



MARALINGA TJARUTJA

Telephone: (08) 86252946
Facsimilie: (08) 8625 3076

ABN: 90178229972

43 McKenzie Street
CEDUNA SA 5690

Postal Address:
P.O.Box 435
CEDUNA SA 5690

4 June 2015

Mr Wayne Bergmann
Chairperson
Expert Indigenous Working Group
Department of Prime Minister & Cabinet
PO Box 6500
Canberra ACT 2600

Dear Mr Bergmann

Re: Council of Australian Governments Investigation into Indigenous land use and administration.

I have pleasure in providing a submission to the Expert Indigenous Working Group which outlines the experiences of Maralinga Tjarutja in land use and administration.

I trust that the information contained in this paper will assist the Committee in its deliberations and stimulate ideas that could be useful for other Indigenous land owners, given the unique history and experiences of Maralinga Tjarutja in land administration.

Maralinga Tjarutja would like to extend an invitation to the Expert Group to visit Maralinga lands at a time of your convenience so that we can convey our views to the Committee in greater detail. Please liaise with our General Manager, Peter Clark regarding the timing of a visit and any further contact by the Committee with our organisation.

Yours sincerely


(Keith Peters)
Chairperson

LAND USE AND ADMINISTRATION – THE MARALINGA TJARUTJA EXPERIENCE

Background

Maralinga Tjarutja (MT) was established as a body corporate under the *Maralinga Land Rights Act 1984 (SA)*. In addition to its land management responsibilities, MT also performs the role of service provider in delivering funded programs and activities on behalf of the Australian and South Australian Governments.

Whilst property rights were restored to Maralinga Anangu under Australian law through the *Maralinga Land Rights Act 1984*, our story is one of continuous occupation through the millennium. Maralinga lands extend from the WA boarder eastwards and northward to the Anangu Pitjantjatjara Yankunytjatjara Lands, occupying some 12% of the South Australian land mass. Attachment A

The MT head office is located in the township of Ceduna on the west coast of South Australia with a smaller office at Oak Valley on the Maralinga Lands which was established as a permanent community following the return of lands to traditional owners in 1984. Land administration functions are coordinated from the Ceduna office and include the issue of visitor permits, negotiation with mining, exploration and commercial proponents and planning functions.

Included in the MT lands is the area known as Section 400 which comprise the former British nuclear test site and the village of Maralinga where personnel deployed on the testing were accommodated. Testing activities including the detonation of 9 full scale atomic bomb tests, occurred at Maralinga and Emu Field during the period between 1955 and 1963.

Atomic testing carried out by the British Government during this period resulted in radioactive contamination of several of the forward areas on section 400. The British returned to Maralinga in 1964 and 1967 to conduct clean-ups of the contaminated sites, however, an Australian Government Royal Commission determined in 1985 that the area was still dangerously contaminated and should be rehabilitated. The *Maralinga Rehabilitation Project* was completed in 2000 at a cost of \$108 million.

Section 400 was formally handed back to MT in 2009 although responsibility for radiation monitoring continues under arrangement with the Australian and South Australian Governments. The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has declared that all of Section 400 is safe for unrestricted use except for two areas where visitors are not permitted to camp on a permanent basis.

In February 2015, MT commenced a tourist operation at Maralinga to provide the broader community the opportunity to visit the former nuclear test site.

Land Administration and use – mining and exploration

Mining and Exploration Licenses on MT land are processed and approved pursuant to the *South Australian Mining Act 1971* and the *Petroleum and Geothermal Energy Act 2000*. Applications approved by the South Australian

Minister for Mines and Energy are required to be considered by MT under s 21 (3) (a) of the *Maralinga Tjarutja Land Rights Act 1984*.

MT has approved a number of mining and exploration license applications in the last 30 years and has demonstrated a willingness over a long period, to negotiate with mining proponents in good faith. None of these exploration initiatives has been productive of minerals or petroleum.

MT holds a strong view that mining and exploration license aspirants should disclose all details in relation to proposed activity and likely impacts on Maralinga lands and provide adequate surety for remediation of any disturbance to sites utilised for exploration activities.

MT is currently in dispute with the South Australian Department of State Development, Energy Resources Division over rehabilitation works required on land impacted by Rodinia Oil, a petroleum exploration company which abandoned exploration due to liquidation proceedings. MT believes that it has been unnecessarily exposed through the actions of the South Australian government unwilling to cancel the company's exploration license fearful that such action would place it liable to cover the shortfall between the company's security bond and the cost of rehabilitation.

MT further considers that the security bond of \$50,000 provided by Rodinia is manifestly inadequate given the scale of the company's petroleum operations and subsequent damage to MT land arising from exploration.

The South Australian government is seeking to attract new investors into the existing Rodinia license, hoping that rehabilitation costs arising from activities of the former licensee can be conditionally recovered from a potential new licensee.

MT and the South Australian Department of State Development are also in disagreement over the extent of works associated with remediation and whilst the State have agreed to fund a rehabilitation program, the scope excludes a number of areas impacted by mining exploration activities. MT is also disappointed that the State has been unwilling to accept a proposal from MT that it be appointed as the inspection agency on behalf of the government, for rehabilitation works undertaken on its land.

In MT's opinion, the above circumstances highlight some possible deficiencies in the current administration of mineral and exploration license applications on Aboriginal land in South Australia such as:

- The risks to landowners posed by company insolvency occurring during exploration activities on Aboriginal land.
- inadequacy of security bonds lodged by mineral and exploration companies.
- the capacity of State Governments to achieve compliance with regulated activities undertaken by mineral and exploration companies.

Given its experiences with the Rodinia license, MT is now of a view that approval of future petroleum and mineral license applications should be subject to increased security bonds. MT believes that such a measure is required to adequately compensate landowners in the event that the licensee is unable to undertake rehabilitation and related activities, to a satisfactory standard.

Land Administration and use – economic development

Commercial activities undertaken by MT include:

- Civil work under contract to the South Australian Government.
- Civil and construction works undertaken by MT at Oak Valley and Maralinga Village through funded activities sponsored by the Australian and South Australian Governments.
- Minor civil works under contract to mineral exploration companies.
- Retail operation at Oak Valley community.
- Accommodation services at Oak Valley community and Maralinga Village.
- Property investments in Ceduna
- Fuel sales from MT owned properties at the remote communities of Tarcoola and Kingoonya.

The Maralinga Piling Trust manages compensation monies granted by the Australian Government to traditional owners as a result of the contamination and loss of access by the traditional owners to the Maralinga Lands impacted by the British atomic testing carried out between 1955 and 1963. The Piling Trust has supported many projects in the past and continues to provide socially beneficial assistance to traditional owners.

In recent years, the economic development aspirations of MT have expanded in response to reduced government funding aligned to awareness about the need to utilise land and property based assets to provide alternative revenue sources.

In early 2014, the MT Board approved a business plan to develop a sustainable niche tourism product at Maralinga Village, the former headquarters of the British atomic test site.

Maralinga Tours commenced with an online booking system in February 2015 and has been supported by the Piling Trust with grant funding to purchase a tour bus, upgrade accommodation and campground facilities at Maralinga Village. In the first two months of operation, the tour package received more than 200 online bookings and attracted national and international interest as the only tourism package involving visits to a former nuclear test site.

The Maralinga Tours online booking system at <http://www.maralingatours.com.au/> automatically generates a visitor permit application through the MT administration office in Ceduna. MT considers this facility, which has been developed with the assistance of our web site advisor to be a useful example of contemporary land management practice to fast track the issue of entry permits for tour visitors.

Land administration and use – visitor access.

Section 18 of the *Maralinga Tjarutja Land Rights Act 1984* requires visitors to Maralinga Lands to apply in writing to the Council, setting out the purpose of any

proposed visit and be able to provide further information as reasonably required to determine the application.

Whilst MT will entertain any proposals to improve the processing of visitor applications, the organisation remains committed to the principle that all non-traditional owner visitors require permission to enter land under our jurisdiction pursuant to s 18 of the *Maralinga Tjarutja Land Rights Act 1984*.

Currently, visitor permit applications are processed by the MT head office in Ceduna and whilst this function imposes an administrative burden, this is not considered to be excessive. Online bookings for Maralinga Tours generate a visitor permit application which is in turn processed by MT head office.

As a freehold landowner, MT reserves the right to control visitor access to its property like any other landowner. Aside from a small number of government services at Oak Valley, no significant public assets such as national parks, recreation areas and the like, operate on MT lands. The Ceduna office occasionally processes requests from members of the public to travel on the Anne Beadell Highway which provides 4 wheel drive access through MT lands, from the Stuart Highway to Leanora in Western Australia.

Generally speaking, restrictions which apply to travel on Maralinga lands are well received and non-controversial. Whilst this may be due in part to the remote and inaccessible nature of the terrain, it may also reflect an increasing awareness and respect on the part of the general public of the need for some form of control over access to traditional lands.

Land administration and use – land use planning.

Planning consent on Maralinga Lands is subject to the South Australian *Development Act 1993* under provisions that apply for development Outside of Council Areas. Generally speaking these provisions are less onerous than those associated with planning consent within recognised local government areas.

Maralinga Tjarutja has the power under s 5 of the *Maralinga Tjarutja Land Rights Act 1984* to grant a lease or license for varying periods contingent on the a period of up to 5 years to private individuals and companies.

MT has yet to exercise its powers under leasing or licensing provisions, however the MT and Oak Valley management boards have agreed to progress a proposal to issue a license over the poles, wires and power generation facilities at Oak Valley. The license will enable unencumbered access by the State government energy agency to deliver electricity supply to the Oak Valley community.

Orderly growth of Oak Valley community (pop 100) may at some future point, require an assessment of current land tenure arrangements in the township. For example, possible development of an integrated land use plan in response to the need to identify and regulate key essential services, residential and non residential property.

In anticipation of future growth, including proposed commercial development, MT has engaged a qualified consultant to undertake further genealogical surveys of traditional ownership on the Maralinga lands. An updated register of traditional owners will provide clarity around leasing and other land tenure deliberations.

Land administration and use – section 400 of the former Woomera Protected Area.

MT has a number of land administration obligations in relation to the area known as section 400, formerly the British atomic testing site at Maralinga. These duties which are defined in the *Maralinga Tjarutja Land Rights Act*, the Maralinga Hand Back Deed and the Maralinga Land and Environment Management Plan include:

1. Ensure the safety and security of Section 400 and its assets.
2. Control visitor access to Section 400 including the forward area.
3. Perform routine and, as required, maintenance of the Maralinga Village site, the airstrip and related plant, equipment and infrastructure.
4. Report any suspicion of any significant radioactive chemical or physical hazard to the South Australian Environmental Protection Authority.
5. Monitor and report any unauthorised access to Section 400 and to notify MT.
6. Maintain signage at boundary areas and designated points within Section 400.
7. Maintain guidelines to provide relevant information for members of the public in relation to the Maralinga Nuclear Test Site.
8. Undertake works and services as determined by the Maralinga Land and Environment Management Committee.

MT's mandatory land administration responsibilities to Section 400 place a considerable burden on the organisation's financial and physical resources.

MT is concerned that the Commonwealth's commitment to its responsibilities under the 2009 Maralinga Handback Deed, to assist in managing Section 400, may be waning.

Our concerns about the ongoing level of support by the Commonwealth in relation to Section 400 and our intentions to exploit the sites tourism potential, were conveyed to the Minister for Industry and Science, the Hon Ian Macfarlane, MP in a letter dated 15 February 2015. The Minister's response of 5 May 2015 did not directly address our concerns but has indicated his willingness to meet with MT at some future point.

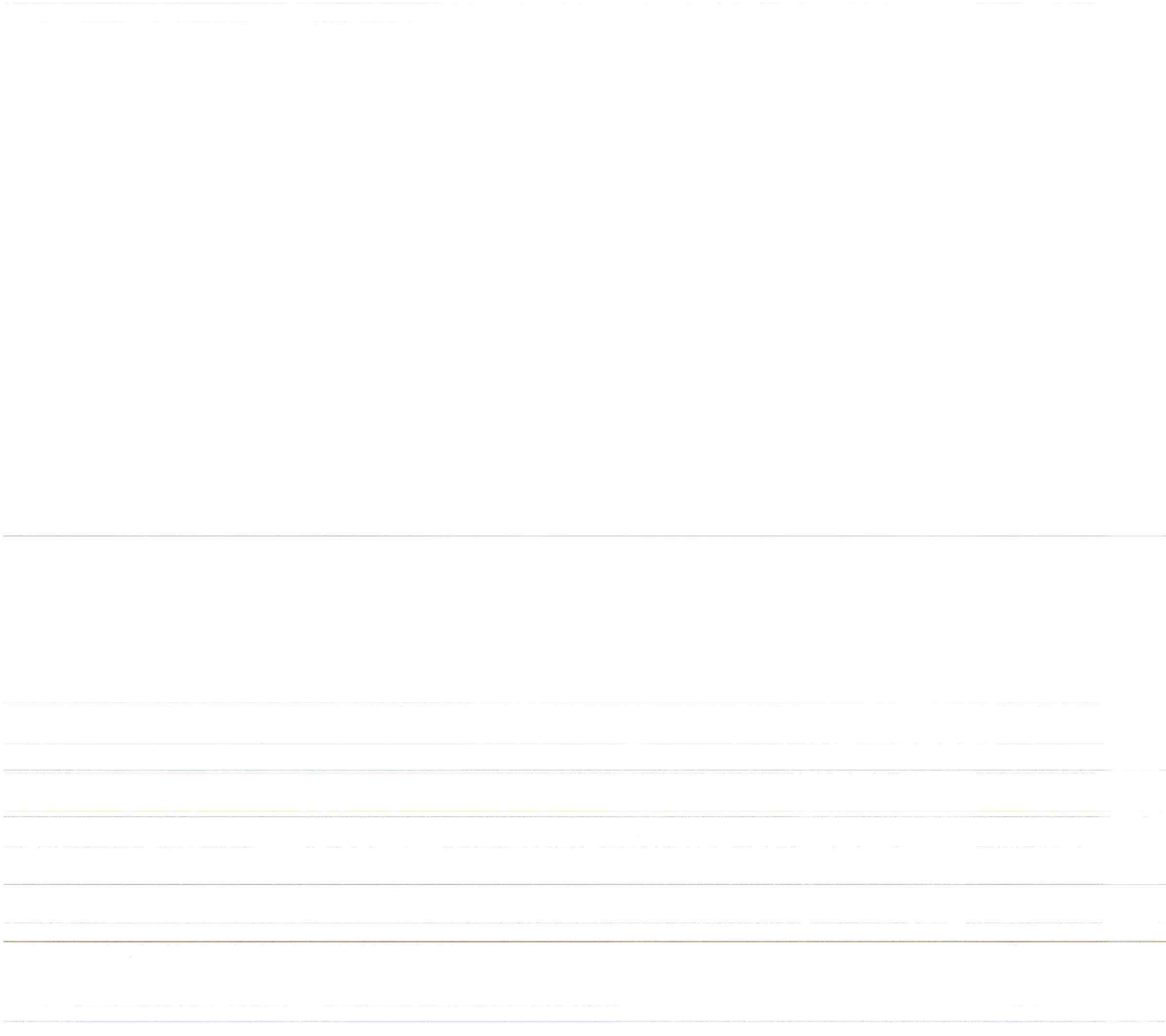
To conclude

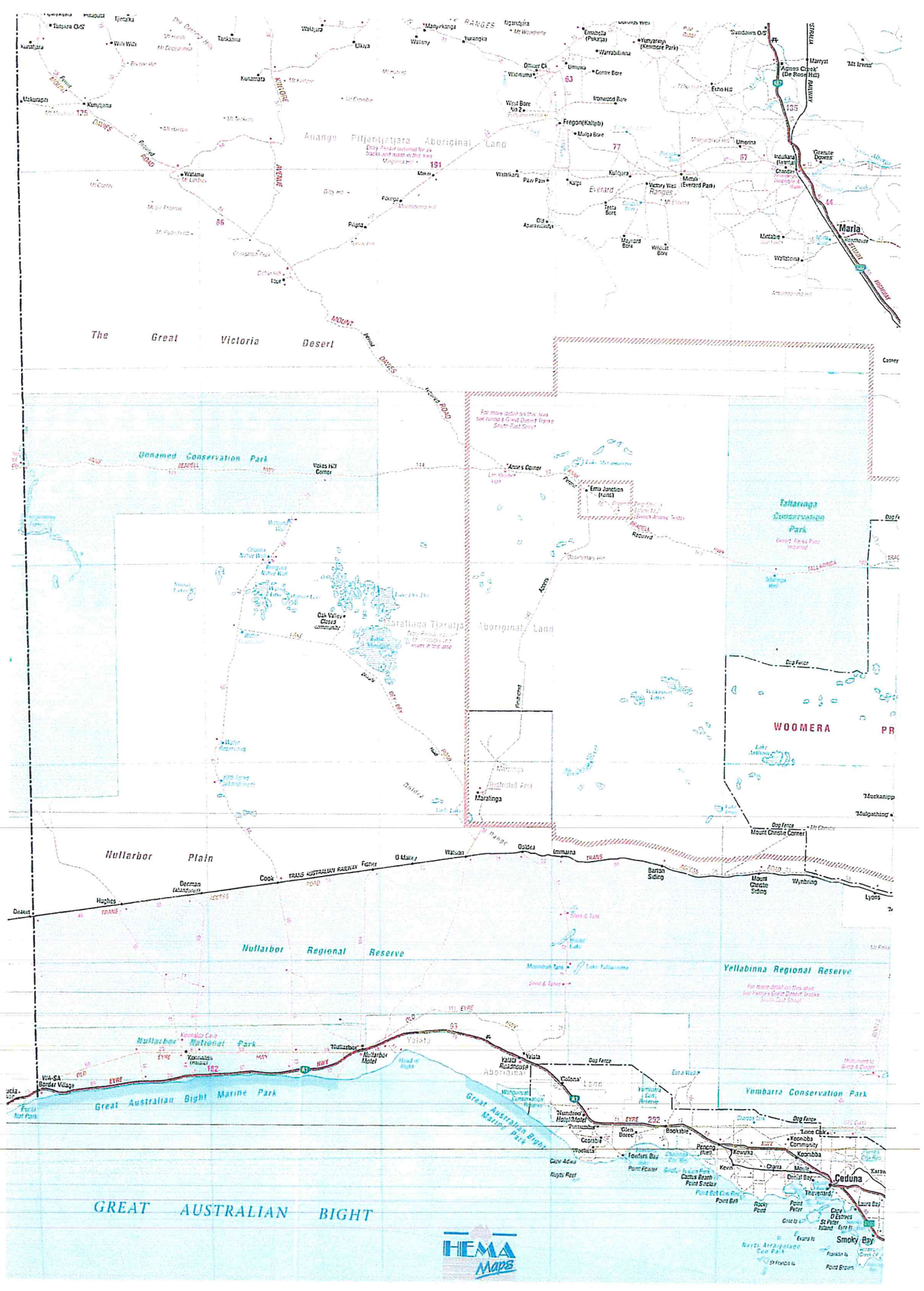
Natural resource management has not been addressed in this paper at any length, but underpins our connection, and commitment to looking after country. MT is represented on the Board of Natural Resources Alinytjara Wilurara (NRAW) and is presently negotiating a partnership agreement with NRAW to protect the Mumungari Conservation Reserve and other important environmental assets located on the lands.

MT considers that our organisation's land administration achieves a healthy balance between traditional owner rights to manage country in a sustainable fashion and the need for increased engagement with the broader economy.

MT would like meet with the Expert Indigenous Working Group to inform the committee about our hopes and aspirations, including a commitment to providing employment, training and business opportunities utilising land resources.

Attachment A – Map of Maralinga Lands





The Great Victoria Desert

Anangu Pitjantjatjara Aboriginal Land

Maralinga Tjarutja Aboriginal Land

WOOMERA PR

Nullarbor Plain

Nullarbor Regional Reserve

Yellabinnia Regional Reserve

GREAT AUSTRALIAN BIGHT



For more detail on this area see James & Great Desert Tracks South Coast Sheet

For more detail on this area see James & Great Desert Tracks South Coast Sheet

For more detail on this area see James & Great Desert Tracks South Coast Sheet

For more detail on this area see James & Great Desert Tracks South Coast Sheet

For more detail on this area see James & Great Desert Tracks South Coast Sheet