Western Australia

Prevention of Forced Closure of Remote Aboriginal Communities Bill 2016

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Defined terms
Legislative Council

(Introduced by Hon Mr Robin Chapple, MLC)

Prevention of Forced Closure of Remote Aboriginal Communities Bill 2016

A Bill for

An Act to provide for the prevention of the forced closure of remote Aboriginal communities.

Preamble

A. Since time immemorial, the Aboriginal people of Western Australia have inhabited lands in the State.

B. Under Aboriginal law and custom, the Aboriginal people of Western Australia are the traditional owners of, and have cultural responsibilities and rights in relation to, lands in the State.

C. The Aboriginal people of Western Australia continue to have a living cultural, spiritual, familial and social relationship with those lands.

D. It has been agreed with the Commonwealth of Australia that Western Australia is to take responsibility for providing services to support remote Aboriginal communities.

E. Under the Constitution Act 1889 the Parliament of Western Australia resolves to acknowledge the Aboriginal people as the First People of Western
Australia and traditional custodians of the land and to seek to effect a reconciliation with the Aboriginal people of Western Australia.

The Parliament of Western Australia enacts as follows:
Part 1 — Preliminary

1. Short title
This is the Prevention of Forced Closure of Remote Aboriginal Communities Act 2016.

2. Commencement
This Act comes into operation as follows —
(a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
(b) the rest of the Act — on the day after that day.

3. Terms used
In this Act —

decision about forced closure, of a remote Aboriginal community, has the meaning given in section 11;

Declaration on the Rights of Indigenous Peoples means the United Nations Declaration on the Rights of Indigenous Peoples of 13 September 2007, contained in the annexure to General Assembly Resolution 61/295, endorsed by the Commonwealth of Australia on 3 April 2009, a copy of the English text of which is set out in Schedule 1;

forced closure, of a remote Aboriginal community, has the meaning given in section 8;

municipal and essential services has the meaning given in section 9;

public authority has the meaning given in section 10;

remote Aboriginal community has the meaning given in section 7.

4. Object of Act
The object of this Act is to prevent the forced closure of remote Aboriginal communities.
5. **Operation of Act**

This Act has effect despite any provision of an Act referred to in section 11(3) or any other written law under which a decision about forced closure of a remote Aboriginal community is made.

6. **Act binds the State**

(1) This Act binds the State.

(2) In this section —

*State* means the Crown in right of the State, and includes —

(a) the Government of the State; and

(b) a Minister of the Crown in right of the State; and

(c) a statutory corporation, or other entity, representing the Crown in right of the State.
Part 2 — Key concepts defined

7. Remote Aboriginal communities

(1) A remote Aboriginal community means —

(a) a community listed in the document entitled “Priority Investment Communities — WA”, a copy of which is set out in Schedule 2; and

(b) a community wholly or principally composed of persons of Aboriginal descent as defined in the Aboriginal Affairs Planning Authority Act 1972 section 4.

(2) For the purposes of subsection (1)(a), a community is listed in that document even if the community has been renamed, or is known by a different name.

8. Forced closure

Forced closure of a remote Aboriginal community means any action taken without the free, prior and informed consent of the members of the community that has the aim or effect of —

(a) closing the community, or relocating the members of the community; or

(b) deterring people from living in the community due to a lack of, or inadequate, municipal and essential services available to the members of the community.

9. Municipal and essential services

Municipal and essential services include the following —

(a) a supply of power, in the form of electricity or gas or both;

(b) a supply of potable water;

(c) a sewerage system, septic tank or other waste water management treatment;

(d) infrastructure provision (including houses, schools, hospitals, clinics and roads);
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10. Public authority

Each of the following is a public authority —

(a) the Crown in right of the State;
(b) the Government of the State;
(c) the Governor in Executive Council;
(d) a Minister of the Crown in right of the State;
(e) a State Government department, State trading concern, State agency or instrumentality;
(f) a local government or a regional local government;
(g) any other body or person, whether incorporated or not, that under a written law administers, provides or carries on a municipal and essential service for the benefit of the State or a part of the State;
(h) any other person or entity prescribed by regulations to be a public authority for the purposes of this section.
Part 3 — Decisions about forced closure of remote Aboriginal communities

11. Decisions about forced closure

(1) A decision by a public authority that will, or has the potential to, result in, or that has resulted in, the forced closure of a remote Aboriginal community is a decision about the forced closure of the community.

(2) In considering whether a decision is a decision about forced closure, it is irrelevant whether the public authority made the decision alone or jointly with any of the following —

(a) another person or body, whether incorporated or not;
(b) another State or Territory, or the Commonwealth;
(c) an agency or instrumentality of another State or Territory, or of the Commonwealth.

(3) The following are examples of decisions about the provision of municipal and essential services that may be a decision about the forced closure of a remote Aboriginal community —

(a) a decision about the provision of a water service to a remote Aboriginal community under the Water Services Act 2012, or by a person licensed to provide a water service under that Act;
(b) a decision about the land in respect of which statutory water service charges will apply under the Water Services Act 2012;
(c) a decision about the supply of energy to a remote Aboriginal community under the Energy Coordination Act 1994;
(d) a decision about the supply of electricity to a remote Aboriginal community under the Electricity Industry Act 2004, or by a person licensed under that Act;
Prevention of Forced Closure of Remote Aboriginal Communities Bill 2016

Part 3 Decisions about forced closure of remote Aboriginal communities

s. 12

(e) a decision about the supply of gas to a remote Aboriginal community under the Energy Coordination Act 1994 or by a person licensed under that Act;

(f) a decision under the School Education Act 1999 to establish, amalgamate or close a government school at a remote Aboriginal community;

(g) a decision under the Health Act 1911 or the Hospitals and Health Services Act 1927 that affects a remote Aboriginal community;

(h) a decision about the provision of a municipal and essential service under the Local Government Act 1995 that affects a remote Aboriginal community;

(i) any other decision prescribed by regulations for the purposes of this section.

(4) A decision by a public authority about the provision of a municipal and essential service includes a decision to cease to provide, or to provide a reduction in, or limit access to, a municipal and essential service.

12. Matters that must be taken into account when making decisions about forced closure

In making a decision about the forced closure of a remote Aboriginal community the public authority must use its best endeavours to adhere to the principles set out in the Declaration on the Rights of Indigenous Peoples, and in particular —

(a) Articles 8, 9 and 10 — the right of indigenous people not to be subjected to forced assimilation or destruction of their culture or removal from their lands and the right to belong to an indigenous community or nation; and

(b) Articles 3, 4, 18 and 23 — the right of indigenous people to self-determination, autonomy or self-government in matters relating to their internal and local affairs, to develop their own indigenous decision-making institutions and to determine and...
develop priorities and strategies for exercising their right
to development; and
(c) Articles 19 and 39 — the right of indigenous people to
be actively involved in developing and determining
health, housing and other economic and social
programmes involving them, the right to consultation
and cooperation in good faith from the State and to have
access to financial and technical assistance from the
State for the enjoyment of their rights.

13. **Review of certain decision about forced closure**

(1) A person specified in subsection (2) may apply to the State
Administrative Tribunal for a review of a decision about the
forced closure of a remote Aboriginal community.

(2) A member of a remote Aboriginal community may apply under
subsection (1) if —

(a) a decision about forced closure has been made about
their community; and

(b) the person has reason to believe, and does believe, that
the public authority that made the decision did not make
it in compliance with section 12.

(3) An application for a review of a decision about the forced
closure of a remote Aboriginal community may be made by, or
on behalf of, one or more than one person referred to in
subsection (2).

(4) An application for a review of a decision about the forced
closure of a remote Aboriginal community must be made
within —

(a) 6 months after the decision was made; or

(b) if the remote Aboriginal community affected was not
given written notice about the decision — 6 months
after it became apparent to one or more of the members
of the community that a decision about the forced
closure of their community had been made.
s. 14

(5) An application should be made in writing, but the executive officer, as defined in the *State Administrative Tribunal Act 2004* section 3(1), may formulate in writing any oral application made to the State Administrative Tribunal.

14. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.
Schedule 1 — Declaration of the Rights of Indigenous Peoples

United Nations
A/RES/61/295

General Assembly
Distr.: General
2 October 2007

Sixty-first session
Agenda item 68

Resolution adopted by the General Assembly on 13 September 2007
[without reference to a Main Committee (A/61/L.67 and Add. 1)]


The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,1 by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

107th plenary meeting
13 September 2007
Annex

United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,
Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, as well as the Vienna Declaration and Programme of Action, affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the
State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.
Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

   (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d) Any form of forced assimilation or integration;

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and
cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.
Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the
enjoyment of their own means of subsistence and development, and to engage
freely in all their traditional and other economic activities.

2. Indigenous peoples deprived of their means of subsistence and
development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the
improvement of their economic and social conditions, including, inter alia, in
the areas of education, employment, vocational training and retraining, housing,
sanitation, health and social security.

2. States shall take effective measures and, where appropriate, special
measures to ensure continuing improvement of their economic and social
conditions. Particular attention shall be paid to the rights and special needs of
indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of
indigenous elders, women, youth, children and persons with disabilities in the
implementation of this Declaration.

2. States shall take measures, in conjunction with indigenous peoples,
to ensure that indigenous women and children enjoy the full protection and
guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and
strategies for exercising their right to development. In particular, indigenous
peoples have the right to be actively involved in developing and determining
health, housing and other economic and social programmes affecting them and,
as far as possible, to administer such programmes through their own
institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and
to maintain their health practices, including the conservation of their vital
medicinal plants, animals and minerals. Indigenous individuals also have the
right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

*Article 25*

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

*Article 26*

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

*Article 27*

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples’ laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

*Article 28*

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been
confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right
to maintain, control, protect and develop their intellectual property over such
cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective
measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop
priorities and strategies for the development or use of their lands or territories
and other resources.

2. States shall consult and cooperate in good faith with the indigenous
peoples concerned through their own representative institutions in order to
obtain their free and informed consent prior to the approval of any project
affecting their lands or territories and other resources, particularly in connection
with the development, utilization or exploitation of mineral, water or other
resources.

3. States shall provide effective mechanisms for just and fair redress
for any such activities, and appropriate measures shall be taken to mitigate
adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity
or membership in accordance with their customs and traditions. This does not
impair the right of indigenous individuals to obtain citizenship of the States in
which they live.

2. Indigenous peoples have the right to determine the structures and
to select the membership of their institutions in accordance with their own
procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their
institutional structures and their distinctive customs, spirituality, traditions,
procedures, practices and, in the cases where they exist, juridical systems or
customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of
individuals to their communities.
Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.
Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly
necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.


2 See resolution 2200 A (XXI), annex.

3 A/CONF.157/24 (Part I), chap. III.

4 Resolution 217 A (III).
**Schedule 2 — Priority Investment Communities — WA**

[s. 7]

**Town Based Communities**

1. Bilgungurr
2. Bindii Bindi
3. Bondini
4. Budulah
5. Bungardi
6. Burawa
7. Burrinunga
8. Cheeditha
9. Cullacabardee
10. Darlingunaya
11. Djimung Nguda
12. Gnangara
13. Googa Binya
14. Irrungadjii
15. Junjuwa
16. Karmulinunga
17. Kurnangki
18. Madunka Ewurry
19. Mallingbar
20. Mardiwah Loop
21. Marmion Village
22. Mindi Rardi
23. Mirlma
24. Morrell Park (Four Mile)
25. Mungullah
26. Nambi Village
27. Nicholson Block
28. Nillir Irbanjin (One Mile)
29. Ninga Mia Village
30. Nullywah
31. Parnpajinya
32. Pipunya
33. Red Hill (Lundja)
34. Tkalka Boorda
35. Warrayu
36. Wongatha Wonganarra
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<th>Category A</th>
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<tbody>
<tr>
<td>1) Bardi (Ardyaloon)</td>
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<tr>
<td>2) Beagle Bay</td>
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<tr>
<td>3) Bidyadanga</td>
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<tr>
<td>4) Billard</td>
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6. Mindibungu (Billiluna)
7. Mulan (Lake Gregory)
8. Muludja
9. Ngalingkadji
10. Ngumpan
11. Pandanus Park
12. Pia Wadjari
13. Pullout Springs (Girriyoowa)
14. Punju Njamal
15. Punmu
16. Rocky Springs
17. Wararn
18. Wingellina
19. Wuggan (Wuggabun)
20. Yakanarra
21. Yiyili
22. Yulga Jinna

23. **Category C**
24. Alligator Hole
25. Badjaling
26. Balginjirr
27. Barrel Well
28. Baulu Wah
29. Bawoorrooga
30. Bedunburra
31. Bell Springs
32. Bells Point
33. Bidijul
34. Billinue
35. Bindurrk
36. Biridu
37. Birndirri
38. Bow River
39. Brunbrunganjal (Kittys Well)
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10 Gullaweed
11 Gulumonon
12 Gumbarmun
13 Gurrbalgun
14 Hollow Springs
15 Honeymoon Beach
16 Iragul
17 Jabir Jabir
18 Jameson (Mantamaru)
19 Janterriji
20 Jarlmadanka
21 Jilariya
22 Jimbalakudunj
23 Jimbilum
24 Jinparinya
25 Julgnunn
26 Jundaru
27 Kadjina
28 Kalungkurriji
29 Kalyadan
30 Kandiwal
31 Karalundi
32 Karnparni (Three Mile)
33 Kartang Rija
34 Kayirriwarney
35 Kearney Range
36 Kiwirrkurra
37 Koorabye
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page 32
1 Windjingayre
2 Woodstock Homestead
3 Wulununjur
4 Wungu
5 Wurrenranginy
6 Yandarinya
7 Yardoogarra
8 Yarri Yarri
9 Yatharla
10 Yawuru
11 Yirralallem
12 Yulumbu

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### Defined terms

(This is a list of terms defined and the provisions where they are defined. The list is not part of the law.)

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