and
 - (b) a copy of the Level 2 Environmental Authority.
- 12.2 The Nominated Body will provide an Invoice to the Grantee Party:
 - (a) for the relevant amounts specified in Schedule 3 and adjusted in accordance with clause 15 and, if applicable, clause 24; and
 - (b) within twenty (20) Business days of receiving the notice under clause 12.1 and on each anniversary date of the grant or renewal of the Mining Tenement.
- 12.3 The Grantee Party must pay the relevant amounts as set out in the Invoice to the Nominated Body no later than twenty (20) Business Days after receipt of the Invoice.
- 12.4 If the amount payable under the Invoice is consideration for a Taxable Supply then the Invoice must be in the form of a Tax Invoice.

13. PLAN OF OPERATIONS

- 13.1 The Grantee Party will provide the Native Title Parties or the Western Yalanji PBC with a copy of the Plan of Operations for the Mining Lease, the grant of which was consented to under this Agreement, within forty (40) Business Days of the Grantee Party receiving notice of the State's approval of the Plan of Operations for the Mining Lease in accordance with s 233 of the EPA. Where a Plan of Operations is not required under the EPA for the Mining Lease, the Grantee Party will instead provide the Native Title Parties or the Western Yalanji PBC with detailed information relating to the proposed operations under the Mining Lease.
- 13.2 Where the Grantee Party is the holder of a Level 2 Environmental Authority for the Mining Lease and wishes to apply for a Level 1 Environmental Authority, the Grantee Party agrees that:
- (a) prior to making an application the Grantee Party will contact the Native Title Parties or the Western Yalanji PBC to commence negotiations.
 - (b) negotiations will be held in good faith with a view to reaching agreement on the terms on which the Native Title Parties or the Western Yalanji PBC would agree to the grant of the Level 1 Environmental Authority;
 - (c) without limiting the scope of the negotiations, they may, if relevant, include the possibility of including a condition that has the effect that the Native Title Parties or the Western Yalanji PBC are to be entitled to payments in relation to the Mining Lease, that are worked out by reference to:
 - (i) the amount of future profit made; or
 - (ii) any future income derived; or
 - (iii) any thing produced in the future.
- 13.3 If after six (6) Months from the date of the commencement of negotiations referred to in clause 13.2(b), the parties to that negotiation have not reached agreement ("**Negotiations Dispute**") the following dispute resolution process will apply:
- (a) either the Native Title Parties or the Western Yalanji PBC or the Grantee Party may give notice to the other setting out why negotiations have failed. ("**Negotiations Failure Notice**").
 - (b) the parties to the Negotiations Dispute must meet within fourteen (14) Business Days of receiving the Negotiations Failure Notice with a view to agreeing on the joint appointment of a mediator.
 - (c) If the Native Title Parties or Western Yalanji PBC and the Grantee Party have not agreed on the mediator within fifteen (15) Business Days of receipt of the Negotiations Failure Notice, the mediator is the person appointed by the President of the Queensland Law Society, or the President's nominee, acting on the request of any of the parties.

- (d) The parties must pay the mediator's remuneration in equal proportion unless otherwise agreed or determined by the mediator. Each party must pay its own costs of the mediation unless otherwise agreed or determined by the mediator.
- (e) If the matter referred to the mediator is not resolved within fifteen (15) Business Days of the date of appointment of the mediator, then the parties may take such other lawful action as they see fit to resolve the matter.

14. **ADDITIONAL PAYMENT IN AN EVENT OF WINDFALL**

- 14.1 The Grantee Party will provide the Native Title Parties and the Western Yalanji PBC with copies of the annual royalty returns lodged by the Grantee Party with the State pursuant to the MRA, if any, within five (5) Business Days of lodgement.
- 14.2 Where the Grantee Party's Gross Sales, if any, in relation to a Mining Lease consented to under this Agreement which does not form part of a Single Integrated Project exceed the Threshold Amount in any Financial Year (a "Windfall Year") the Grantee Party will pay to the Nominated Body an amount equal to 2.5% of that portion of the Gross Sales which exceed the Threshold Amount.
- 14.3 Where the Grantee Party's Gross Sales, if any, for two or more Mining Leases consented to under this Agreement in a Single Integrated Project exceed the Threshold Amount in any Financial Year (a "Windfall Year") the Grantee Party will pay to the Nominated Body an amount equal to 2.5% of that portion of the Gross Sales which exceed the Threshold Amount.
- 14.4 In each Windfall Year, the Grantee Party must provide the Native Title Parties and the Western Yalanji PBC with a written report (the "Threshold Amount Report") detailing the Threshold Amount for that Windfall Year. In particular, the Threshold Amount Report must:
 - (a) show the calculation of the Threshold Amount for the Windfall Year in question; and
 - (b) be attached to the annual royalty return for the Windfall Year.
- 14.5 The Native Title Parties and the Western Yalanji PBC agree to treat the information contained in a Threshold Amount Report and information provided under clause 14.1 as Confidential Information.

14.6 In this clause 14:

"Gross Sales" means gross sales identified in the annual royalty returns exclusive of any GST included in the sale price for the gross sales; and

"Threshold Amount" means:

- (a) for one Mining Lease for the first Financial Year (commencing on 1 July 2012) an amount equal to \$750,000;
- (b) for two or more Mining Leases in a Single Integrated Project, for the first Financial Year (commencing 1 July 2012) an amount equal to \$1.5 million;

- (c) for the second and subsequent Financial Years, an amount calculated annually in accordance with the following formula:

$$R = \frac{XY}{Z}$$

Where:

R is the Threshold Amount for the relevant Financial Year;

X is the CPI Number for the quarter ended 31 March immediately prior to the commencement of the relevant Financial Year;

Y is the Threshold Amount for the previous Financial Year;

Z is the CPI Number for the quarter ended 31 March immediately prior to the commencement of the previous Financial Year; and

- (d) for any relevant Financial Year, the amount will not be less than the Threshold Amount for the previous Financial Year.

14.7 For the purposes of this clause 14 “relevant Financial Year” means the Financial Year in which the Threshold Amount is being calculated.

15. ANNUAL CPI ADJUSTMENT

15.1 The Parties agree that the amounts specified in Schedule 3 which are marked with an asterix (“rates”) will be subject to an annual adjustment in accordance with clause 15.2.

15.2 The rates will be adjusted every Financial Year commencing on 1 July 2012 in accordance with the following formula:

$$A = \frac{B \times C}{D}$$

Where:

A means the rates for the relevant Financial Year;

B means the rates for the previous Financial Year;

C is the CPI Number for the quarter ending 31 March immediately prior to the commencement of the relevant Financial Year; and

D is the CPI Number for the quarter ending 31 March immediately prior to the commencement of the previous Financial Year.

15.3 If a review under clause 15.2 results in a decrease in the rates, the rates for the previous Financial Year will continue to apply.

15.4 For the purposes of this clause 15, “relevant Financial Year” means the Financial Year in which the adjustment of the rates is being calculated.

16. SATISFACTION OF COMPENSATION ENTITLEMENTS UNDER THE NTA

16.1 The Native Title Parties agree on their own behalf and on behalf of the Western Yalanji People and the people represented by the Western Yalanji PBC agree that any amounts paid by the Grantee Party under clause 12.3 are:

- (a) in full and final satisfaction of any Compensation Entitlement;
- (b) compensation for the purposes of "compensation provided for in the agreement" in accordance with section 24EB(5) of the NTA.

16.2 The Native Title Parties acknowledge on their own behalf and on behalf of the Western Yalanji People and the Western Yalanji PBC acknowledges that any amounts payable under clause 12.3 are held by the Nominated Body for all members of the Western Yalanji People and the people represented by the Western Yalanji PBC.

17. INDEMNITY

The Native Title Parties on their own behalf and on behalf of the Western Yalanji People agree that if a person other than the Native Title Parties or a member of the Western Yalanji People establishes that they:

- (a) hold Native Title in relation to the ILUA Area;
- (b) are not entitled to any of the benefits provided under this Agreement; and
- (c) are entitled to payment of compensation from the State or the Grantee Party for the doing of the Agreed Acts,

then the Native Title Parties and the Western Yalanji People indemnify the State and the Grantee Party for the payment of any such compensation up to the amount of any payments paid or payable under this Agreement.

18. RELEASE AND WAIVER

18.1 The Native Title Parties on their own behalf and on behalf of the Western Yalanji People release and discharge the State and the Grantee Party from all Claims in relation to the doing of the Agreed Acts.

18.2 The Native Title Parties waive any rights that the Native Title Parties or any of the Western Yalanji People may have to make any Claim against the State or the Grantee Party in relation to the doing of the Agreed Acts.

18.3 The Western Yalanji PBC:

- (a) releases and discharges the State and the Grantee Party from all claims in relation to the doing of the Agreed Acts; and
- (b) waives any rights that the Western Yalanji PBC may have to make any Claim against the State or the Grantee in relation to the doing of the Agreed Acts.

18.4 This clause 18 may be pleaded as a complete bar to any Claims brought by any of the Native Title Parties, or any member of the Western Yalanji People, or by the Western Yalanji PBC against the State or the Grantee Party in relation to the doing of the Agreed Acts.

19. ACCESS

19.1 Subject to clause 19.2, the Grantee Party recognises that members of the Western Yalanji People and the people represented by the Western Yalanji PBC may wish to exercise Native Title Rights and Interests, not being inconsistent with State and Commonwealth law, within the Mining Tenements.

19.2 The Western Yalanji People and the people represented by the Western Yalanji PBC must not access any part the Mining Tenement:

- (a) identified by signs placed by the Grantee Party warning of health or safety hazards, where the placement of those signs is reasonable;
- (b) within 50 metres of where plant and equipment are located;
- (c) within 50 metres of where activities permitted under the Mining Tenement are being undertaken; or
- (d) within such other lesser or greater distances from such hazards, plant, equipment or activities as reasonably directed by the Operator or Site Senior Executive or their delegate from time to time.

19.3 The Grantee Party agrees that subject to this Agreement, in particular clauses 19.1 and 19.2, it will use its best endeavours to minimise the effect of the Mining Activities on:

- (a) the free movement of the Western Yalanji People and the people represented by the Western Yalanji PBC and the exercise of Native Title Rights and Interests within the Mining Tenement; and
- (b) the exercise by the Western Yalanji People and the people represented by the Western Yalanji PBC and the pursuit of their customary and traditional activities within the Mining Tenement.

19.4 In considering what steps are best endeavours, the Grantee Party will take into account whether such movement, exercise or pursuit (as the case may be):

- (a) causes or could reasonably be expected to cause real danger to persons or property; or
- (b) unreasonably interferes with the conduct of Mining Activities being carried out by the Grantee Party.

20. NATIVE TITLE CLAIM

20.1 If the Grantee Party's only interest in the area subject to the Native Title Claims is a Mining Tenement the grant of which was consented to under this Agreement, the Grantee Party agrees that:

- (a) it will not apply to become a respondent party to any of the Native Title Claims; or
- (b) if it is already a respondent party to the Native Title Claims, it will withdraw as a respondent party within 30 Business Days of the grant of a Mining Tenement consented to under this Agreement.

20.2 Nothing in this Agreement affects the existence of Native Title within the ILUA Area.

21. TERMINATION

The Parties agree that a breach of this Agreement by any Party will not give another Party ("Non-defaulting Party") a right to elect to terminate this Agreement. A Non-defaulting Party may exercise any other remedy available to it in respect of such breach.

22. RESOLUTION OF DISPUTES

22.1 In the event of a dispute arising under this Agreement where a dispute resolution process is not otherwise expressly provided for, this clause 22 will apply to the Dispute ("Dispute").

22.2 Any Party claiming that a Dispute has arisen must give notice in writing to the other Parties providing full details of the nature of the Dispute and specific clauses of this Agreement under which the Dispute has arisen ("Dispute Notice").

22.3 Each party (or a representative of each party) to the Dispute ("Dispute Party") must meet or have a telephone conference within 5 Business Days of receipt of the Dispute Notice and negotiate in good faith to resolve the Dispute.

22.4 If the Dispute is not resolved by the Dispute Parties within ten (10) Business Days of the receipt of the Dispute Notice, then any Dispute Party may refer the Dispute to mediation. The mediation may be conducted in Mareeba, or at such place as the parties agree.

22.5 Subject to clause 22.4, the mediation may be conducted by the Land Court.

22.6 If the Dispute Parties have not agreed on the mediator within fifteen (15) Business Days of receipt of the Dispute Notice, the mediator is the person appointed by the President of the Queensland Law Society, or the President's nominee, acting on the request of any Dispute Party.

22.7 The Dispute Parties must pay the mediator's remuneration in equal proportion unless otherwise agreed or determined by the mediator. Each Dispute Party must pay its own costs of the mediation unless otherwise agreed or determined by the mediator.

22.8 If the Dispute, referred to a mediator, is not resolved within fifteen (15) Business Days of the date of appointment of the mediator, then the Dispute Parties may take such other lawful action as they see fit to resolve the Dispute.

22.9 This clause 22 does not prevent any Dispute Party from obtaining any urgent injunctive, declaratory or other relief from a court.

23. CONFIDENTIALITY

23.1 The following information is Confidential Information:

- (a) all anthropological and ethnographic information and information concerning indigenous law and custom, cultural heritage and areas of traditional significance relating to the Western Yalanji People or the people represented by the Western Yalanji PBC; and

- (b) commercial information of a confidential nature relating to business and financial activity of a Grantee Party, including information contained in the Application, information regarding production levels and production values and theories of mineral occurrence and mineral discoveries and information contained in a Threshold Amount Report ,

which is received or acquired in writing, orally or through observation, or is identified in writing as being confidential.

23.2 The Parties acknowledge that this Agreement is not Confidential Information.

23.3 Each Party undertakes not to disclose Confidential Information without the written consent of each of the Parties unless:

- (a) required by law; or
- (b) it is, or becomes public knowledge (other than in breach of this Agreement); or
- (c) it was received from another person having the unrestricted legal right to disclose the information; or
- (d) it is disclosed to the Parties' accountants, financiers, financial institutions, legal advisers, auditors, proposed Assignees or employees on their undertaking to keep the information confidential in accordance with this Agreement.

23.4 Ownership of intellectual property in Inspection Reports remains with the Western Yalanji People or the people represented by the Western Yalanji PBC. The Grantee Party will have a right to use and retain a copy of the Inspection Report relevant to a Mining Tenement the grant of which was consented to under this Agreement for the purposes of conducting Mining Activities and for purposes identified in this Agreement.

24. GST

24.1 The Parties acknowledge that GST may be payable on a Supply under this Agreement.

24.2 Amounts payable under this agreement, including percentages under clause 14, are specified exclusive of GST.

24.3 Where GST is payable upon any Supply under this Agreement, the consideration payable by the Recipient to the Supplier for the Supply will be adjusted in accordance with clause 24.4 and clause 24.5.

24.4 Subject to the Supplier issuing a valid Tax Invoice, the consideration payable by the Recipient to the Supplier for the Supply will be increased by the amount equal to that which the Supplier is obliged to remit as GST on the Supply ("the Amount").

24.5 If it is determined on reasonable grounds that the amount of GST collected from the Recipient under this clause 24 differs, for any reason, from the amount of GST paid or payable by the Supplier, including by reason of:

- (a) any amendment to the GST;
- (b) the issue of a ruling or advice by the Commissioner of Taxation; or

(c) a refund to the Supplier in respect of a Supply made under this Agreement,
the Recipient will be entitled to a refund of the additional consideration collected from the Recipient.

24.6 The Parties will exchange such information as is reasonably necessary for each to make a reasonable assessment of the Amount.

24.7 If a payment to a party under this Agreement is a reimbursement or indemnification calculated by reference to a cost or expense of that party, the payment must be reduced by any Input Tax Credit to which that party is entitled for that cost or expense.

25. OPT IN DEED

25.1 Prior to making an application for the grant of a Mining Tenement, the Small Scale Miner must sign the Opt in Deed.

25.2 Within ten (10) Business Days of the Small Scale Miner signing the Opt in Deed, the Small Scale Miner will provide a copy of that executed deed to the Native Title Parties, the Western Yalanji PBC, the NQMA and the State.

25.3 The Parties agree that, on and from the commencement of the Opt in Deed, the Small Scale Miner will be required to observe and be bound by all the obligations, covenants, terms and conditions in this Agreement that are applicable to the Grantee Party.

26. ASSIGNMENT

26.1 A Grantee Party who is a Small Scale Miner may assign its rights and obligations under the Opt in Deed to another Small Scale Miner, if:

- (a) the Grantee Party has provided to the Native Title Parties, the Western Yalanji PBC, NQMA and the State, a notice of intent to assign the Mining Tenement granted or renewed under this Agreement and referred to in the Opt in Deed; and
- (b) the Assignee and the Grantee Party execute a deed on substantially the same terms as the Deed of Assumption for Small Scale Miner.

26.2 Within twenty (20) Business Days of execution of the Deed of Assumption for Small Scale Miner by the Grantee Party and the Assignee, the Grantee Party will provide a copy of the executed deed to the Native Title Parties, the Western Yalanji PBC, the NQMA and the State.

26.3 The Deed of Assumption for Small Scale Miner comes into effect on the day on which the last party signs it.

26.4 A Grantee Party who is a Small Scale Miner may assign its rights and obligations under the Opt in Deed to a person who is not a Small Scale Miner if:

- (a) the Grantee Party has provided to the Native Title Parties, the Western Yalanji PBC, NQMA and the State, a notice of intent to assign the Mining Tenement granted or renewed under this Agreement and referred to in the Opt in Deed;
- (b) the Assignee and the Grantee Party execute a deed on substantially the same terms as the Deed of Assumption for Non-Small Scale Miner.

- 26.5 Within twenty (20) business days of execution of the Deed of Assumption for Non-Small Scale Miner by the Grantee Party and the Assignee, the Grantee Party will provide a copy of the deed to the Native Title Parties, the Western Yalanji PBC, NQMA and the State.
- 26.6 The Deed of Assumption for Non-Small Scale Miner comes into effect on the day on which the last party signs it.
- 26.7 The Grantee Party acknowledges that it will remain liable for a breach of this Agreement committed prior to the Date of Assignment.

27. ASSIGNMENT TO RNTBC

- 27.1 If a determination of Native Title is made by the Federal Court in relation to the Native Title Claims and a Registered Native Title Body Corporate ("RNTBC") is established to hold the Native Title or act as agent or representative of the Native Title Holders, the Native Title Parties will:
- (a) direct the RNTBC to execute a deed on substantially the same terms as the Deed of Assumption for RNTBC; and
 - (b) use their best endeavours to ensure that the RNTBC executes the Deed of Assumption for RNTBC.
- 27.2 Within 20 business days of execution of the Deed of Assumption for RNTBC by the Native Title Parties and the RNTBC, the Native Title Parties will provide the deed to all of the other Parties for execution.
- 27.3 On and from the date the Deed of Assumption for RNTBC is executed by all the Parties, in relation to the area the subject of the Native Title Claims:
- (a) the RNTBC will be substituted for the Native Title Parties as a Party to this Agreement;
 - (b) the RNTBC will assume the rights and obligations of the Native Title Parties under this Agreement; and
 - (c) all references to the Native Title Parties in this Agreement are to be read as references to the RNTBC and this Agreement will apply to the RNTBC as if it were the Native Title Parties.

28. ENVIRONMENTAL CONDITIONS

The Grantee Party must comply with all the conditions of the Level 2 Environmental Authority relating to a Mining Tenement, the grant, renewal or variation of which was consented to under this Agreement.

29. REHABILITATION

- 29.1 The Grantee must comply with all the rehabilitation conditions of the Level 2 Environmental Authority relating to a Mining Tenement the grant, renewal or variation of which was consented to under this Agreement.

29.2 The Grantee Party must comply with the law relating to the protection of the environment and rehabilitation of any Mining Tenement the grant, renewal or variation of which was consented to under this Agreement.

29.3 The Grantee Party must rehabilitate the Mining Tenement the grant, renewal or variation of which was consented to under this Agreement to the standard in accordance with the Level 2 Environmental Authority.

30. NON-COMPLIANCE WITH CLAUSES 28 AND 29

Notwithstanding any other provision of this Agreement, if a Party considers that the Grantee Party is not complying with its obligations in clauses 28 and 29, that Party may take any action available in accordance with the EPA in relation to such non-compliance.

31. EMPLOYMENT

31.1 The Grantee Party agrees that where it employs 4 permanent employees in its operation that it will provide notice of any further employment opportunities to the Native Title Parties.

31.2 The NQMA agrees to facilitate employment opportunities between the Grantee Party and the Native Title Parties as contemplated by clause 31.1 by performing a liaison role to establish a contact point between the Grantee Party and appropriately qualified members of the Native Title Claim Group.

32. LIAISON COMMITTEE

32.1 The NQMA and the Native Title Parties agree to meet within 2 years from the Commencement Date and 4 years after the Commencement Date (unless otherwise agreed) for the purposes of reviewing the operation of this Agreement and to identify aspects of this Agreement which are working satisfactorily and unsatisfactorily ("Liaison Committee").

32.2 The Liaison Committee will comprise 2 representatives of the NQMA and 2 representatives of the Native Title Parties unless otherwise agreed.

32.3 The outcomes from this process will be considered by the Parties when considering the extension of the Expiry Date under clauses 4.4 to 4.6.

32.4 Nothing in this clause obliges the Parties to amend this Agreement to address any of the matters identified under clause 31.1.

33. PROCEDURES FLOWCHART

The procedure intended to be followed in relation to the grant of Mining Tenements pursuant to this Agreement is set out in the flowchart in Schedule 10. The Parties agree that this flowchart is included in this Agreement for information and communication purposes only, and does not affect the rights and obligations of the Parties arising under this Agreement.

34. FORCE MAJEURE

If a Party is unable to wholly or in part perform any obligation (other than an obligation to pay money) under this Agreement as a result of a Force Majeure Event, that Party must give notice to the other Parties of that Force Majeure Event outlining reasonably full particulars of

the Force Majeure Event, in which case the obligation is suspended so far as the Party's ability to perform the obligation is affected by that Force Majeure Event for the duration of the Force Majeure Event.

35. NOTICE

35.1 Any Party wishing to give notice for any purpose under this Agreement must do so in the following manner, unless another manner is expressly provided for:

- (a) by notice in writing directed to the recipient's Address for Service; or
- (b) hand delivered or sent by prepaid post or facsimile or email to the Address for Service.

35.2 A notice given in accordance with clause 35.1 is taken to be received if:

- (a) hand delivered, on delivery;
- (b) sent by prepaid post, with confirmation from the recipient; and
- (c) sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the total number of pages of the notice unless, within 8 Business Hours after that transmission, the recipient informs the sender that it has not received the entire notice;

35.3 A Party must inform the other Parties of any change of address to the Address for Service within 10 Business Days of that change.

35.4 Any change notified under clause 35.3 will become the Address for Service for that Party.

36. STATE'S DECISION-MAKING

36.1 Nothing in this Agreement will act as an agreement, a fetter, or as an estoppel about the exercise of discretion, or the making of a decision by the State.

36.2 The Parties acknowledge that the grant of Mining Tenements and other rights consented to in clause 7 and clause 8 are subject to the exercise of discretions and the consents provided in clause 7 and clause 8 are not to be construed as a representation by the State that the Mining Tenements and other rights will be granted.

37. INDEPENDENT LEGAL ADVICE

37.1 The Native Title Parties represent and warrant that prior to the signing of this Agreement they and the Western Yalanji People have received independent legal advice on all aspects of this Agreement.

37.2 The Western Yalanji PBC represents and warrants that prior to the execution of this Agreement it received independent legal advice on all aspects of this Agreement.

37.3 NQMA represents and warrants that prior to the signing of this Agreement it has received independent legal advice on all aspects of this Agreement.

38. GENERAL

- 38.1 This Agreement does not create a relationship of employment, agency or partnership between the Parties.
- 38.2 If part or all of any provision of this Agreement is illegal or unenforceable, that part may be severed from this Agreement and the remaining provisions of this Agreement continue in force.
- 38.3 A right under this Agreement will only be waived where that waiver is in writing and is signed by the Party whose right is waived. Where a right under this Agreement is waived, the waiver will be limited to the specific right stipulated in writing.
- 38.4 Each Party must use its best efforts to do all things necessary to give effect to this Agreement and refrain from doing anything that could hinder the performance of this Agreement.
- 38.5 This Agreement may be executed in any number of counterparts. All counterparts taken together will constitute one instrument.
- 38.6 This Agreement must only be altered in writing signed by all Parties, but such an amendment would not come into effect until the amended ILUA is registered by the National Native Title Tribunal and the original ILUA is deregistered
- 38.7 Each Party will pay its own costs of and incidental to:
- (a) the negotiation, preparation and execution of this Agreement; and
 - (b) this Agreement being registered on the Register.
- 38.8 This Agreement will be governed by the laws of Queensland and each Party submits to the non-exclusive jurisdiction of the courts of Queensland.
- 38.9 This Agreement is the entire agreement between the Parties in respect of its subject matter.

EXECUTED AS A DEED.

SIGNED SEALED AND DELIVERED by
William Steven Brady for himself and on behalf
of the Western Yalanji People

this 9th day of January 2012

in the presence of

.....
(signature of witness)

.....
JOHN CLARK
(print name of witness)

.....
61 ANDERSON ST. MANUWA
(address of witness)

.....
W.S. Brady
(signature)

SIGNED SEALED AND DELIVERED by
Graham Brady for himself and on behalf of the
Western Yalanji People

this 11th day of January 2012

in the presence of

.....
(signature of witness)

.....
JOHN CLARK
(print name of witness)

.....
61 ANDERSON ST. MANUWA
(address of witness)

.....
(signature)

SIGNED SEALED AND DELIVERED by
Desmond Brickey (Brickie) for himself and on
behalf of the Western Yalanji People

this 12th day of December 2012

in the presence of

.....
(signature of witness)

.....
(print name of witness)

.....
(address of witness)

.....
(signature)

SIGNED SEALED AND DELIVERED by
Thomas Mitchell for himself and on behalf of
the Western Yalanji People

this day of 20

in the presence of

.....
(signature of witness)

.....
(print name of witness)

.....
(address of witness)

.....
(signature)

SIGNED SEALED AND DELIVERED by
Dell Riley for himself and on behalf of the
Western Yalanji People

this 17th day of JANUARY 2013

in the presence of

.....
(signature of witness)

Jensen Clark
.....
(print name of witness)

61 ANDERSON STREET MANUNDJA
.....
(address of witness)

.....
(signature)

SIGNED SEALED AND DELIVERED for and
on behalf of the Western Yalanji Aboriginal
Corporation RNTBC ICN 3326

by .. GAENIS CROGAN ..
(full name)
..... SECRETARY ..
(position)

.....
(signature)

this 17 day of JANUARY 2013

[insert a clause for each person who signs on
behalf of the Corporation]

SIGNED SEALED AND DELIVERED for and)
on behalf of the **State of Queensland**)

by BRETT HEYWARD)
(full name))
DIRECTOR-GENERAL)
(position))

a person duly authorised to act on this behalf,

this day of 20

in the presence of

.....)
(signature of witness))

.....)
(print name of witness))

.....)
(address of witness))

SIGNED SEALED AND DELIVERED for and)
on behalf of the **North Queensland Miners**)
Association Incorporated)

this 12th day of January 2012)
by Paul Edwin Crossland)
(full name) on behalf of)

the President and countersigned

by VICTORIA LAKE)
(full name))

the Secretary

[Signature])
(signature))

P. E. Crossland)
(signature))

[Signature])
(signature))

SIGNED SEALED AND DELIVERED for and)
on behalf of the STATE OF QUEENSLAND)

by ANDREW CRIPPS)
(name of person))

Andrew Cripps

.....)
(signature)

the MINISTER FOR NATURAL RESOURCES & MINES)
(position))

a person duly authorised to act on this behalf,)

this 27th day of OCTOBER 2013)

in the presence of)

..... S McDonald)
(signature of witness))

..... SUSAN EILEEN McDONALD)
(print name of witness))

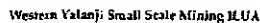
LV 17, b. 1, MARY STREET, BRISBANE)
(address of witness))

SCHEDULE 1 – ILUA MAP AND WRITTEN DESCRIPTION

ILUA MAP

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Western Yalanji Small Scale Mining ILUA



NOTE To determine areas subject to claim within the external boundary, reference to the application description is necessary.

Application boundary data compiled by the NNTT

Cadastral data sourced from Department of Natural Resources and Minor, Qld (1 August 2012)

Mining Tenure data sourced from Department of Natural Resources and Mines, Qld (May 2012)

Local Government Authorities data sourced from Department of Natural Resources and Mines, Qld (20 February 2012)

Topographic image data is © Commonwealth of Australia and is used under licence from Geoscience Australia, 2005.

NOTE Topographic images should be used as a guide only.

Map created by: Geospatial Services, National Native Title Tribunal (05/10/2012)

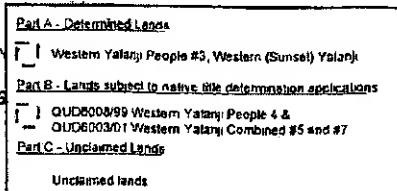


0 15
KILOMETRES

Latitude and Longitude based on Geocentric Datum of Australia 1994

© Commonwealth of Australia 2012

The Registrar, the National Native Title Tribunal and its staff, members and agents and the Commonwealth (jointly with the Commonwealth) accept no liability and give no acknowledgments, guarantees or warranties concerning the accuracy, completeness or fitness for purpose of the information provided. In return for receiving such information you agree to release and indemnify the Commonwealth and third party (its suppliers in respect of all claims, expenses, losses, damages and outgoings directly or indirectly from your use of the information and the use of all the information you obtained from any third party.



WRITTEN DESCRIPTION

External boundary description

Commencing at a point on the western boundary of native title determination application QUD6003/01 Western Yalanji Combined #5 and #7 claim (QC07/4), being the north western corner of Exploration Permit Mineral 11980, Longitude 144.134435° East, Latitude 16.081820° South, and extending due north to the southern bank of the Palmer River; then generally easterly along the southern bank of that river to the prolongation southerly of the western boundary of Lot 1 on CP907719, being a boundary of native title determination application QUD6003/01 Western Yalanji Combined #5 and #7 claim (QC07/4); then generally northerly and generally south easterly along that prolongation, western boundaries of that lot and Lot 1 on CP825797 and northern boundaries of Lot 1 on CP825797 and Lot 66 on SP161906 to a corner at approx Longitude 144.732151° East being a boundary of native title determination application QUD6008/99 Western Yalanji People 4 (QC99/12); then north easterly to the southern bank of the East Normanby River at Longitude 145.002992° East; then generally south westerly passing through Longitude 144.988809° East, Latitude 15.754569° South to the intersection of the centrelines of an unnamed creek and the West Normanby River at Latitude 15.781080° South; then generally southerly along the centrelines of that river and the Granite Normanby River to Latitude 16.045480° South; then generally south easterly passing through the following coordinate points:

Longitude° (East)	Latitude° (South)
145.036478	16.051652
145.047114	16.082093
145.053927	16.103011
145.059780	16.123162
145.066497	16.138130
145.070911	16.153483

Then south easterly to a corner on the northern boundary of Lot 57 on NPW905 at Longitude 145.074237° East; then generally south easterly along the eastern boundaries of that Lot, Lot 58 on NPW1159, Lot 197 on NPW904 and again Lot 58 on NPW1159 to a corner on the northern boundary of that lot at Longitude 145.270499° East; then southerly to the headwaters of an unnamed creek at Longitude 145.271320° East Latitude 16.502170° South; then generally south westerly, generally north westerly and generally south westerly along the centreline of that creek and the McLeod River to its intersection with the centreline of the Mitchell River; then southerly and generally south westerly passing through the following coordinate points:

Longitude° (East)	Latitude° (South)
144.939420	16.547868
144.935990	16.548179
144.934524	16.549808
144.933709	16.553066
144.929637	16.559419
144.921682	16.562382
144.918235	16.564468
144.913674	16.566586
144.909927	16.573427
144.907321	16.578965
144.906669	16.581083
144.903574	16.587273
144.901620	16.591019
144.896570	16.593788
144.893475	16.595417
144.887285	16.595743
144.881910	16.596720
144.876046	16.599978
144.868716	16.605516
144.866761	16.607145
144.861223	16.609589
144.857314	16.610240
144.850310	16.609752
144.846400	16.609426
144.841351	16.606982
144.825388	16.600141
144.820501	16.599652
144.814638	16.596720
144.806167	16.597209
144.803887	16.598024
144.801606	16.599327
144.795580	16.601770
144.787598	16.602910
144.783689	16.603236
144.780431	16.603073
144.776033	16.603399
144.770332	16.599816
144.767237	16.597535
144.763654	16.596069
144.759256	16.590857
144.756813	16.590205
144.751600	16.589391
144.742967	16.590368
144.735311	16.591345

Longitude° (East)	Latitude° (South)
144.724887	16.591834
144.719186	16.591182
144.711367	16.589554
144.708109	16.589879
144.703548	16.590368
144.689377	16.601933
144.681232	16.614964
144.681558	16.616919
144.675205	16.629625
144.671459	16.630928
144.668201	16.637443
144.665269	16.637769
144.662500	16.640864
144.662337	16.645751
144.665594	16.652266
144.662334	16.656908

Then south westerly to the easternmost corner of Lot 285 on SP108034, being on the southern boundary of native title determination QUD6002/96 Western (Sunset) Yalanji (QC95/10); then generally south westerly, generally north westerly and generally north easterly along southern and western boundaries of that native title determination to its intersection with the southern boundary of native title determination QUD6089/98 Western Yalanji People 3 (QC98/39) further described as: then generally south westerly and generally north westerly along the northern bank of the Mitchell River to the eastern bank of the St George River; then generally north easterly along that bank to the south easterly prolongation of the northern boundary of Lot 45667 on PH1696; , then north westerly along southern boundaries of native title determination QUD6089/98 Western Yalanji People 3 (QC98/39) and western boundaries of native title determination application QUD6003/01 Western Yalanji Combined #5 and #7 claim (QC07/4) back to the commencement; further described as: then north westerly across that river to a corner of Lot 1 on CF14 at Longitude 144.445808° East,; then generally north westerly along the south western and southern boundaries of that lot to it's south western corner; then easterly and northerly along the boundaries of Lot 14 on SP208316 to the southern boundary of the Cook Shire Council; then generally north westerly along that council boundary to a point due south of the southernmost western corner of Exploration Permit Mineral 11980, Longitude 144.151102° East; then due north to an intersection with the easterly prolongation of the southern boundary of Exploration Permit Mineral 15336, Latitude 16.165153° South; then westerly along that prolongation to a south eastern corner of Exploration Permit Mineral 15336, Longitude 144.134446° East, Latitude 16.165153° South,; then

northerly along an eastern boundary of Exploration Permit Mineral 15336 and the western boundary of Exploration Permit Mineral 11980 back to the commencement point.

Note

Data Reference and source

- Agreement boundary data compiled by National Native Title Tribunal based on data sourced from North Queensland Land Council.
- Native title determination application QUD6003/01 Western Yalanji Combined #5 and #7 claim (QC07/4) as accepted for registration on 18 September 2007.
- Native title determination application QUD6008/99 Western Yalanji People 4 (QC99/12) as accepted for registration on 12 April 2005.
- Native title determination application QUD6037/01 Western Yalanji People 6 (QC01/39) as accepted for registration on 15 November 2001.
- Native title determination QUD6002/96 Western (Sunset) Yalanji (QC95/10) as determined on 28 September 1998.
- Native title determination QUD6089/98 Western Yalanji People 3 (QC98/39) as determined on 17 February 2006.
- Cadastre data sourced from Department of Natural Resources and Mines, Qld (1 August 2012).
- Local Government Authorities data sourced from Department of Natural Resources and Mines, Qld (27 August 2012).
- Rivers / Creeks based on cadastral data else Topographic vector data is © Commonwealth of Australia (Geoscience Australia) 2003.
- Mining Tenure data sourced from Department of Natural Resources and Mines, Qld (August, 2012).
- EPA No. 13357 (EPM13357) compiled from Mining Tenure data sourced from Department of Natural Resources and Mines, Qld (July 2001).

Reference datum

Geographical coordinates have been provided by the NNIT Geospatial Services and are referenced to the Geocentric Datum of Australia 1994 (GDA94), in decimal degrees and are based on the spatial reference data acquired from the various custodians at the time

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.