

ABORIGINAL AFFAIRS PLANNING AUTHORITY ACT 1972

REPORT OF THE ABORIGINAL AFFAIRS PLANNING AUTHORITY VERSION 2

THE ISSUE

Reserves 15530 and 23079 are both proclaimed reserves under Part III of the *Aboriginal Affairs Planning Authority Act 1972 (AAPA Act)* for the use and benefit of persons of Aboriginal descent and are under the control and management of the Aboriginal Lands Trust (ALT).

To achieve the agreed outcomes of the Dambimangari KSCS Marine Parks Indigenous Land Use Agreement (**the Dambimangari ILUA**), Part III AAPA Act is to be removed from the following intertidal areas of Reserves 15530 and 23079:

- Reserve 15530 – Lots 301, 303, 304 and 305 on Deposited Plan 408955
- Reserve 23079 – Lots 506, 507, 509, 511 and 512 on Deposited Plan 408955

THE RESERVE

Reserve 15530 comprises 96,315 hectares of land and Reserve 23079 comprises 421,900 hectares of land, and both are located in the Shire of Wyndham East Kimberley near Brunswick Bay.

Reserves 15530 and 23079 are both reserved for persons of Aboriginal descent and vested in the Aboriginal Affairs Planning Authority (**AAPA**) under Part III of the AAPA Act. As Part III reserves, restrictions are placed on dealings with and access to the land. Control and management of Reserves 15530 and 23079 is conferred on the ALT.

As Reserves 15530 and 23079 are proclaimed under Part III AAPA Act, no changes can be made to the boundaries of the reserves until a proclamation is made declaring that excised areas are no longer reserved for persons of Aboriginal descent.

NATIVE TITLE

Reserves 15530 and 23079 are subject to the Dambimangari native title determination (WAD 6061/1998) made on 26 May 2011. The determination states that native title exists in relation to Reserves 15530 and 23079 with intertidal areas of the reserves being subject to non-exclusive native title rights and interests.

As part of the Kimberley Science and Conservation Strategy (**KSCS**), the Dambimangari native title holders and the State of Western Australia entered into the Dambimangari ILUA. The Dambimangari ILUA was executed on 18 November 2016 and requires intertidal areas of Reserves 15530 and 23079 to be included in the Lalang-garram / Camden Sound Marine Park and the Lalang-garram / Horizontal Falls Marine Park (**the Marine Parks**).

To achieve this, the vesting in the AAPA under Part III AAPA Act first needs to be removed from certain intertidal areas of Reserves 15530 and 23079 before those intertidal areas are excised from the reserve and new marine reserves created. A map of the intertidal areas to be excised is attached as **Attachment C**.

REMOVING PART III FROM AREAS OF THE RESERVES

The process for removing the Part III vesting in the AAPA is set out in section 25 AAPA Act and requires the Governor to make a declaration that the land shall cease to be reserved for persons of Aboriginal descent.

This process is necessary to comply with the intent of the KSCS and implement the State's commitments contained in the Dambimangari ILUA.

CONSULTATION AND APPROVALS

The Dambimangari native title holders were consulted regarding the requirement for the proclamation and excision of intertidal areas of Reserves 15530 and 23079 as part of the KSCS negotiations relating to the creation of the Marine Parks. The native title holders have executed the Dambimangari ILUA consenting to the creation of the marine parks following the removal of the Part III vesting and excision of intertidal areas.

On 27 October 2015, 21 November 2019 and 24 September 2020, the ALT resolved to recommend the removal of Part III of the AAPA Act from the intertidal areas of:

- Reserve 23079, identified as Lots 506, 507, 509, 511 and 512 on Deposited Plan 408955; and
- Reserve 15530, identified as Lots 301, 303, 304 and 305 on Deposited Plan 408955.

RECOMMENDATION

The AAPA supports the Minister for Aboriginal Affairs' recommendation to the Governor that the boundaries of Reserves 15530 and 23079 be altered by excising intertidal areas required for surrounding marine parks and that those excised areas shall cease to be reserved for persons of Aboriginal descent under section 25 AAPA Act. **Attachments A and B** constitute the proposed recommendation from the Minister for Aboriginal Affairs.

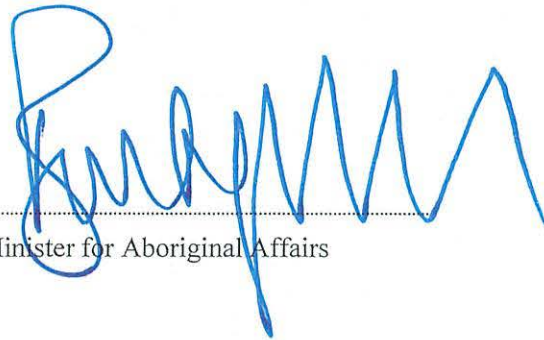
Att.

1. Attachment A - Proposed Recommendation to the Governor
2. Attachment B - Draft proclamation (*Aboriginal Affairs Planning Authority (Reserve 15530 and 23079 Land) Proclamation 2021*)
3. Attachment C - Map of intertidal areas to be excised

Aboriginal Affairs Planning Authority Act 1972
Section 25

PROPOSED RECOMMENDATION TO THE GOVERNOR

Under the *Aboriginal Affairs Planning Authority Act 1972* section 25(2)(a), I recommend the making of the *Aboriginal Affairs Planning Authority (Reserve 15530 and 23079 Land) Proclamation 2021*.

A handwritten signature in blue ink, consisting of a large initial 'P' followed by a series of stylized, connected loops and peaks.

Minister for Aboriginal Affairs

Western Australia

**Aboriginal Affairs Planning Authority
(Reserve 15530 and 23079 Land)
Proclamation 2021**

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**Aboriginal Affairs Planning Authority
(Reserve 15530 and 23079 Land)
Proclamation 2021**

Made by the Governor in Executive Council under the *Aboriginal Affairs Planning Authority Act 1972* section 25(1)(b) and (c).

1. Citation

This proclamation is the *Aboriginal Affairs Planning Authority (Reserve 15530 and 23079 Land) Proclamation 2021*.

2. Commencement

This proclamation comes into operation as follows —

- (a) clauses 1 and 2 — on the day on which this proclamation is published in the *Gazette*;
- (b) the rest of the proclamation — on the day after that day.

3. Alteration of boundaries of reserve 15530 land

- (1) In this clause —

relevant land means Lots 301, 303, 304 and 305 on Deposited Plan 408955;

reserve 15530 land means the land in Reserve No. 15530 reserved for persons of Aboriginal descent under section 25(1)(a) of the Act by proclamation published in the *Gazette* on 15 June 1973 at p. 2215-6.

- (2) Under section 25(1)(b) of the Act, the boundaries of the reserve 15530 land are altered by excising the relevant land.
- (3) Under section 25(1)(c) of the Act, the relevant land ceases to be reserved for persons of Aboriginal descent.

4. Alteration of boundaries of reserve 23079 land

- (1) In this clause —

relevant land means Lots 506, 507, 509, 511 and 512 on Deposited Plan 408955;

reserve 23079 land means the land in Reserve No. 23079 —

- (a) that was reserved for persons of Aboriginal descent under section 25(1)(a) of the Act by proclamation published in the *Gazette* on 15 June 1973 at p. 2215-6; and

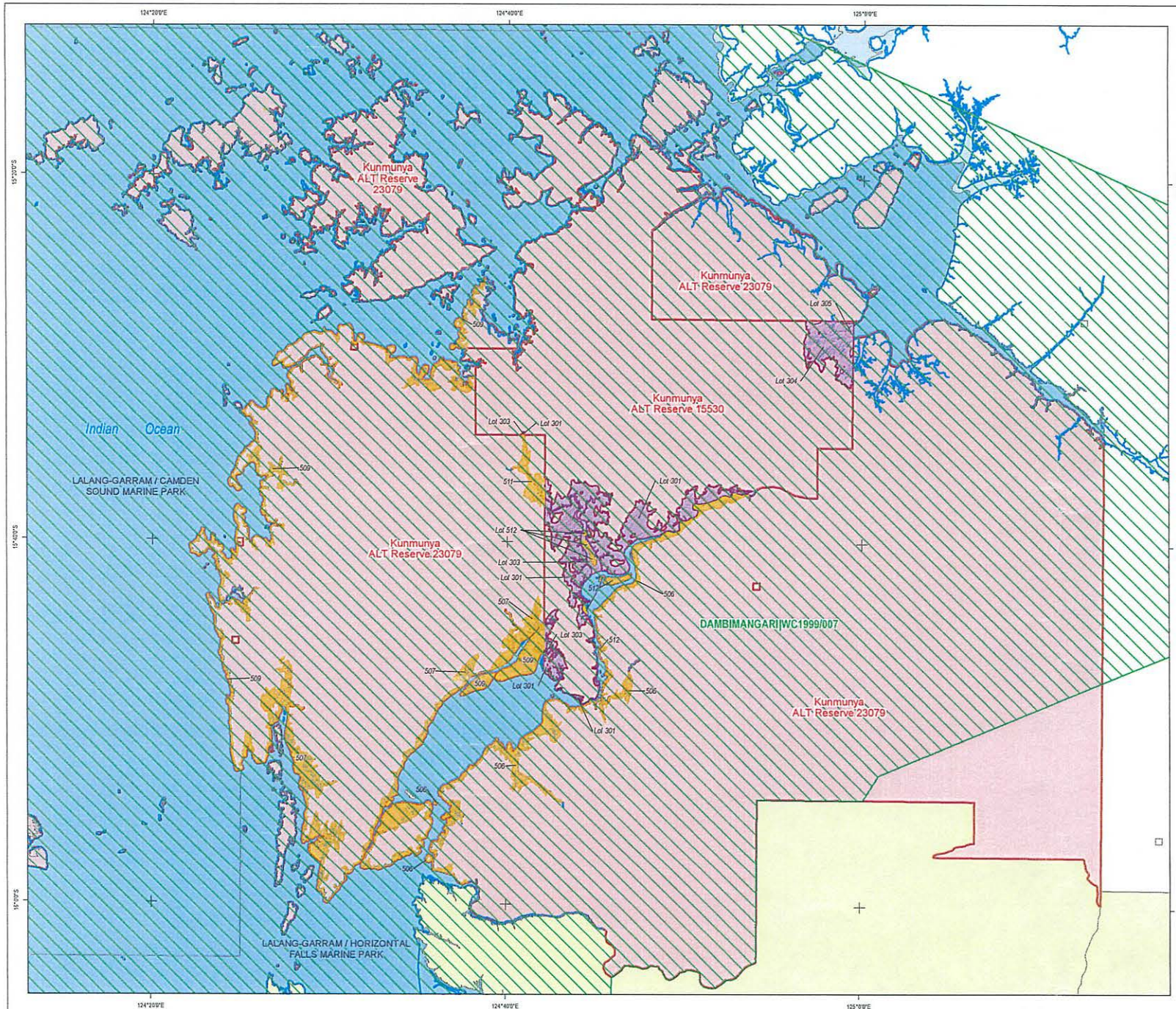
***Aboriginal Affairs Planning Authority (Reserve 15530 and 23079 Land)
Proclamation 2021***

- (b) the boundaries of which were altered under section 25(1)(b) of the Act by proclamation published in the *Gazette* on 31 October 2003 at p. 4553.
- (2) Under section 25(1)(b) of the Act, the boundaries of the reserve 23079 land are altered by excising the relevant land.
- (3) Under section 25(1)(c) of the Act, the relevant land ceases to be reserved for persons of Aboriginal descent.

Governor

L.S.

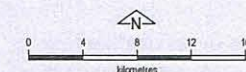
Minister for Aboriginal Affairs



ALT Reserve 15530 and 23079 Dambimangari

Legend

- Cadastre
- Native Title determinations
- Area to be excised from Reserve 15530
- Area to be excised from Reserve 23079
- Reserve
- Marine park
- Unallocated Crown land



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Base information supplied by
Western Australian Land Information Authority
SLIP 1056-2018-1

2016 aerial imagery supplied by
Western Australian Land Information Authority
(Scale 1:25,000, positional accuracy +/- 5m)

