

MURUJUGA ABORIGINAL CORPORATION

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1st February 2011

Honourable W R Marmion BE MBA MLA

Minister for Environment, Water

77 St Georges Terrace

PERTH WA 6000

Dear Sir

RE: PROPOSED CHANGES TO THE CALM ACT (WA)

I write to you in my capacity as the Chairperson of the Murujuga Aboriginal Corporation (MAC) a corporation established in 2006 as a consequence of an agreement called the Burrup and Maitland Industrial Estates Agreement (BMIEA). The BMIEA was made between the State of Western Australia, the Western Australian Land Authority (now known as Landcorp) and native title parties being the Wong-Goo-Tt-Oo, Ngarluma Yindjibarndi and Yaburara Mardudhunera peoples.

As you may be aware in January 2000, the State of Western Australia notified its intention to acquire land for the construction of heavy industrial estates on the Burrup Peninsula and adjacent Maitland area, along with any native title rights and interests that the native title parties may have had. At that time there were three registered native title claims covering the proposed acquisition area, all of which claims were part heard in the Federal Court. The first claim, by the Ngarluma Yindjibarndi, had been lodged in 1994. Two other groups, the

Yaburara Mardudhunera and the Wong-Goo-To-Oo, lodged claims in 1996 and 1998 respectively. Being registered native title claimants these groups had the right, under the *Native Title Act 1993* (Cth), to negotiate with the Western Australian Government.

The Agreement provided that in exchange for the native title parties' agreement to the surrender and permanent extinguishment of native title on the Burrup and Maitland Estates industrial land and the land required by the State for residential and commercial purposes in Karratha, the native title parties would receive a number of substantial benefits. At the time the Agreement was signed, however, there was no native title determination by the Federal Court in relation to any of the three native title claims before it. However, the benefits contained in the BMIEA were intended to endure regardless of whether or not any of the native title parties were determined by the Federal Court to hold native title over the areas in question.

The BMIEA covers the following areas of land in the west Pilbara region of Western Australia:

- The Burrup Peninsula Non-Industrial estate ;
- The Maitland Industrial estate; and
- Residential and light industrial land in and around Karratha.

The areas concerned include the Conservation Area, an area of world-renowned national heritage significance and protection and a collection of significant aboriginal rock art.

Under the BMIEA freehold title to the non-industrial estate land to the high-water mark was to be transferred to MAC on the following conditions:

- Freehold title would be subject to existing easements and other interests including roads;
- The land was to be leased back to the State for 99 years (plus a 99 year option);

- That a joint Management Agreement would be negotiated and agreed between MAC and the Department of Conservation and Land Management to manage the land in accordance with a agreed Management Plan including commissioning and funding (\$500,000 over 18 months) of an independent study to develop a Management Plan for the land in accordance with specified terms of reference and advised by an Advisory Committee.
- Management funding of \$450,000 per year would be provided over 5 years for management of the land.
- A Visitors/Cultural/Management Centre would be established on the land worth \$5,500,000; and.
- Infrastructure funding would also be provided on the land worth \$2,500,000.

At the date of this letter and despite the fact that now 9 years has elapsed all of the above is yet to be implemented. MAC currently still does not have freehold title to the land. Despite repeated requests by MAC the State government has only now looked to progress things here.

In the years since we have entered into the BMIEA our corporation has continually experienced problems and resistance when dealing with the State government and its agencies especially when we have attempted to secure our legal entitlements. One of the prime areas of concern was that the State government had entered into a contract with us stating that they would jointly manage the Conservation Area with MAC however at the time of signing the BMIEA the relevant agency did not have the legislative ability to undertake to jointly manage land with anyone. Therefore MAC has endured many years of delays and total lack of activity while the relevant State governments have looked at rectifying this position. In the meantime our legal entitlement to freehold title over the land has been withheld and we have lost a significant amount of time in the process.

Late last year we were finally advised that the State government had proceeded to amend the CALM Act to enable the relevant agency to jointly manage the

Conservation Area with MAC. The draft amendments were handed to our legal representative late in 2010 however we have not been able to consider the proposed amendments until recently due to the fact that many of our Elders and Directors have been on lore and culture business. Our Board only met last week for the first time this year and considered the proposed amendments to the Act at that time.

The MAC Board was extremely concerned as to a number of issues that arise from the proposed amendments and therefore I write to you to request an urgent meeting with yourself and representatives from our Board to discuss our concerns. We are recently advised that the CALM amendment Bill is to be discussed in the first week when parliament reconvenes so we would ask that this request be considered by you **as a matter of urgency**.

We would emphasise that this matter has arisen due solely to the State government and its agencies entering into an agreement with us to do something that they did not and still do not have the legislative authority to do, Furthermore we have had to wait 9 years to even get to this stage due to government inactivity. As a consequence we believe that in all fairness you must meet with us to hear our concerns.

Our representatives are agreeable to travelling to Perth to meet with you and I therefore request confirmation of when you are able to meet next week. I await your confirmation of the meeting as soon as possible so that our representatives can arrange travel arrangements.

Yours sincerely

JOAN HICKS
CHAIRPERSON