

Final Report of an  
Ethnographic Site Avoidance  
survey for proposed fibre-optic  
cable installation corridor,  
conducted with KNAC  
representatives for Vocus'  
Project Horizon, April & July  
2023

Prepared for Karlka Nyiyaparli Aboriginal  
Corporation RNTBC and Vocus Fibre Pty Ltd.  
KNAC Job Codes 23VOC-01 and 23VOC-04

by Justin Beal, BA (Hons). W.Aust.  
February 2024

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## Coordinate Capture

A Garmin handheld GPS utilising the GDA2020 datum (accuracy +/- 5m) was used in the field to confirm locations of proposed activity areas and for the purpose of recording any areas of cultural significance that may have been located.

## Document Control

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## Personnel

The following people attended the two fieldwork periods for the ethnographic heritage survey.

### Fieldwork #1 – Thursday 27 – Saturday 29 April 2023

#### **KNAC representatives** (in alphabetical order)

Jason Anthony Snr., Bruce Bung, Dudley Coppin, Clifford Jones, Billy Landy, Nigel Parker, Peter Tinker, Stanley Watson.

#### **Vocus**

Graeme Bridgeman (Field Construction Manager)  
Craig Molloy (Workplace Health and Safety Officer)

#### **Ethno Ecologies**

Justin Beal (Anthropologist).

### Fieldwork #2 – Tuesday 11 – Thursday 13 July 2023

#### **KNAC representatives** (in alphabetical order)

Peter Flann, Cedric Law, Robert Monaghan, Thomas Monaghan, Michael Leonard Stream.

#### **Vocus**

Rodney Leemon  
Michael Pevinsky

#### **Ethno Ecologies**

Justin Beal (Anthropologist)

KNAC commissioned Justin Beal (trading as Ethno Ecologies) to conduct the ethnographic survey. The KNAC representatives chosen to attend the survey were selected through processes facilitated by KNAC.

## Acknowledgments

- Heritage staff at Karlka Nyiyaparli Aboriginal Corporation, especially Jessica Laurier and Angelique Cook, for various arrangements related to survey organisation.
- Digimaps for mapping and GIS files presented with this report

## Executive Summary

This report details the results of an ethnographic Site Avoidance survey conducted with KNAC representatives for a 200 m wide and approximately 240 km long proposed fibre-optic cable installation corridor for Vocus Fibre Pty Ltd as part of Vocus' Project Horizon.

This portion of the Project occurs within the boundaries of the Nyiyaparli and Nyiyaparli #3 native title determination area (WCD2018/008).

The 200 m wide corridor is made up of three separate lengths:

- **Area 1** – the southmost corridor starting approximately 125 km south of the town of Newman around Yanneri Pool and bearing north along Great Northern Highway for approximately 7 km;
- **Area 2** - starting approximately 4 km north of the northern end of Area 1 and heading approximately 9 km north along the Great Northern Highway;
- **Area 3** - starting approximately 23 km north of the northern end of Area 2 (approximately 80 km south of Newman) and continuing north along the GNH, towards Newman, for approximately 76 km. The corridor then travels in a north-westerly direction away from the GNH and towards the light industrial area at the south-west corner of the Newman township before bearing east again back to the GNH. Once at the GNH, the survey corridor bears south-east down the GNH before turning onto the Marble Bar Road and heading approximately 95 km to Roy Hill Station and then, after approximately another 5 km, bearing north-northwest towards FMG's Christmas Creek mining operations; and,
- **Three locations for Controlled Environment Vaults (CEVs)** to house electrical equipment are also proposed to occur within, or in close proximity to, Area 3. They are:
  - **CEV I – Capricorn**
  - **CEV II – Marble Bar**
  - **CEV III – Christmas Creek.** Three possible locations were proposed for the "Christmas Creek" CEV.

Desktop research prior to the survey indicated the presence of **12 Registered Sites** of Aboriginal cultural heritage that have mapped boundaries that are overlapped by the proposed 200 m wide survey corridor. **Five "Lodged" Aboriginal cultural heritage places** were also overlapped by the 200 m wide corridor. The "Lodged" status of these places means that the Department of Planning, Lands and Heritage has yet to make an assessment as to whether these places can be considered Registered Sites under the definitions of the *Aboriginal Heritage Act 1972* (WA); however, while these places have "Lodged" status, they are protected by the provisions of the Act.

Of the twelve Registered Sites, six of them are of a ceremonial/mythological type. Of the “Lodged” heritage places, one of these was listed as being of ceremonial /mythological type. These seven places of ceremonial / mythological type were revisited during the ethnographic Site Avoidance heritage survey and recommendations recorded. In addition, the KNAC representatives were asked to indicate any other areas of cultural significance that should be avoided from the potential impacts of the Project Horizon installation works.

As the anthropologist is not trained to recognise archaeological sites, it was anticipated that a separate archaeological survey of the Project Horizon survey corridor would locate new or previously recorded archaeological sites and make recommendations accordingly. Reporting from the separate archaeological survey should be read in conjunction with this report of the ethnographic survey.

The ethnographic Site Avoidance survey of the 200 m wide by approximately 240 km long survey corridor, and the proposed CEV locations, was undertaken across two fieldwork periods – one in April 2023 and another in July 2023.

## Results

Although certain Survey Areas may have been “ethnographically cleared” within the parameters described below, **Vocus Fibre Pty Ltd will also need to read any separate reporting of the results of any archaeological survey** to learn which parts of the Survey Areas may contain archaeological sites that need to be avoided.

**There are numerous instances where Vocus will need to apply for section 18 consent from the Minister, under the Aboriginal Heritage Act 1972 (WA), before conducting any fibre-optic cable installation works** within the 200 m wide corridor for Area 3. Vocus are advised to communicate with the Heritage staff at KNAC before making any such application.

**Area 1** survey area is “ethnographically clear” for the works to proceed.

**Area 2** survey area is “ethnographically clear” for the works to proceed.

**Area 3** survey area **contains 18 heritage places** (17 previously recorded and one newly reported during this survey), each with their own parameters and recommendations summarised in Table 1 below and at part 4, FIELDWORK RESULTS and part 5, RECOMMENDATIONS.

An overview image of the fieldwork results is presented at Figure 5.

**CEV 1 – Capricorn** survey area is “**ethnographically clear**” for the works to proceed.

**CEV II – Marble Bar** survey area is “**ethnographically clear**” for the works to proceed.

**CEV III – Christmas Creek** had three proposed locations. The westmost is not available for use due to already being in use by FMG. The central and eastmost CEV III areas are “**ethnographically clear**” for the works to proceed.

The **one ethnographic place not currently recorded on the WA Department of Planning, Lands, and Heritage’s Aboriginal Cultural Heritage Inquiry System was indicated by the KNAC representatives who participated in the surveys – a claypan with mythological / religious associations** – and recommendations for avoidance have been made accordingly (see 4.3.2.2).

The results of consultations regarding the already recorded places of ceremonial / mythological significance within the survey areas are summarised in the Table below. In addition, the table summarises recommendations made in relation to the archaeological places that are recorded as “Registered Sites” or “Lodged” heritage places.

Table 1: Summary of ethnographic survey results

DPLH ID / Heritage Place; Other	Name	ACHIS Status	Type	Survey Corridor intersects:		Survey Results	Recommendations
				"Public" Boundary	"ACTUAL" Boundary		
8032	NAT HWY, NEWMAN ACCESS 1	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
9554	TRUGALLENDA POOL 1	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
10137	NEWMAN W113	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
10138	TRUGALLENDA AREA WEST	Registered	Artefacts / Scatter, Ceremonial, Mythological, Quarry	YES	YES	Site is thought to be located on west side of Marble Bar Rd.	<b>Install on east side of road, taking care to avoid impacts to IDs 9554, 10137, and 10139 on this east side.</b>  Refer to separate archaeological survey results, as Section 18 consent likely required if installation to occur within bounds of Registered Sites 9554, 10137, 10139 or 10138
10139	NEWMAN CALCRETE RIDGE	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
11237	DJAKATITINA HILL	Registered	Ceremonial, Repository / Cache, Camp, Other: Proposed PA 115	YES	NO	"Actual" boundary / location of Site is outside survey corridor.	No section 18 consent required for this site (as per DPLH advice).
11802	DJIWIRDI	Registered	Ceremonial, Mythological	YES	NO	"Not Ethnographically Clear" as per 4.3.2.5 and Figure 11, based on KNAC Representatives' comments.	Observe <b>AVOIDANCE</b> area as per supplied shapefiles Vocus to seek arrangement with Roy Hill to use existing service road for

DPLH ID / Heritage Place; Other	Name	ACHIS Status	Type	Survey Corridor intersects:		Survey Results	Recommendations
				"Public" Boundary	"ACTUAL" Boundary		
							dewatering pipeline as possible installation route
17388	TJIMMARI QUARRY	Registered	Ceremonial, Quarry	YES	YES	Anomalous information meant site was unable to be found.	See results of separate archaeological survey report for further information Section 18 consent required
31410	CB11-161	Registered	Artefacts / Scatter, Modified Tree	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
35614	Wartukapunmara	Registered	Ceremonial, Mythological	YES	<b>NO<sup>1</sup></b>	<b>"Not ethnographically clear" on eastern side of GNH.</b>  KNAC Reps. suggest installation on west side of GNH.	Section 18 consent required. Installation on western side of GNH is acceptable to KNAC Representatives
36753	MR16-003	Registered	NOT STATED on ACHIS but known to be several polygons of culturally modified trees	YES	YES	<b>"Not ethnographically clear"</b> as per 4.3.2.4 and Figure 11, based on KNAC Representatives' comments.	Observe <b>AVOIDANCE</b> area as per supplied shapefiles.  Vocus to seek arrangement with Roy Hill to use existing service road for dewatering pipeline as possible installation route
38827	Minderoo Well	Registered	Artefacts / Scatter, Ceremonial, Historical, Mythological	YES	YES	KNAC Representatives stated that Vocus could use the corridor between 30 -50 m from the western edge of the GNH (a 20 metre wide working corridor)	Section 18 consent required
10144	FORTESCUE RIVER, NEWMAN	<b>Lodged</b>	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place
17390	JINGUDARRDI (ROUND HILL)	<b>Lodged</b>	Ceremonial, Mythological	YES	YES	See 4.3.1.4	Section 18 consent required.

<sup>1</sup> Despite the status here, based on DPLH information, the on-the-ground ethnographic survey with KNAC representatives suggests the ["actual"] boundary of this Registered site DOES occur within the survey corridor. Recommendations are made accordingly at 4.3.1.2., including that **section 18 application be made in relation to this place**



DPLH ID / Heritage Place; Other	Name	ACHIS Status	Type	Survey Corridor intersects:		Survey Results	Recommendations
				"Public" Boundary	"ACTUAL" Boundary		
25356	CB08-12	<b>Lodged</b>	Artefacts Scatter /	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place.
32032	Christmas Creek Phase 22 Isolated Finds	<b>Lodged</b>	Other: 10 Isolated Artefacts	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place.
38532	CB12-33	<b>Lodged</b>	Artefacts Scatter /	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place.
<b>Claypan</b> east of ID 6344	Not supplied.	<b>Not yet reported to DPLH / ACHIS</b>	Mythological	Boundary not recorded	Boundary not recorded	The claypan is of mythological / religious significance and should not be impacted upon. See details at 4.3.2.2	Observe designated <b>AVOIDANCE</b> area as per this report.  Install on east side of highway (pending archaeological survey advice).  Engage KNAC monitors
CEV I - Capricorn	n/a	-	-	-	-	<b>Ethnographically Clear</b>	
CEV II - Marble Bar	n/a	-	-	-	-	<b>Ethnographically Clear</b>	
CEV III - Christmas Creek	n/a	-	-	-	-	Ethnographically Clear. <b>See Figure 12</b>	
CEV III - Alternative West	n/a	-	-	-	-	Not available for use. In use by FMG. <b>See Figure 12.</b>	
CEV III - Alternative East	n/a	-	-	-	-	Ethnographically Clear. <b>See Figure 12</b>	

## Recommendations

See part 5 of this report.

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# 1 RELEVANT LEGISLATION & GUIDELINES

The following section provides a brief summary of Western Australian and federal legislation relevant to the protection of Indigenous cultural heritage, as well as a brief summary of some national and international best practice guidelines from recognised cultural heritage protection organisations.

## 1.1 Aboriginal Cultural Heritage Act 2021

The Aboriginal Cultural Heritage Act 2021 (WA) (the ACHA) passed as law in December 2021 and came into effect from 1 July 2023. This 2021 Act was also accompanied by the Aboriginal Cultural Heritage Amendment Act 2021 (WA) which legislated for amendments to the new 2021 Act.

The 2021 ACHA was intended to replace and improve upon the previous *Aboriginal Heritage Act 1972* (WA) legislation; however, after less than two months of the 2021 Act being in effect, the WA Labor Government announced that they were going to repeal the *Aboriginal Cultural Heritage Act 2021* (WA) and return to an amended version of the *Aboriginal Heritage Act 1972*.

The proposed repeal of the 2021 ACHA was discussed in both houses of State Parliament in September – October 2023 and received royal assent on 24 October 2023 (Parliament of Western Australia, 2023).

## 1.2 Aboriginal Heritage Act 1972

The *Aboriginal Heritage Act 1972* (WA) (the AHA) has been the main legislative Act pertaining to Aboriginal cultural heritage protection in Western Australia for approximately 50 years. It was administered by the WA Government's Department of Planning, Lands and Heritage (DPLH).

The AHA was repealed in order to be replaced by the *Aboriginal Cultural Heritage Act 2021* (WA), which passed as law in December 2021 and came into effect from 1 July 2023. However, **in August 2023, the WA Labor Government announced that they were going to repeal the *Aboriginal Cultural Heritage Act 2021* (WA) after just over a month in operation and return to an amended version of the *Aboriginal Heritage Act 1972*.**

The Bill repealing the 2021 ACHA and reinstating the amended 1972 AHA gained the assent of the Governor of Western Australia on October 24 2023 (Parliament of Western Australia, 2023) and the 1972 AHA became effective again from 15 November 2023.

According to the WA Government website, the main amendments to the restored legislation from 1972 include:

- “The newly formed Aboriginal Cultural Heritage Council will take on the role of the Committee established under the 1972 Act to make recommendations on Section 18 Notices to the Minister.
- Proponents and Native Title parties will have the same right of review [as was provisioned for in the ACHA 2021] for Section 18 decisions via the State Administrative Tribunal, with clear timeframes and an ability for the Premier to call-in a decision of ‘State significance’, to act in the interests of all Western Australians.
- When a Section 18 has been approved, a new requirement for the owner to notify the Minister of any new information about an Aboriginal site – an important reform to help prevent another Juukan Gorge.” (Government of Western Australia, 2023a).

For places or items of Aboriginal cultural heritage to be protected by the *Aboriginal Heritage Act 1972*, they need to meet one of the following criteria under section 5 or section 6 of the Act:

5. Application to places

This Act applies to —

(a) any place of importance and significance where persons of Aboriginal descent have, or appear to have, left any object, natural or artificial, used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people, past or present;

(b) any sacred, ritual or ceremonial site, which is of importance and special significance to persons of Aboriginal descent;

(c) any place which, in the opinion of the Committee, is or was associated with the Aboriginal people and which is of historical, anthropological, archaeological or ethnographical interest and should be preserved because of its importance and significance to the cultural heritage of the State;

(d) any place where objects to which this Act applies are traditionally stored, or to which, under the provisions of this Act, such objects have been taken or removed.

6. Application to objects

(1) Subject to subsection (2a), this Act applies to all objects, whether natural or artificial and irrespective of where found or situated in the State, which are or have been of sacred, ritual or ceremonial significance to persons of Aboriginal descent, or which are or were used for, or made or adapted for use for, any purpose connected with the traditional cultural life of the Aboriginal people past or present.

(2) Subject to subsection (2a), this Act applies to objects so nearly resembling an object of sacred significance to persons of Aboriginal descent as to be likely to deceive or be capable of being mistaken for such an object.

(2a) This Act does not apply to a collection, held by the Museum under section 9 of the Museum Act 1969, which is under the management and control of the Trustees under that Act.

(3) The provisions of Part VI do not apply to an object made for the purpose of sale and which —

(a) is not an object that is or has been of sacred significance to persons of Aboriginal descent, or an object so nearly resembling such an object as to be likely to deceive or be capable of being mistaken for the same; or

(b) is an object of the kind referred to in paragraph (a) that is disposed of or dealt with by or with the consent of the Minister.

Before a place or objects are placed on the Aboriginal Cultural Heritage Directory (the “**ACH Directory**” in relation to the 2021 legislation, formerly the “Register of Aboriginal sites” in relation to the 1972 legislation), maintained by the DPLH and made searchable via the Aboriginal Cultural Heritage Inquiry System (**ACHIS**, formerly the “Aboriginal Heritage Inquiry System (AHIS)”) database, information about the place needs to be assessed by the Aboriginal Cultural Heritage Council (ACHC) acting in the role of the former Aboriginal Cultural Material Committee established under the 1972 Act. In the past, the ACMC members would make reference to sections 39(2) and 39(3) of the AHA 1972 in making their assessment. It is assumed at present that the members of the new ACHC will do the same. These sections state:

(2) In evaluating the importance of places and objects the Committee shall have regard to —

(a) any existing use or significance attributed under relevant Aboriginal custom;

(b) any former or reputed use or significance which may be attributed upon the basis of tradition, historical association, or Aboriginal sentiment;

(c) any potential anthropological, archaeological or ethnographical interest; and

(d) aesthetic values.

(3) Associated sacred beliefs, and ritual or ceremonial usage, in so far as such matters can be ascertained, shall be regarded as the primary considerations to be taken into account in the evaluation of any place or object for the purposes of this Act.

The following information relates to other sections of the AHA most commonly referred to during Aboriginal heritage survey work in relation to mineral exploration or mining, as well as infrastructure works, in Western Australia. Section 17 of the AHA details “Offences relating to Aboriginal sites” and states:

A person who —

(a) excavates, destroys, damages, conceals or in any way alters any Aboriginal site; or



(b) in any way alters, damages, removes, destroys, conceals, or who deals with in a manner not sanctioned by relevant custom, or assumes the possession, custody or control of, any object on or under an Aboriginal site, commits an offence unless he is acting with the authorisation of the Registrar under section 16 or the consent of the Minister under section 18.

Section 16 addresses the “Excavation of Aboriginal sites” and the examination and removal of things from Aboriginal sites only with permission from the Registrar of Aboriginal sites, while section 18 addresses “Consent to certain uses”, whereby Ministerial consent is sought “to use the land for a purpose which, unless the Minister gives his consent under this section, would be likely to result in a breach of section 17 in respect of any Aboriginal site that might be on the land. . .” (excerpt of section 18(2)).

### 1.2.1 The Status of Aboriginal Places on the DPLH Aboriginal Cultural Heritage Inquiry System (ACHIS)

After entering search parameters on the ACHIS, where searches can be conducted using land tenure types or areas, GPX- or shapefile-designated polygons, and other search criteria, any resulting Aboriginal places are listed with their own unique ID, name, type, status and other data.

Before the advent of the short-lived *Aboriginal Cultural Heritage Act 2021 (WA)*, the status of an Aboriginal heritage place was described on the Aboriginal Heritage Inquiry System (AHIS) as one of the following:

- **Aboriginal Site** [aka Registered Site]: The place has been assessed as meeting section 5 or section 6 of the Act
- Other Heritage Place which includes:
  - Lodged: Information has been received in relation to the place, but an assessment has not been completed to determine if it meets section 5 or 6 of the Act
  - Stored data/Not a Site: The place has been assessed as not meeting section 5 or 6 of the Act (Government of Western Australian, 2022b).

As the definitions above indicate, an **Aboriginal Site**, or Registered Site, had been assessed by the ACMC as meeting the criteria set out in the 1972 Act and was therefore protected by the laws set out in that Act. Places that had not yet been assessed were allocated a status of “Lodged”, while those that had been assessed as not meeting the criteria of section 5 were allocated a status of “Stored data / not a site”.

In the case of places allocated a status of “Lodged”, it may be that such a place had yet to be assessed due to the sheer number of recorded places presented to the ACMC and the priority order in which they were assessed. As a place known to the DPLH – the administering state government department of the 1972 Act – and yet to be assessed, a “Lodged” place was arguably

under the protections afforded by the Act. In the case of places that were allocated a “Stored Data / Not a Site” status, it may be the case that were additional information collected about such a place and submitted to the ACMC, the status of such a place could change and, indeed, make it eligible for registration as an Aboriginal Site and afforded the protections under the Act. Therefore, proponents would do well to afford Aboriginal people every opportunity to be consulted about any Aboriginal place of any status mentioned in a given area.

With the introduction of the *Aboriginal Cultural Heritage Act 2021* (WA) from 1 July 2023, the Aboriginal Heritage Inquiry System (AHIS) was updated to be called the **Aboriginal Cultural Heritage Inquiry System (ACHIS)** and the status labels of an Aboriginal heritage place were renamed on the Aboriginal Cultural Heritage Inquiry System (ACHIS).

Those places that under the Aboriginal Heritage Inquiry system (AHIS) associated with the original *Aboriginal Heritage Act 1972* (WA) had the status of a “**Registered Site**”, a “**Lodged**” heritage place, and “**Stored Data / Not a Site**” were, under the new *Aboriginal Cultural Heritage Act 2021* (WA) and its associated Aboriginal Cultural Heritage Inquiry system (ACHIS), allocated the status of “**ACH Directory**”, “**Pending**” and “**Historic**”, respectively. Then, after the repeal of the 2021 Act and the return to a revised *Aboriginal Heritage Act 1972*, those labels were altered again to be “**Registered**”, “**Lodged**” and “**Historic**”, respectively. As this Report concerns desktop research and survey fieldwork conducted either side of the change of legislation on 1 July 2023, and the repeal of the 2021 legislation, some of these terms have been used interchangeably in this document.

After the announced repeal of the *Aboriginal Cultural Heritage Act 2021* (WA) in August 2023 (effective October 2023), the ACHIS appears to be keeping that name as the tool for searching the database of Aboriginal heritage places. Assessed Aboriginal places protected by the various legislations were variously called a “Registered Site” (under 1972 legislation), “ACH Directory” (under the 2021 legislation implemented from 1 July 2023) and have since changed to [on the] “Register” (under the revised 1972 legislation, in force again since 15 November 2023, after the October 2023 repeal of the 2021 legislation).

The status labels given to places of Aboriginal cultural heritage as at January 2024 are:

- **Register:** Aboriginal cultural heritage places that are assessed as meeting Section 5 of the *Aboriginal Heritage Act 1972*.
- **Lodged:** Information which has been received in relation to an Aboriginal cultural heritage place, but is yet to be assessed under Section 5 of the *Aboriginal Heritage Act 1972*

- **Historic:** Aboriginal heritage places assessed as not meeting the criteria of Section 5 of the *Aboriginal Heritage Act 1972*. Includes places that no longer exist as a result of land use activities with existing approvals.

Decisions about determining the status of Aboriginal cultural heritage will now be made by the newly formed Aboriginal Cultural Heritage Council (ACHC), formerly the Aboriginal Cultural Materials Committee (ACMC) (Government of Western Australia, 2023a).

### 1.3 Aboriginal and Torres Strait Islander Heritage Protection Act 1984

This Commonwealth Act may complement State legislation and may be invoked as another avenue of protection for Aboriginal sites when the application of the State legislation is ineffective. The legislation “can protect areas and objects that are of particular significance to Aboriginal and Torres Strait Islander people. . . [and] allows the Environment Minister, on the application of an Aboriginal or Torres Strait Islander person or group of persons, to make a declaration to protect an area, object or class of objects from a threat of injury or desecration” (Australian Government, 2021).

### 1.4 Native Title Act 1993

This Commonwealth Act evolved from the 1992 decision of the High Court of Australia in the case of *Mabo v Queensland*. In that case, the court found that the common law of Australia recognises that Indigenous Australians hold rights and interests in land and waters of Australia under their traditional laws and customs. The Court decision overturned the notion of Australia as *terra nullius* – a land belonging to nobody – and recognised Aboriginal and Torres Strait Islander people as the original inhabitants of Australia and the Torres Strait and that their rights and interests in the land and water continued to exist despite the colonisation of Australia (Australian Government, n.d.; Kimberley Land Council, 2022). As the Attorney-General’s Department website neatly summarises, “. . . native title arises as a result of the recognition, under Australian common law, of pre-existing Indigenous rights and interests according to traditional laws and customs. Native title is not a grant or right created by governments” (Australian Government, n.d.).

The *Native Title Act 1993* (the NTA) details where Indigenous peoples’ rights and interests may continue to exist and the nature of the rights and interests. Examples of these rights and interests include: to live on an area and erect shelters and structures; to access an area for traditional purposes such as camping or ceremonies; to hunt, fish and gather food or traditional resources such as plants, water, ochre, wood; and, to teach law and custom and engage in cultural activities (Kimberley Land Council, 2022). Native title can co-exist with the property rights of other land users, such as the holders of

pastoral leases, or it can be 'exclusive possession' of an area to the exclusion of all others – for example, on unallocated Crown Land, or on areas previously held or owned by Aboriginal people (Kimberley Land Council, 2022).

The 'future act' process, arising from sections of the NTA, means that native title holders or claimants will be notified of proposed future activities on lands in which Indigenous peoples hold, or have claimed, native title rights and interests. This process gives rise to various rights for Indigenous people to negotiate with project proponents and/or enter into various types of legally binding agreements about the use and management of land and waters. One term of such agreements might include the conduct of ethnographic and archaeological heritage surveys (in WA, under the auspices of the *Aboriginal Heritage Act 1972 (WA)*) over land on which a proponent proposes to conduct a future act such as mineral exploration, mining, land development and so forth. In the case of areas of land where no native title is claimed or held, proponents would still be advised to have heritage surveys conducted so as not to breach the provisions of the AHA.

## 1.5 Australia ICOMOS Burra Charter, 2013

ICOMOS (International Council on Monuments and Sites) is a non-government organisation formed in 1965, headquartered in Paris, and concerned with the theory and practice of cultural heritage conservation. It is closely linked to UNESCO (United Nations Educational, Scientific and Cultural Organization) and the World Heritage Convention 1972.

Australia ICOMOS was formed in 1976 and adopted the *Burra Charter* in 1979 in the town of Burra, South Australia. The *Burra Charter* has undergone several revisions over the years and aims to:

"[provide] guidance for the conservation and management of places of cultural significance (cultural heritage places) and is based on the knowledge and experience of Australia ICOMOS members . . . [and] sets a standard of practice for those who provide advice, make decisions about, or undertake works to places of cultural significance, including owners, managers and custodians" (Australia ICOMOS, 2013).

The Articles of the Burra Charter detail a series of principles, processes and practices and are accompanied by explanatory and Practice Notes. Of particular relevance for ethnographic and archaeological heritage surveys may be the following Practice Notes available for download at the Australia ICOMOS website (Australia ICOMOS, 2022):

- Intangible cultural heritage and place (Final, October 2017)
- The Burra Charter and Indigenous Cultural Heritage Management (Version 1, November 2013)

- Understanding and assessing cultural significance (Version 1, November 2013)
- Understanding Cultural Routes (Version 1, April 2017)

For example, the Practice Note *Understanding and assessing cultural significance* describes the concepts of aesthetic, historic, scientific, social and spiritual values and notes that these values are often referred to in various State and Commonwealth legislations and should be considered when assessing cultural heritage places.

## 1.6 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

The UNDRIP is a comprehensive statement addressing the rights of indigenous peoples that was formally debated for over twenty years prior to being adopted at the inaugural session of the UN Human Rights Council on 29 June 2006 and the UN General Assembly on 13 September 2007. The document emphasizes the rights of indigenous peoples to maintain and strengthen their own institutions, cultures and traditions and to pursue their development in keeping with their own needs and aspirations (UN Permanent Forum on Indigenous Issues, n.d.; United Nations, 2022).

While the document is not legally binding, it represents the dynamic development of international best practice and reflects the commitment of signatory nation states to abide by certain principles. One of the main principles arising from the Declaration is the concept of **'free, prior and informed consent'** (sometimes referred to as FPIC), as mentioned in Articles 10, 11.2, 19, 28.1, and 29.2. For example:

- **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 11.2** - 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 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. (United Nations, 2007).

Project proponents are encouraged to be guided by the principle of 'free, prior and informed consent' in their dealings with the Indigenous communities of Australia. Practically, it means that proponents should endeavour to provide as much information as possible about a given project to those Indigenous communities that may potentially be affected by a project, and to act in good faith by also providing ample opportunity for Indigenous voices and opinions to be heard, recorded and acted upon.

As the UN website states, the Declaration "establishes a universal framework of minimum standards for the survival, dignity and well-being of the indigenous peoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples" (United Nations, 2022).

## 2 INTRODUCTION

### 2.1 The Nyiyaparli People

The Nyiyaparli people filed two native title applications in 2005 (WC2005/006-1 and WC2005/006-2) and these became registered claims in 2005 and 2010 respectively. Another claim (Nyiyaparli #3, WC2013/003), adding additional land immediately adjacent to the first two claims, was filed in 2013 and registered that same year. Native title was granted for certain lands within all three claims through a consent determination (Nyiyaparli and Nyiyaparli #3, WCD2018/008) in September 2018 (National Native Title Tribunal, 2022). Nyiyaparli people now hold native title over 36,684 square kilometres of land and waters in the east Pilbara, including around the town of Newman (KNAC, 2019).

The 2015 publication *Kakutungutanta to Warrie Outcamp: 40,000 years in Nyiyaparli country* (Nyiyaparli Community, Bird, and McDonald) draws on archaeological fieldwork conducted with Nyiyaparli people between 2005 to 2014, for Fortescue Metals Group, and notes the length of occupation of Nyiyaparli people in the Pilbara as well as some of the sites of significance to them. Nyiyaparli country is described as occurring around the headwaters of the Fortescue River and including pastoral stations Roy Hill, Marillana, Balfour Downs and Ethel Creek, as well as the town of Newman (2015:2). Part of Prairie Downs pastoral station can also be added to this list, though this book mainly concentrates on the lands near the Eastern Chichester Range and the Fortescue Marsh (*Martuyitha*), approximately 125km NNW of Newman. Some places in Nyiyaparli lands contain evidence of “more than 40,000 years” of occupation (2015:2).

Fortescue Marsh is described as the ‘heart’ of the region’s water system and the name *Mankurtu* is given for the Fortescue River. The importance of water to the Nyiyaparli people is also discussed as well as associated cultural observances that are made when Nyiyaparli people approach some water places in which powerful ancestral snake-beings (*Yurtupa*) from the *Kukutpa* creation period (commonly referred to as ‘the Dreamtime’ or ‘Dreaming’) still reside (2015:4-6). The Nyiyaparli are skilful hunters and make use of many plants and animals for food, medicines and tool-making materials. For example, kangaroos, wallabies, emus, turkeys, fish, and turtles may be eaten, as well as bush fruits from plants, and honey from trees. Spinifex has several uses: the seed may be ground into flour for food, its resin can be used as glue to make tools, it may be used to build shelters or can be turned into thread and woven into a net or carry bag (2015: 10-14). These are just some of the examples of the resourcefulness of the Nyiyaparli people and demonstrate their deep understanding of, and connection with, the ecosystems of their traditional lands.

Some decades after colonisation (a history too large to tell here) the pastoral industry began to develop in the Pilbara when the WA Government commenced granting land for pastoralism in 1863. Aboriginal people were treated as chattels that came with the land and the pastoralists used them as workers in exchange for little or no pay, and food rations. Men worked as stockmen and women worked as domestic help and at other station-hand duties. Aboriginal people usually lived in outcamps at some distance from the station homestead and in less busy times could still conduct cultural activities, observances, and ceremonies. Many Nyiyaparli people were born on stations in their traditional country. In the mid-1940s, Aboriginal pastoral workers organised a strike for better pay and conditions. The advent of the Pastoral Award in 1968 and the reluctance of pastoralists to pay those they had previously worked for little recompense saw a decline in available station work and the dispersal of Aboriginal families to more populated centres like Marble Bar, Port Hedland, Roebourne and Onslow (2015: 23-25).

Archaeological sites on Nyiyaparli country today include: rockshelters and caves used for shelter and camping; quarries where stone was mined and shaped for tools; scarred trees from where bowls were cut from the tree bark or where honey was obtained; paintings and engravings; stone arrangements, usually indicating a ceremony site; and, historic sites such as buildings, fences, and stockyards built by Nyiyaparli station workers in the early days of the pastoral industry (2015: 40-43).

Ethnographic sites – sites of cultural importance or significance to Aboriginal people and relating to their oral history and/or their religious and spiritual beliefs, or to places and things which have cultural value – are usually of an intangible nature; that is, there is not always physical evidence to indicate their presence. Their location is indicated by the information provided by the knowledge holders of the group who have earned the right (usually by initiation, at least in the case of secret-sacred religious places) to know about such things.



## 2.2 Project Background

As per the Heritage Notice submitted by Vocus Fibre Pty Ltd (Vocus) to KNAC and dated 10 January 2023, Vocus propose to install approximately 240 kms of fibre-optic cable within a 200 m wide corridor within Nyiyaparli country. The cable is proposed to provide additional communications infrastructure for communities and business hubs in Western Australia.

In accordance with a Heritage Agreement that Vocus entered into with KNAC between 7-8 December 2022, the company submitted the Heritage Notice requesting Aboriginal cultural heritage surveys of a **200 m wide survey corridor** along the **approximately 240 km length** within which, based on the findings of the cultural heritage surveys, the fibre-optic cable installation would be aligned. Vocus stated that their preferred cultural heritage management procedure would be to avoid disturbance to Aboriginal cultural heritage sites wherever possible, subject to the consideration of cultural heritage, technical, and environmental constraints of the land within the proposed installation corridor.

Vocus originally provided GIS shapefiles and maps of the survey areas (see Appendix One), in the GDA94 datum, with the Heritage Notice of January 2023. Then, in the lead up to the first ethnographic fieldwork survey commencing in April 2023, Vocus liaised with KNAC to provide updated GIS data (Version 2, or V2, of the data, this time in GDA2020 datum)<sup>2</sup> for the proposed 240 km long and 200 m wide survey corridor and to add location data for **three proposed Controlled Environment Vaults (CEVs)**. These CEVs were proposed to be installed within fenced compounds measuring approximately 55 metres X 30 metres and to contain solar panels as well as closed buildings containing telecommunications equipment. Two of these CEVs (CEV I - "Capricorn", and CEV II - "Marble Bar") are proposed to occur within the 200 m wide survey corridor and a third (CEV III - "Christmas Creek") is at the far north-eastern end of the survey area, in an area of land now used by Fortescue Metals Group (FMG) as part of their Christmas Creek mining operations.

Prior to the July 10-13, 2023, fieldwork period, Vocus supplied additional GIS shapefiles requesting survey of two additional survey areas immediately to the west and to the east of the originally proposed CEV III "Christmas Creek" location, as well as updating the alignment of the proposed survey corridor north of the Christmas Creek Gatehouse. With reference to Figure 2 overleaf (supplied by Vocus) the potential areas for CEV III at Christmas Creek are labelled there as follows:

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<sup>2</sup> The updated shapefiles provided by Vocus were titled "T12-15 Nyiyaparli CH Survey Buffer V2 180423", hence references to some of the survey areas having the prefix "V2" within this Report.

- Originally proposed CEV III – “Christmas Creek” is labelled as “Additional CEV CRCK CEV Export” and is approximately 55 m north-south x 30 m west-east
- Alternative (“CRCK2”) location, to east, is labelled as “RBS273 – CRCK Alternative Polygon” and is approximately 100 m north-south x 165 m west-east
- Alternative (“CRCK3”) location, to west, is labelled as “CRK CEV UPDATED AREA (20JUN23)” and is approximately 230 m north-south x 215 m west-east .

•  
These three locations were to be surveyed during the July 2023 fieldwork.

The approximately 240 km long, 200 m wide, survey corridor – the subject of this ethnographic survey Report – is that portion of Vocus’ Project Horizon that occurs within the boundaries of the Nyiyaparli and Nyiyaparli #3 native title determination area (WCD2018/008)(see Figure 1 for *indicative* location of survey corridor, noting that alignment of approximately 25 km of northmost end of corridor is indicative only). The 200 m wide survey corridor runs south-north and immediately adjacent to the **Great Northern Highway (GNH)**, with approximately 100 m of the corridor on each of the west and east sides of the GNH (see **Appendix One**, Figure 13 to Figure 23). The southern end of the corridor starts around Yanneri Pool (some 115 km south of the Capricorn Roadhouse) and heads north to Newman, approximately 135 km away. Two portions of the GNH (between Yanneri Pool and Newman) occur outside the Nyiyaparli and Nyiyaparli #3 native title determination area (see Figure 1) and were not required to be surveyed with KNAC representatives as these portions were the subject of separate ethnographic surveys with other native title-holding groups.

At Newman, the survey corridor includes streets within the industrial area at the south-west of the township (see Appendix One, Figure 19), and then bears east through town before following the Marble Bar Road, past Ophthalmia Dam, towards the Christmas Creek Gatehouse of FMG's mining operations. The proposed survey corridor also extends beyond the Christmas Creek Gatehouse for approximately 25 km.

Prior to the July 10-13, 2023, fieldwork period, Vocus supplied new GIS shapefiles that reflected a realignment to a portion of the approximately 25 km length of the proposed 200 m wide survey corridor to the north-northwest of the Christmas Creek Gatehouse. Where this section of the survey area was previously referred to in the ethnographic survey Preliminary reporting (Beal 2023a; Beal 2023b) as “V2, Area 3”, it is now referred to as “V3 Area 3”.

In summary, the total survey area consists of the following segments:

1. **V2, Area 1** – a 200 m wide corridor at southern end of the survey area, starting around Yanneri Pool and bearing north along GNH for approximately 7 km (see Appendix One, Figure 23).
2. **V2, Area 2** - a 200 m wide corridor starting approximately 4 km north of the northern end of Area 1 and heading approximately 9 km north along the GNH (see Appendix One, Figure 22).
3. **V3, Area 3** [formerly “V2, Area 3”]– the “V3 Area 3” is a 200 m wide corridor starting approximately 23 km north of the northern end of Area 2, and continuing north along the GNH, towards Newman, for approximately 76 km. The corridor then travels in a north-westerly direction away from the GNH and towards the light industrial area at the south-west corner of the Newman township before bearing east again back to the GNH. Once at the GNH, the survey corridor bears south-east down the GNH before turning onto the Marble Bar Road and heading approximately 95 km to Roy Hill Station and then, after approximately another 5 km, bearing north-northwest towards FMG’s Christmas Creek mining operations (see Appendix One, Figure 21 to Figure 13).
4. The **three CEVs** as follows:
  - **CEV 1 – “Capricorn”** – within the 200 m wide corridor and within the first 2 km from the southern end of V2, Area 3, on the west side of the GNH.
  - **CEV II – “Marble Bar”** - within the 200 m wide corridor and approximately 18 km south of Roy Hill Station in V2, Area 3, on the east side of the GNH.
  - **CEV III – “Christmas Creek”** – a stand-alone area, measuring approximately 55 m X 30m, outside of the proposed survey corridor and approximately 8.5 km west of the northern end of the realigned (July 2023) portion of the updated Area 3 survey area that occurs north-northwest of the FMG Christmas Creek Gatehouse; including:
    - alternatively proposed CEV III “Christmas Creek” area to the west of the original; hereafter referred to as “**Christmas Creek alternative West**”
    - alternatively proposed CEV III “Christmas Creek” area to the east of the original; hereafter referred to as “**Christmas Creek alternative East**”

Vocus field staff informed the survey team that the proposed fibre optic cable installation works require a width of approximately 5 metres to accommodate the machinery that would then rip a trench less than 50 centimetres wide, and approximately 1 metre deep, to lay the fibre-optic cable into. The 200 m wide survey corridor was proposed to allow a final design for the cable installation alignment that could change from one side of the road to the other to avoid cultural heritage places or other factors (such as geological or technical factors) that may affect the location of the installation.

Vocus will require both an archaeological and ethnographic cultural heritage survey over the proposed works corridor. This Report will only detail the results of the ethnographic surveys.

Figure 1: Indicative overview mud map showing three 200m wide survey corridors of varying length

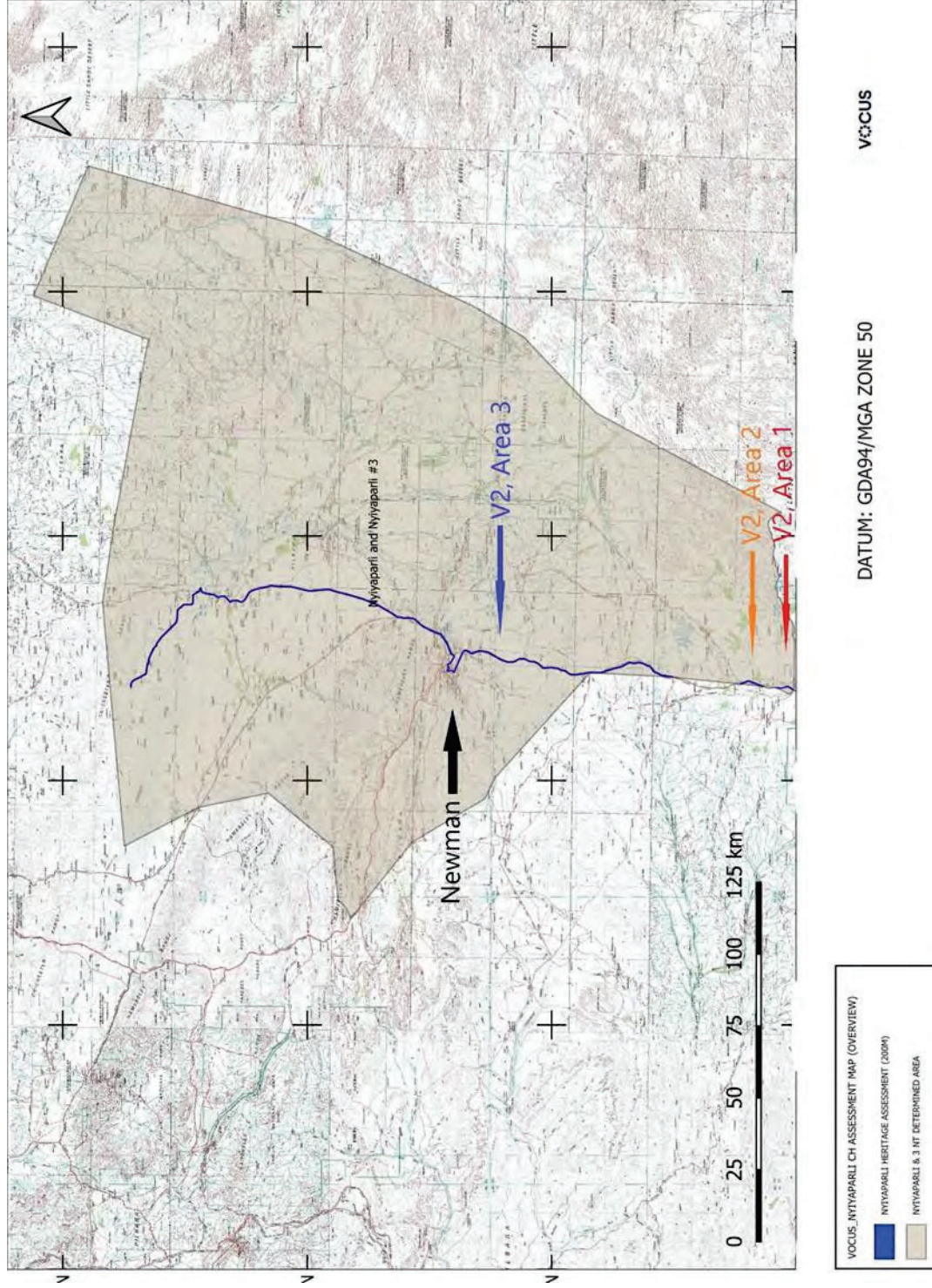


Figure 2: Indicative image showing original CEV III - "Christmas Creek" (centre, in brown) and alternatives to the west and east



## 3 SURVEY METHODS

### 3.1 Desktop Research prior to Surveys

\*It should be noted that during the period prior to, during, and after the conduct of the April and July 2023 field trips to conduct the ethnographic survey, the labelling of Aboriginal heritage places underwent several changes (as discussed at 1.2.1, above) relating to the 1 July 2023 implementation of the *Aboriginal Cultural Heritage Act 2021* (WA) and the subsequent repeal of that Act, in October 2023, in favour of a return to a slightly revised *Aboriginal Heritage Act 1972* (WA).

#### 3.1.1 Desktop Research before April 2023 Fieldwork

Prior to the first fieldwork period in April 2023 (and before the July 1 2023 implementation of the new *Aboriginal Cultural Heritage Act 2021* (WA), a search of the Department of Planning, Lands and Heritage (DPLH)'s Aboriginal Heritage Inquiry System (AHIS) was conducted prior to the ethnographic survey fieldwork. All three Areas of the 200 m wide V2 survey corridor (Area 1, Area 2 and Area 3) were searched on the AHIS to determine whether any Registered Aboriginal sites or "Other Heritage Places" (OHPs – those with a "Lodged" or "Stored Data/ Not a Site" status) had been recorded as intersecting with or occurring within the three Survey Areas. The locations of the three originally proposed CEVs were also searched.

The April 2023 search results of the AHIS before the July 1 2023 implementation of the *Aboriginal Cultural Heritage Act 2021* indicated that **no Registered sites or OHPs were recorded to coincide with any of the originally proposed CEVs.** This was also the case in July 2023, when the alternative CEV locations immediately west and east of CEV III – "Christmas Creek" were added to the areas to be surveyed.

The April 2023 search results of the AHIS before the July 1 2023 implementation of the *Aboriginal Cultural Heritage Act 2021* indicated that **no Registered sites or Other Heritage Places** were recorded on the AHIS **for V2, Area 1 or V2, Area 2.**

The April 2023 search results of the AHIS before the July 1 2023 implementation of the *Aboriginal Cultural Heritage Act 2021* indicated that **12 Registered sites and 40 Other Heritage Places** (with "Lodged" or "Stored Data" status) were recorded on the AHIS for V2, Area 3 (see Search results at Appendix Two). These results are described in more detail below.

The April 2023 search results of the AHIS before the July 1 2023 implementation of the *Aboriginal Cultural Heritage Act 2021* indicated that **105 previous**

**heritage surveys** had some overlap with V2 Areas 1, 2 and 3. These will be discussed briefly below.

### **3.1.1.1 Registered Sites**

Of the 12 Registered sites in Area 3, six of these were recorded as being of the type “Ceremonial” and/or “Mythological” (see Table 2 and Figure 3). Each of these sites has been registered as a “restricted” file, meaning that researchers may not be granted access to read the contents of the file pertaining to any such site without written permission from the people who originally provided the cultural information about the site; alternatively, it may mean that the file has restricted access based on the gender of the person requesting access. The exact location of such sites is not disclosed on the public record. These sites are mapped with a square polygon (oftentimes measuring 2 km<sup>2</sup>) indicating their general location but no specific coordinate data is provided.

Additionally, three of the six “Ceremonial” and/or “Mythological” sites are also registered as “Male Access Only”, meaning that only males can read the information contained in the site file, if at all. Such a site file usually relates to a site that has cultural sensitivities related to religious/ceremonial activities.

It was anticipated that these six ceremonial / mythological sites within the V2 Area 3 survey area (see Table 2 and Figure 3Figure 1) would be focal points for discussion during the ethnographic survey in addition to any newly mentioned or previously unrecorded places of a predominantly ethnographic nature (i.e., pertaining to intangible aspects of cultural heritage such as story, ceremonial, or religious activity, or other forms of cultural significance).

The other six Registered sites are recorded as being of the type “Artefacts / Scatter” or “Modified Tree”. One of these six, ID 36753 (named MR16-003), had no place type listed, but was known to KNAC staff who informed the anthropologist that the several polygons that make up MR16-003 are a collection of locations featuring culturally modified trees. It is anticipated that the archaeological survey will be better placed to relocate, and make recommendations in relation to, these predominantly archaeological-type sites as the archaeological survey team will likely physically walk the 200 m width of the survey areas looking for archaeological materials and places as well as attempting to relocate previously recorded places. In addition, the anthropologist is not formally trained to recognise or record artefacts of an archaeological nature. Vocus is advised to avoid any impacts to these predominantly archaeological-type Registered sites and to seek advice in relation to these by reading the reporting arising from the scheduled archaeological surveys of the survey areas.

### **3.1.1.2 Other Heritage Places**

Of the 40 Other Heritage Places (OHPs), all occurring in Area 3, one is recorded as being of the type “Ceremonial” and/or “Mythological” (ID 17390 JINGUDARRDI, ROUND HILL) and has been added to Table 2 (below) as it is of



the same type as the six Registered ceremonial/mythological sites which were chosen as focal points for reinspection during the ethnographic survey. At April 2023, place ID 17390 was recorded as having a status of “Lodged” – meaning an assessment had not yet been made through DPLH processes to determine whether the place meets the criteria of the Aboriginal Heritage Act 1972 (WA) (the AHA) to be classified as a Registered Site. This place also has a “Male Access Only” restriction and no exact location data is provided on the public record.

Table 2: Registered (and Lodged) Ceremonial and/or Mythological sites associated with V2 Area 3 survey corridor as at April 2023<sup>3</sup>

DPLH ID	Name	Restrictions	Status	Type	Coordinate
10138	TRUGALLEN DEN AREA WEST	Male Access Only	Registered	Artefacts / Scatter, Ceremonial, Mythological, Quarry	Not Available
11237	DJAKATITINA HILL	n/a	Registered	Ceremonial, Repository / Cache, Camp, Other: Proposed PA 115	Not Available
11802	DJIWIRDI	n/a	Registered	Ceremonial, Mythological	Not Available
17388	TJIMMARI QUARRY	Male Access Only	Registered	Ceremonial, Quarry	Not Available
35614	Wartukapunmara	Male Access Only	Registered	Ceremonial, Mythological	Not Available
38827	Minderoo Well	n/a	Registered	Artefacts / Scatter, Ceremonial, Historical, Mythological	Not Available
17390	JINGUDARRDI (ROUND HILL)	Male Access Only	Lodged <sup>4</sup>	Ceremonial, Mythological	Not Available

The remaining 39 OHPs are recorded as type “Artefact / Scatter”, or other predominantly archaeological (artefactual)-type place, and the vast majority of these (35 of 39) have been assigned the status of “Stored Data / Not a Site” while four (4) others, in addition to ID 17390 (JINGUDARRDI, ROUND HILL), have “Lodged” status (see Appendix Two, “Results of AHIS search for Other Heritage Places in 200 m wide corridor, Areas 1, 2 and 3”) . As the vast majority of these archaeological-type OHPs occur north of FMG’s Christmas Creek Gatehouse

<sup>3</sup> The same results applied after the slight realignment to the northern section of Area 3 prior to the July 2023 survey.

<sup>4</sup> As of January 2024, this place still has the status of “Lodged” under the reinstated *Aboriginal Heritage Act 1972 (WA)* and the associated ACH Inquiry System (ACHIS); however, its name label has been removed from the publicly available information supplied on the ACHIS.

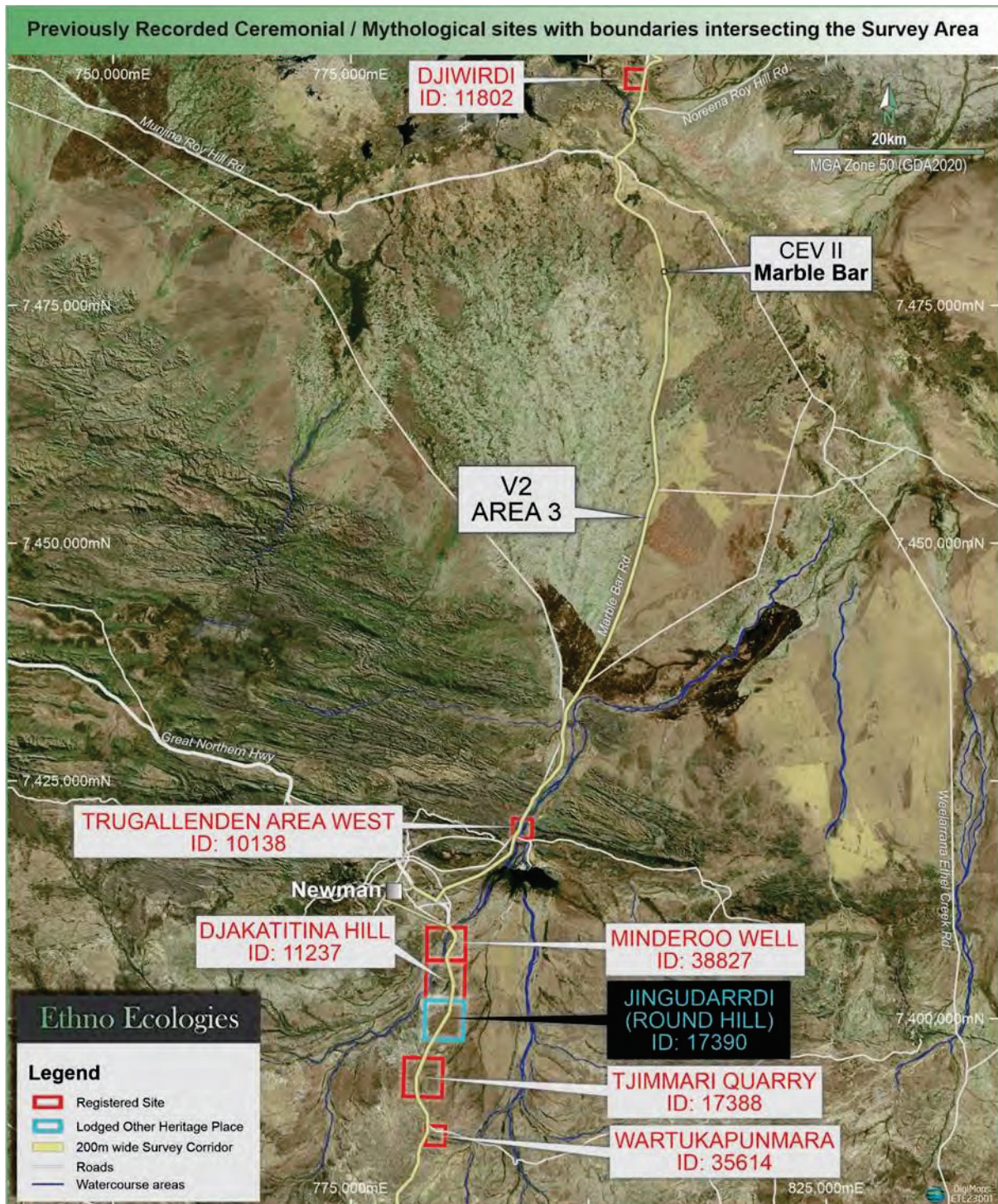
and within lands subject to ongoing mining operations, it is probable that their status as “Stored Data / Not a Site” indicates that these artefact scatters have been subject to section 18 applications under the Aboriginal Heritage Act 1972 (WA) – meaning, the mining company likely sought Ministerial consent to use these areas of land for mining purposes and the artefact scatters were likely salvaged and taken elsewhere for preservation. It is anticipated that the archaeological survey of the survey areas will be better placed to relocate and make recommendations in relation to these predominantly archaeological-type places (if they are still extant) for the reasons previously mentioned above.

Attempts were not made to access the “restricted” Registered Site files prior to the first fieldwork period as it was estimated that any such access would not be achieved prior to the fieldwork; additionally, the anthropologist anticipated that the KNAC representatives might be able to confirm the location of any Registered sites while physically present at the survey areas.

On the final day of the first survey a request was lodged with the Aboriginal Heritage Operations branch of the DPLH asking whether they might provide the names of the original informants for the six Registered ceremonial/mythological sites, and the single “Lodged” ceremonial/mythological place, as well as provide any further advice as to how the site files for these sites may be accessed.

Access to some of the restricted files relating to the seven ceremonial/mythological sites was obtained prior to the July 2023 fieldwork period and the information was used to assist in locating the sites in relation to the 200 m wide survey corridor during the second fieldwork period and making recommendations accordingly.

Figure 3: Previously recorded Ceremonial / Mythological places coinciding with Survey Corridor



### 3.1.1.3 Previous surveys coinciding with the Survey Areas

The search of the AHIS indicated that 105 previous archaeological and/or ethnographic surveys had occurred across the three proposed fibre-optic cable survey corridor survey areas, as follows:

- **Area 1**, at southern end of the survey area – **2 previous surveys**;
- **Area 2**, starting approximately 4 km north of the northern end of Area 1 and heading approximately 9 km north along the GNH - **1 previous survey**;
- **Area 3**, starting approximately 23 km north of the northern end of Area 2, and continuing north along the GNH, towards Newman, through its industrial area, and then back along the Marble Bar Road toward Roy Hill Station before bearing north-northwest towards FMG's Christmas Creek Gatehouse and approximately 20 km beyond – **102 previous surveys**.

The author did not endeavour to review the reports of these previous 105 surveys as this task seemed excessively onerous and it is doubtful that such a review would have yielded much in the way of additionally useful information. Instead, the search results of the AHIS for the presence of previously recorded Registered Sites and Other Heritage Places was used to inform the approach to the ethnographic survey as well as relying on the knowledge held by the KNAC representatives attending the survey to indicate the presence of ethnographic places within the survey areas.

### 3.1.2 Desktop Research after April 2023 fieldwork

\*Please note "AHIS" refers to the name of the searchable database of "Registered" Aboriginal Sites prior to the then-new *Aboriginal Cultural Heritage Act 2021* (WA) coming into effect from 1 July 2023. After this date, the searchable database was referred to as the "ACHIS". This latter name was kept after the repeal of the 2021 legislation in late 2023 and the return to the *Aboriginal Heritage Act 1972* as the relevant legislation.

After the April 2023 fieldwork period (the first survey of the proposed installation corridor) the anthropologist had phone and email correspondence with the Department of Planning, Lands, and Heritage regarding the survey corridor and the "restricted" site files for those Registered sites that had their DPLH-mapped boundaries (as visible to the public on the Aboriginal Heritage Inquiry System, or AHIS) intersected by the survey corridor.

The DPLH staff member informed the anthropologist that the boundaries of Registered sites and OHPs as they are seen by members of the public on the AHIS are referred to by DPLH as "**public boundaries**" and that DPLH staff have exclusive access to information about the "**actual boundaries**" of the sites. The

DPLH staff member informed that DPLH can provide information about whether a survey area intersects with the “actual boundaries” of a given Site or OHP.

The anthropologist provided the shapefile data for the survey corridor comprised of V2 Area, 1, 2, and 3 to a **DPLH staff member who advised that the survey corridor did not intersect the “actual boundary”** of the three Registered sites ID 11237 *Djakatitina Hill*, ID 11802 *Djiwirdi*, and ID 35615 *Wartukapunmara* – and, as such, no approvals under the AHA 1972 (WA) would be required to conduct the proposed works in the survey corridor where it could be seen to intersect the “public boundaries” of those sites. **However**, during the **on-the-ground ethnographic survey** in April 2023, the KNAC representatives provided information that **suggested that Site ID 35615, *Wartukapunmara*, does physically occur within the survey corridor** on the eastern side of the Great Northern Highway. Recommendations in relation to this place have been made accordingly at section 4.3.1.2 of this report which, in short, advise that a section 18 application should be made to conduct installation works within the “public” boundary of this Registered site, and that the KNAC representatives endorse installation as long as it occurs on the western side of the GNH.

At April 2023, the impending implementation of the ACHA 2021, on 1 July 2023, meant that Vocus would need to prepare an Aboriginal Cultural Heritage Management Plan (ACHMP) detailing how they would manage any potential impacts to any Aboriginal cultural heritage places that might be impacted by the fibre-optic cable installation Project.

The DPLH also provided advice that the survey corridor did intersect the “actual” boundaries of the nine other Registered sites that coincide with the survey area (see Table 3 and Appendix Two) and, as such, DPLH advised that ordinarily, under the original AHA 1972, section 18 consent would need to be sought to proceed with any ground disturbing works within the boundaries of these sites; however, at the time, in May 2023, **the DPLH were not going to be accepting any further lodgement of section 18 applications after 14 June 2023**. Instead, the impending implementation of the ACHA 2021, on 1 July 2023, meant that Vocus would need to agree on and adhere to the terms of a Cultural Heritage Management Plan (CHMP) with regard to these places and the fibre-optic cable installation Project.

All 40 of the OHPs (“Lodged” places and “Stored Data / Not a Site” places) had their [former] “actual” boundary intersected by the survey corridor in V2 Area 3; however, 35 of these were classed as “stored data /not a site” and, by definition, these 35 places had “been assessed as not meeting Section 5 of the Aboriginal Heritage Act 1972” and therefore were not protected by the AHA and would not require section 18 consent for use of the land that contained these places. It is possible that these formerly recorded places were no longer extant as a result of having been salvaged after previous section 18 consents to use the land, or they did not contain enough artefactual material to be

classified as sites and objects protected by the AHA 1972 in the first instance. Indeed, **a search of the same V2 Area 3 on the ACHIS post the July 1, 2023 implementation of the *Aboriginal Cultural Heritage Act 2021* indicated the 35 “Stored Data / Not a Site” places had “Historic” status, which was defined as “...places determined to not meet the criteria of Section 5 of the *Aboriginal Heritage Act 1972* [and which ] includes places that no longer exist as a result of land use activities with existing approvals”.**

At the end of the first fieldwork period in April 2023, the **5 OHPs with “Lodged” status** (see Table 3 and Appendix Two) had not yet been assessed by the ACMC in relation to the AHA 1972. Under the 1972 legislation, these would normally need to be the subject of a section 18 application - *after additional ethnographic and archaeological consultation* - in order to trigger the ACMC assessment process to determine whether they qualified as sites under the AHA 1972 (in which case, under that legislation, section 18 approval would be required to conduct ground-disturbing activity within the boundaries of these places-cum-sites). However, at the time, in May 2023, **the DPLH were not going to be accepting any further lodgement of section 18 applications after 14 June 2023**. Instead, the impending implementation of the ACHA 2021, on 1 July 2023, meant that Vocus would need to agree on and adhere to the terms of a Cultural Heritage Management Plan (CHMP) with regard to these places and the fibre-optic cable installation Project.

**Now, as at February 2024, with the official repeal of the 2021 Act in October 2023, and the reinstatement of a revised *Aboriginal Cultural Heritage Act 1972* (WA) from 15 November 2023, a section 18 application seeking Ministerial consent would be necessary for any works proposed to occur within the “actual” boundaries of any of the 17 “Registered” or “Lodged” places as listed at Table 3.**

**It is advisable that section 18 Ministerial consent should not be sought by Vocus without first communicating this intention to KNAC.**

Table 3: Registered Sites and "Lodged" OHPs with "ACTUAL" boundary intersected by 200m wide survey corridor<sup>5</sup>, as at May 2023 (and February 2024)

DPLH ID	Name	Status 1972 Act / 2021 Act	Type	Survey Corridor intersects:		Vocus action required under the AHA 1972
				"Public" Boundary	"ACTUAL" Boundary	
8032	NAT HWY, NEWMAN ACCESS 1	Registered / ACH Directory	Artefacts Scatter /	YES	YES	Section 18 application seeking Ministerial consent to use the land
9554	TRUGALLENDA POOL 1	Registered / ACH Directory	Artefacts Scatter /	YES	YES	Section 18 application seeking Ministerial consent to use the land
10137	NEWMAN W113	Registered / ACH Directory	Artefacts Scatter /	YES	YES	Section 18 application seeking Ministerial consent to use the land
10138	TRUGALLENDA AREA WEST	Registered / ACH Directory	Artefacts Scatter, Ceremonial, Mythological, Quarry	YES	YES	Section 18 application seeking Ministerial consent to use the land
10139	NEWMAN CALCRETE RIDGE	Registered / ACH Directory	Artefacts Scatter /	YES	YES	Section 18 application seeking Ministerial consent to use the land
11237	DJAKATITINA HILL	Registered / ACH Directory	Ceremonial, Repository / Cache, Camp, Other: Proposed PA 115	YES	<b>NO</b>	According to DPLH staff member: "No approval required under the Act"
11802	DJIWIRDI	Registered / ACH Directory	Ceremonial, Mythological	YES	<b>NO</b>	According to DPLH staff member: "No approval required under the Act" <b>BUT</b> KNAC reps deemed area <b>"NOT ETHNOGRAPHICALLY CLEAR"</b> owing to presence of culturally modified trees as part of DPLH ID 36753

<sup>5</sup> According to information supplied by DPLH staff.

DPLH ID	Name	Status 1972 Act / 2021 Act	Type	Survey Corridor intersects:		Vocus action required under the AHA 1972
				"Public" Boundary	"ACTUAL" Boundary	
17388	TJIMMARI QUARRY	Registered / ACH Directory	Ceremonial, Quarry	YES	YES	Section 18 application seeking Ministerial consent to use the land
31410	CB11-161	Registered / ACH Directory	Artefacts / Scatter, Modified Tree	YES	YES	Section 18 application seeking Ministerial consent to use the land
35614	Wartukapunmara	Registered / ACH Directory	Ceremonial, Mythological	YES	<b>NO<sup>6</sup></b>	<b>Section 18 application seeking Ministerial consent to use the land</b>
36753	MR16-003	Registered / ACH Directory	NOT STATED ON REGISTER, but known to be culturally modified trees	YES	YES	<b>Section 18 application required BUT, KNAC reps. recommend AVOIDANCE and use of Roy Hill water pipeline easement /service road</b>
38827	Minderoo Well	Registered / ACH Directory	Artefacts / Scatter, Ceremonial, Historical, Mythological	YES	YES	Section 18 application seeking Ministerial consent to use the land
10144	FORTESCUE RIVER, NEWMAN	<b>Lodged</b> / ACH Directory	Artefacts / Scatter	YES	YES	Section 18 application seeking Ministerial consent to use the land
17390	JINGUDARRDI (ROUND HILL)	<b>Lodged</b> / ACH Directory	Ceremonial, Mythological	YES	YES	Section 18 application seeking Ministerial consent to use the land
25356	CB08-12	<b>Lodged</b> / ACH Directory	Artefacts / Scatter	YES	YES	Section 18 application seeking Ministerial consent to use the land
32032	Christmas Creek Phase 22 Isolated Finds	<b>Lodged</b> / ACH Directory	Other: 10 Isolated Artefacts	YES	YES	Section 18 application seeking Ministerial consent to use the land

<sup>6</sup> Despite the status here, based on DPLH information, the on-the-ground ethnographic survey with KNAC representatives suggests the ["actual"] boundary of this Registered site DOES occur within the survey corridor. Recommendations are made accordingly at 4.3.1.2., including that **section 18 application be made in relation to this place**



DPLH ID	Name	Status 1972 Act / 2021 Act	Type	Survey Corridor intersects:		Vocus action required under the AHA 1972
				"Public" Boundary	"ACTUAL" Boundary	
38532	CB12-33	Lodged ACH Directory	Artefacts Scatter	YES	YES	Section 18 application seeking Ministerial consent to use land

### 3.1.3 Desktop Research before July 2023 Fieldwork

Prior to the July 2023 fieldwork, Vocus provided updated shapefile information for the northern portion of the survey corridor to reflect a slight realignment to a portion of the 200 m wide survey corridor that occurred beyond the FMG Christmas Creek Gatehouse. Most of the survey corridor alignment remained the same as the April 2023 data apart from a small part of the corridor that was adjusted to avoid FMG infrastructure.

A search of the ACHIS revealed that the adjusted alignment did not indicate the presence of any additional "**ACH Directory**" sites in comparison to the April 2023 pre-survey desktop research.

The search of the ACHIS did indicate the presence of one additional place with "**Historic**" status (i.e. according to the DPLH definition, "Aboriginal heritage places determined to not meet the criteria of Section 5 of the Aboriginal Heritage Act 1972. Includes places that no longer exist as a result of land use activities with existing approvals"). That place appeared on the directory with ID 25263 – a former artefacts /scatter named CB08-170. This place, if ever a place that met the criteria of the 1972 Act, was likely the subject of some earlier section 18 application and possible subsequent salvage. As such, it was immaterial to the ethnographic survey.

## 3.2 Fieldwork Methodology

The purpose of the ethnographic survey was to inspect the Survey Areas to determine if they contained any Aboriginal cultural heritage values or places of cultural importance and/or significance. In the event of locating any such places or objects within, or in immediate proximity to, the Survey Areas, the anthropologist would conduct discussions with the KNAC representatives to determine suggested boundaries around those places. The boundaries would then be recorded as waypoints using a GPS and this information would be used to inform the Proponent of areas where they should avoid ground-disturbing activities. Information about the presence of ethnographic places might also be used to inform the creation of a Cultural Heritage Management Plan.

Prior to each fieldwork period the survey team – being the KNAC representatives, the anthropologist, and Vocus Staff – met in the morning to

conduct a briefing about the purpose and objectives of the ethnographic heritage survey.

The Vocus staff provided a brief to the KNAC representatives and the anthropologist as to their proposed techniques for installation of fibre-optic cable as part of Project Horizon; on the second fieldwork survey the Vocus presentation was accompanied by photographs showing the various machinery and materials to be used. Following this, the anthropologist also provided a brief to the KNAC representatives about the purpose and conduct of the ethnographic survey. The anthropologist informed the KNAC representatives of the results of the desktop research and, at the second fieldwork period, the anthropologist also reiterated the outcomes of the first fieldwork conducted on the survey corridor in April 2023.

In the first fieldwork period of April 2023, the survey team commenced the survey from the southern end of the proposed 240 km long survey corridor and travelled in a northerly direction on the Great Northern Highway, through Newman, and north again on the Marble Bar Road, through Areas 1, 2 and 3. The anthropologist informed the KNAC representatives that they could at any time make the request to stop and inspect any areas of land within the survey corridors and to identify any previously unrecorded cultural features that may be impacted upon or concerns that they may have.

The anthropologist indicated the beginning and end of each survey area by stopping at those locations and by describing the length and width of each survey area. In addition, with regard to the six Registered sites, and one "Lodged" place of ceremonial / mythological significance (see Table 2 above) the anthropologist also proposed that the survey vehicle convoy stop at each location where these sites were indicated to occur (according to the polygons mapped for the sites by DPLH) to give the KNAC representatives opportunity to discuss the sites in relation to the proposed fibre-optic installation corridor.

During the second fieldwork period in July 2023, the survey team travelled from south to north, visiting those unsurveyed portions of the 200 m wide survey corridor that occurred within the publically visible boundaries of Registered Sites and OHPs of "Mythological / Ceremonial" type that remained unsurveyed after the first fieldwork period of April 2023. The anthropologist and the KNAC representatives discussed the presence or absence of ethnographic values within the survey corridor and any recommendations for mitigation of risk of impact to these places. The survey team also travelled to the northern end of the survey area, beyond the FMG Christmas Creek Gatehouse and surveyed the adjusted alignment of the 200 m wide survey corridor as well as inspecting the areas of the proposed Christmas Creek CEVs.

The anthropologist recorded notes in a field notebook during the field survey as well as taking photographs of some parts of the Survey Areas.

At the conclusion of the ethnographic survey the anthropologist conducted a debrief with the KNAC representatives where he reiterated the results and recommendations of the survey. These were endorsed by the KNAC representatives.

## 4 FIELDWORK RESULTS

**\*It should be noted that the Preliminary Advice reporting documents created after the April 2023 fieldwork and the July 2023 fieldwork (Beal, 2023a; Beal 2023b) made recommendations for the management of Aboriginal cultural heritage with reference to the *Aboriginal Cultural Heritage Act 2021 (WA)*. However, since the official repeal of the 2021 Act in October 2023, and the return to a revised *Aboriginal Heritage Act 1972 (WA)* as the relevant heritage legislation, cultural heritage management recommendations in this Final Report will be made with reference to the 1972 Act.**

Results and recommendations in this Report only pertain to having consulted about the Aboriginal cultural heritage places of a predominantly ethnographic type (e.g. mythological, ceremonial) that occur within the survey areas. “Registered” and “Lodged” archaeological-type places within the survey corridors (see Table 3) were not revisited by the ethnographic survey team as the anthropologist is not trained to recognise such places and it was anticipated these archaeological-type places would be revisited by a separate team of archaeological surveyors. The results and recommendations of the archaeological surveys will be reported separately by those practitioners.

### 4.1 V2 Area 1 Survey Area

The KNAC representatives inspected the V2 Area 1 survey area by starting at the southern end of this survey area and travelling north on the Great Northern Highway by vehicles. This vehicular inspection was conducted on the first day of the survey in April 2023.

The KNAC representatives were satisfied that they had been given opportunity to view the V2 Area 1 Survey Area and stated that **this survey area is clear of ethnographic concerns** relating to sites of cultural-religious significance **and is “ethnographically clear” for the proposed fibre-optic cable installation to occur within this part of the survey corridor, subject to the results of the archaeological survey.**

Results are shown visually in Figure 4, below.

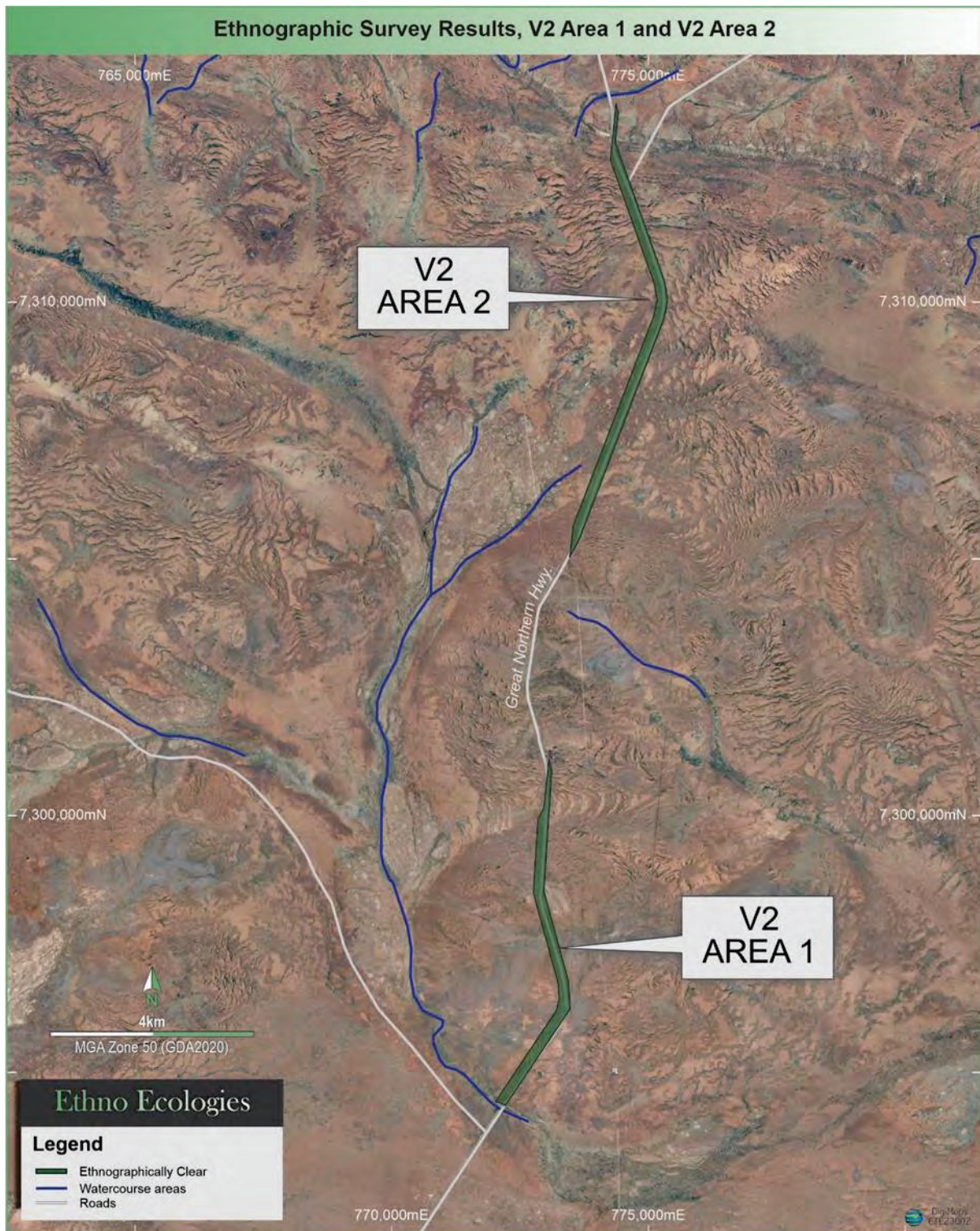
### 4.2 V2 Area 2 Survey Area

The KNAC representatives inspected the V2 Area 2 survey area by starting at the southern end of this survey area and travelling north on the Great Northern Highway by vehicles. This vehicular inspection was conducted on the first day of the survey in April 2023.

The KNAC representatives were satisfied that they had been given opportunity to view the V2 Area 2 Survey Area and stated that **this survey area is clear of ethnographic concerns** relating to sites of cultural-religious significance **and is “ethnographically clear” for the proposed fibre-optic cable installation to occur within this part of the survey corridor, subject to the results of the archaeological survey.**

Results are shown visually in Figure 4, below.

Figure 4: Ethnographic Survey Results for V2 Area 1 and Area 2



### 4.3 V3 Area 3 Survey Area

Over the April and July 2023 fieldwork periods the KNAC representatives and the anthropologist conducted an inspection of the entire length of the updated Area 3, including visiting each of the proposed CEV locations as well as each of the previously recorded Registered Sites (and one “Lodged” heritage place) of a ceremonial/mythological type that intersect with the 200 m wide Area 3 survey area corridor. The team started at the southernmost place and then travelled north to visit each in turn. The results and recommendations from those inspections are described here in the order the places are encountered, from the south end of V3 Area 3 to the north end near the proposed CEV III, “Christmas Creek”.

In addition, the KNAC representatives informed the anthropologist of **one new Aboriginal cultural heritage place – a claypan** – that does not currently appear on DPLH’s Aboriginal Cultural Heritage Inquiry System. Recommendations about this claypan, which **is adjacent to the existing Registered Site** of archaeological type, **ID 6344, Kalgan Creek South**, are given below at 4.3.2.2. Site ID 6344, Kalgan Creek South, occurs outside and to the west of the 200m wide survey corridor and is not at risk of being impacted upon if Vocus confine their works to the ethnographically clear sections of the installation corridor as described by this Report. The KNAC representatives did not wish to delineate a boundary around the extent of the claypan.

There is **one approximately 7km section of the survey corridor** that the KNAC representatives have stated **is not ethnographically clear for any works to proceed, owing to a high concentration of culturally modified trees**. Comments and recommendations about this place are given below at 4.3.2.4 and 4.3.2.5.

Table 4 and Figure 5, overleaf, provide an overview of the ethnographic survey results for the V3 Area 3 survey area. Results will be described in full in the following pages.

Vocus are advised that they should engage a minimum of two KNAC Representatives as monitors during the fibre-optic cable installation works that may occur in proximity to any of the Avoidance areas mentioned or for any works that will require section 18 consent under the *Aboriginal Heritage Act 1972* (WA). As previously stated, **section 18 Ministerial consent should not be sought by Vocus without first communicating this intention to KNAC**.

Table 4: Summary of Ethnographic Survey results for V3 Area 3 for known and new ACH places

DPLH ID / Heritage Place; Other	Name	ACHIS Status	Type	Survey Corridor intersects:		Survey Results	Recommendations
				"Public" Boundary	"ACTUAL" Boundary		
8032	NAT HWY, NEWMAN ACCESS 1	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
9554	TRUGALLENDA POOL 1	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
10137	NEWMAN W113	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
10138	TRUGALLENDA AREA WEST	Registered	Artefacts / Scatter, Ceremonial, Mythological, Quarry	YES	YES	Site is thought to be located on west side of Marble Bar Rd.	<b>Install on east side of road, taking care to avoid impacts to IDs 9554, 10137, and 10139</b> on this east side.  Refer to separate archaeological survey results, as Section 18 consent likely required if installation to occur within bounds of Registered Sites 9554, 10137, 10139 or 10138
10139	NEWMAN CALCRETE RIDGE	Registered	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
11237	DJAKATITINA HILL	Registered	Ceremonial, Repository / Cache, Camp, Other: Proposed PA 115	YES	NO	"Actual" boundary / location of Site is outside survey corridor.	No section 18 consent required for this site (as per DPLH advice).
11802	DJIWIRDI	Registered	Ceremonial, Mythological	YES	NO	"Not Ethnographically Clear" as per 4.3.2.5 and Figure 11, based on KNAC Representatives' comments.	Observe <b>AVOIDANCE</b> area as per supplied shapefiles. Vocus to seek arrangement with Roy Hill to use existing service road for dewatering pipeline



DPLH ID / Heritage Place; Other	Name	ACHIS Status	Type	Survey Corridor intersects:		Survey Results	Recommendations
				"Public" Boundary	"ACTUAL" Boundary		
							as possible installation route
17388	TJIMMARI QUARRY	Registered	Ceremonial, Quarry	YES	YES	Anomalous information meant site was unable to be found.	See results of separate archaeological survey report for further information. Section 18 consent required
31410	CB11-161	Registered	Artefacts / Scatter, Modified Tree	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Registered Site.
35614	Wartukapunmara	Registered	Ceremonial, Mythological	YES	<b>NO<sup>7</sup></b>	<b>"Not ethnographically clear" on eastern side of GNH.</b>  KNAC Reps. suggest installation on west side of GNH.	Section 18 consent required. Installation on western side of GNH is acceptable to KNAC Representatives
36753	MR16-003	Registered	NOT STATED on ACHIS but known to be several polygons of culturally modified trees	YES	YES	<b>"Not ethnographically clear"</b> as per 4.3.2.4 and Figure 11, based on KNAC Representatives' comments.	Observe <b>AVOIDANCE</b> area as per supplied shapefiles. Vocus to seek arrangement with Roy Hill to use existing service road for dewatering pipeline as possible installation route
38827	Minderoo Well	Registered	Artefacts / Scatter, Ceremonial, Historical, Mythological	YES	YES	KNAC Representatives stated that Vocus could use the corridor between 30 -50 m from the western edge of the GNH (a 20 metre wide working corridor)	Section 18 consent required
10144	FORTESCUE RIVER, NEWMAN	<b>Lodged</b>	Artefacts / Scatter	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place
17390	JINGUDARRDI (ROUND HILL)	<b>Lodged</b>	Ceremonial, Mythological	YES	YES	See 4.3.1.4	Section 18 consent required.
25356	CB08-12	<b>Lodged</b>	Artefacts / Scatter	YES	YES	Predominantly archaeological site	See separate archaeological

<sup>7</sup> Despite the status here, based on DPLH information, the on-the-ground ethnographic survey with KNAC representatives suggests the ["actual"] boundary of this Registered site DOES occur within the survey corridor. Recommendations are made accordingly at 4.3.1.2., including that **section 18 application be made in relation to this place**

DPLH ID / Heritage Place; Other	Name	ACHIS Status	Type	Survey Corridor intersects:		Survey Results	Recommendations
				"Public" Boundary	"ACTUAL" Boundary		
						not visited on ethno survey.	survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place.
32032	Christmas Creek Phase 22 Isolated Finds	<b>Lodged</b>	Other: Isolated Artefacts 10	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place.
38532	CB12-33	<b>Lodged</b>	Artefacts Scatter /	YES	YES	Predominantly archaeological site not visited on ethno survey.	See separate archaeological survey results. Section 18 consent likely required if installation to occur within bounds of this Lodged place.
<b>Claypan</b> east of ID 6344	Not supplied.	<b>Not yet reported to DPLH / ACHIS</b> (KNAC Reps do not wish to report to the Register)	Mythological	Boundary not recorded	Boundary not recorded	The claypan is of mythological / religious significance and should not be impacted upon. See details at 4.3.2.2	Observe designated <b>AVOIDANCE</b> area as per this report.  Install on east side of highway (pending archaeological survey advice).  Engage KNAC monitors
CEV I - Capricorn	n/a	-	-	-	-	<b>Ethnographically Clear</b>	
CEV II - Marble Bar	n/a	-	-	-	-	<b>Ethnographically Clear</b>	
CEV III - Christmas Creek	n/a	-	-	-	-	Ethnographically Clear. <b>See Figure 12</b>	
CEV III - Alternative West	n/a	-	-	-	-	Not available for use. In use by FMG. <b>See Figure 12.</b>	
CEV III - Alternative East	n/a	-	-	-	-	Ethnographically Clear. <b>See Figure 12</b>	

Figure 5: Overview of V3 Area 3 ethnographic survey results

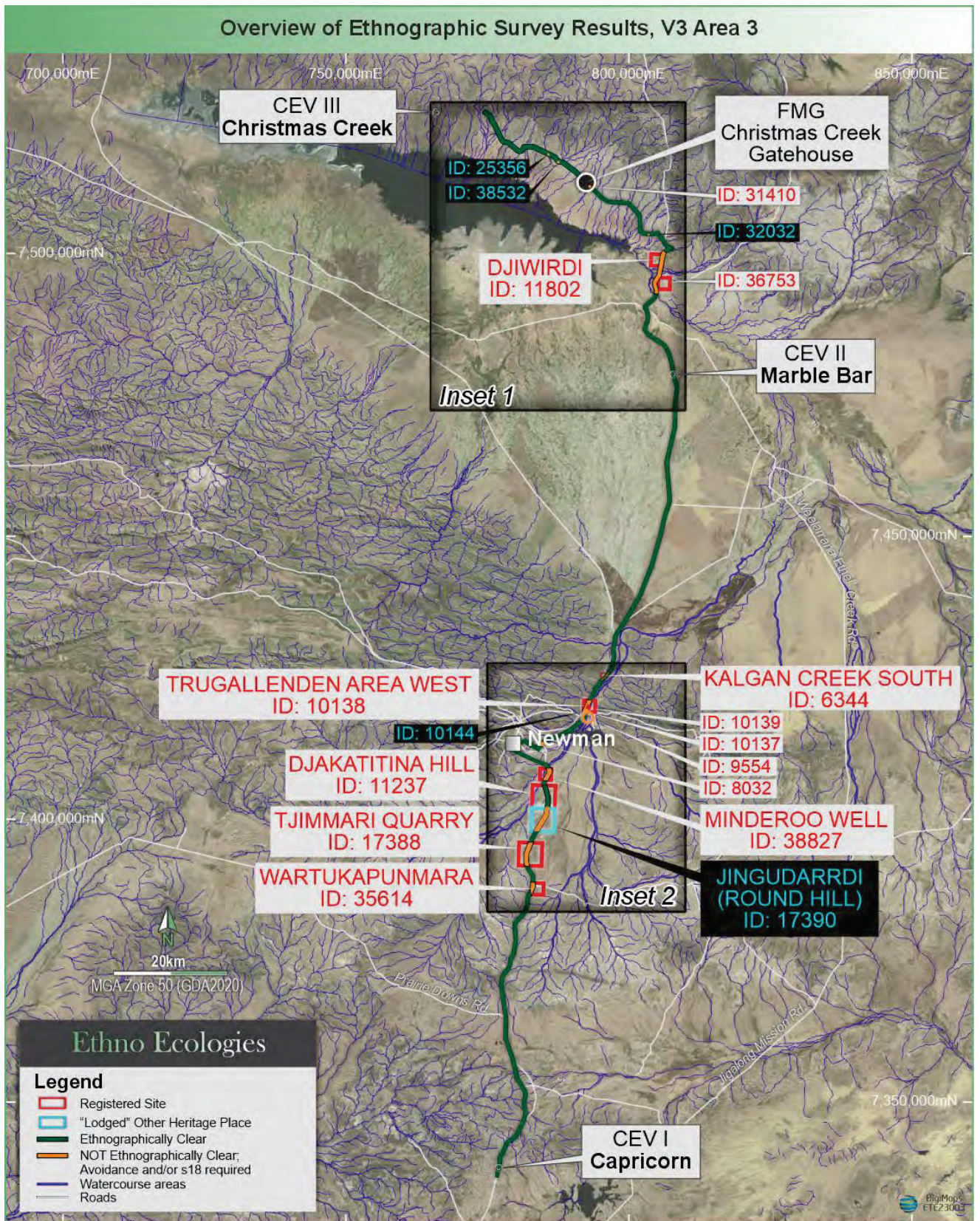
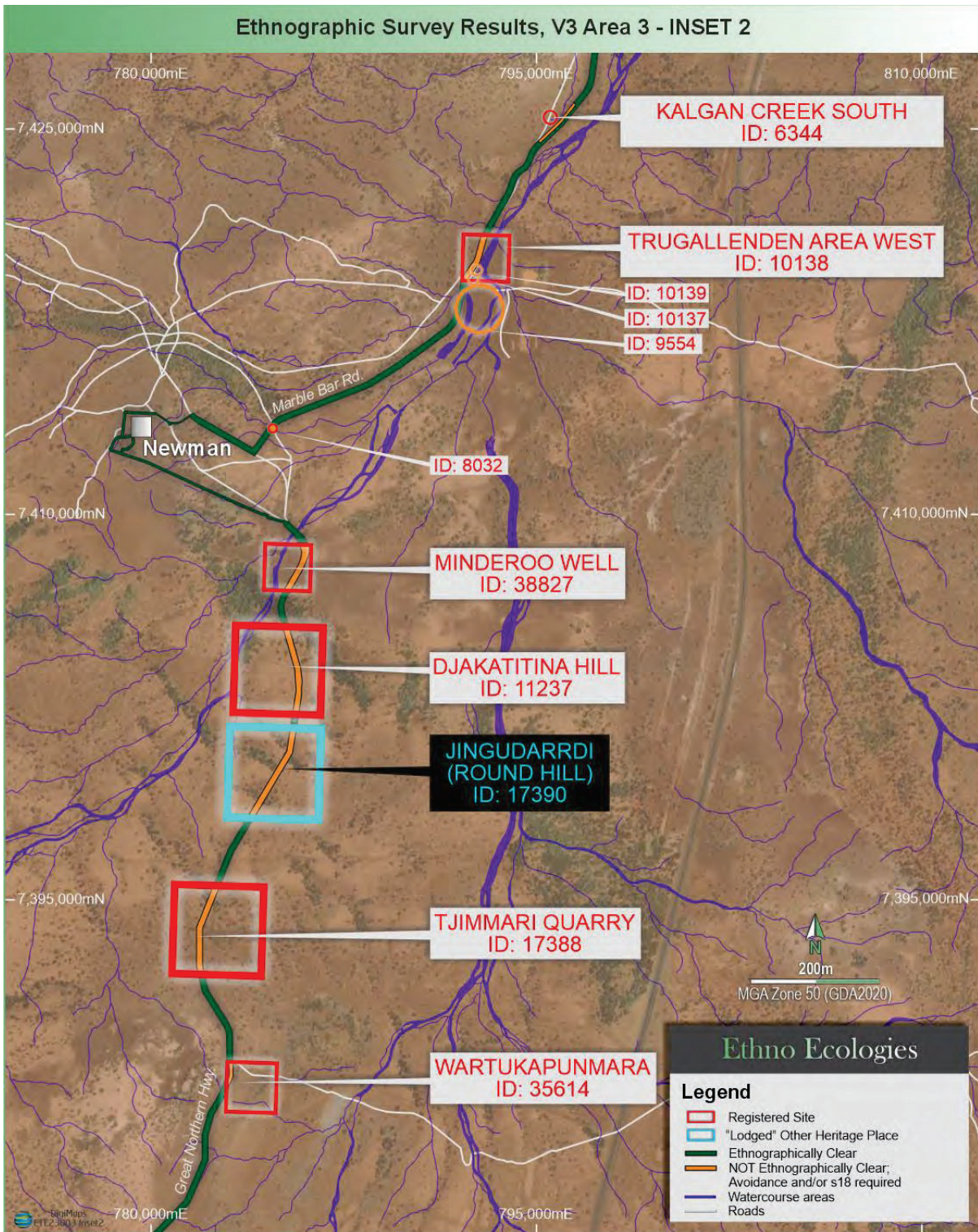


Figure 6: Ethnographic survey results at mid-southern end of V3 Area 3

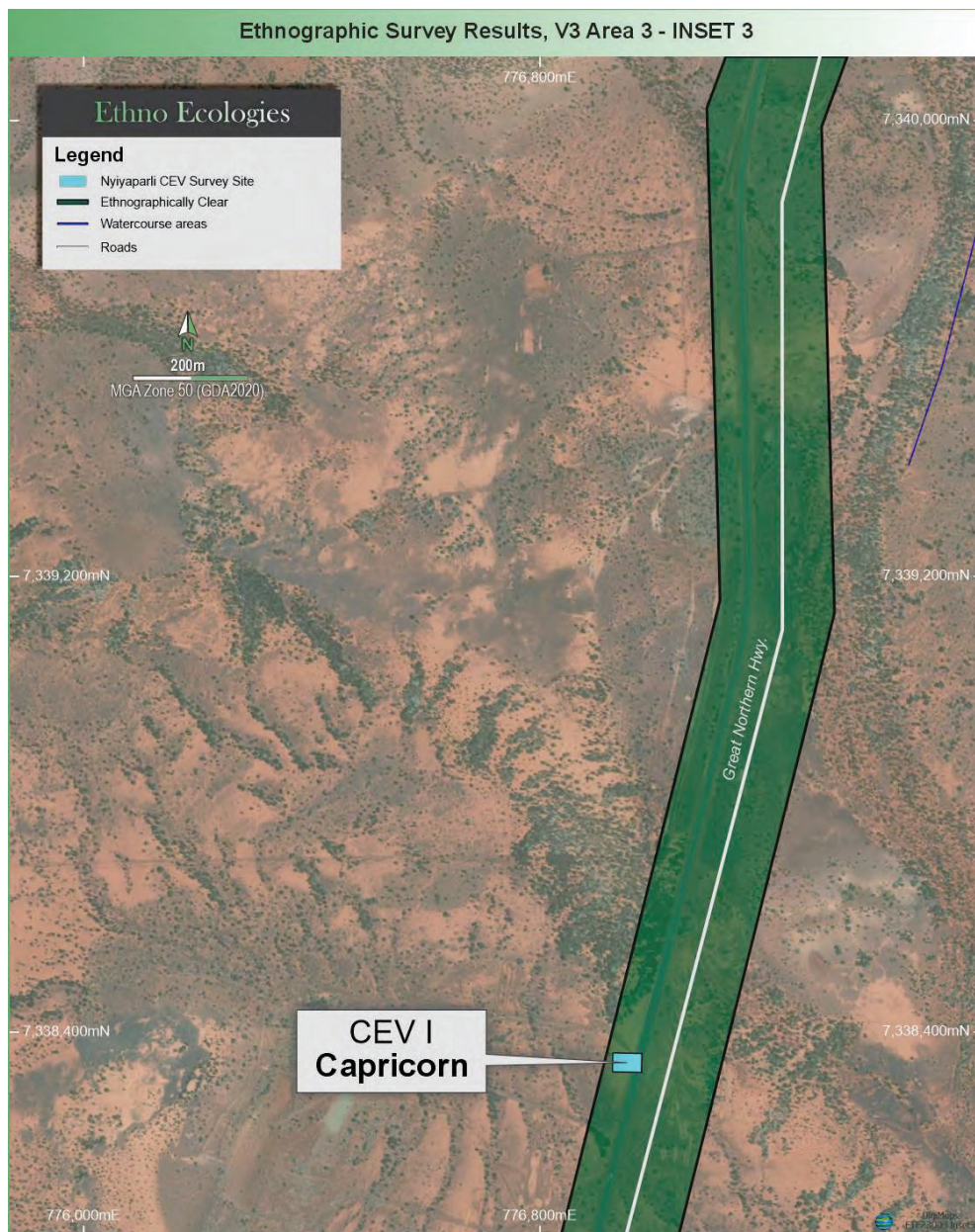


### 4.3.1 From Southern End of Area 3 and north to Newman township

#### 4.3.1.1 CEV I – “Capricorn”

The location for the proposed CEV I was inspected and was deemed **clear of ethnographic concerns** by the KNAC representatives. CEV I occurs within the 200 m wide survey corridor, on the western side of the GNH, which is also clear at this location and adjacent parts of the survey area mapped as “ethnographically clear” (see Figure 7).

Figure 7: Results of ethnographic survey near CEV I - "Capricorn"



#### 4.3.1.2 ID 35614, Wartukapunmara

This site was identified by the KNAC representatives as a hill on the eastern side of the Great Northern Highway (GNH), occurring *within* the 200 m wide survey area corridor on the east side of the GNH. It was viewed and discussed from a truck stop bay immediately to the north-west, on the western side of the GNH.

The survey corridor is **not ethnographically clear on the eastern side of the GNH** within the publicly visible ACHIS-mapped boundaries for this site (see Figure 8). The **KNAC representatives stated that the fibre-optic cable installation could occur on the western side of the GNH without impact or disturbance to the hill (ID 35614, Wartukapunmara)** which is located on the eastern side of the GNH.

There is already Telstra telecommunications infrastructure buried on the western side of the GNH at this location and running roughly parallel to the GNH. The KNAC representatives stated that Vocus should endeavour to install their fibre-optic cable just to the east of the existing Telstra infrastructure and on the western side of the GNH.

\*\*

After the April 2023 fieldwork, email correspondence with a Senior Heritage Officer at DPLH resulted in advice from DPLH that the Vocus 200 m wide survey corridor did not intersect with the “**actual boundary**” (as visible only to DPLH staff on their computer system) of this Registered site and, as such, no approvals under the AHA to conduct the proposed works in that part of the survey corridor that intersect with the “**public boundary**” of this site are required (see section 3.1.2, above, for a fuller explanation of this). **However**, as can be seen in Plate 1 below – a view south-east towards what the KNAC representatives thought of as the hill *Wartukapunmara* – the hill appears to be within 100 metres to the east of the GNH and, therefore, occurring within the survey corridor. Additional enquiries have been made with DPLH to seek further clarification about the actual boundaries and nature of this site.

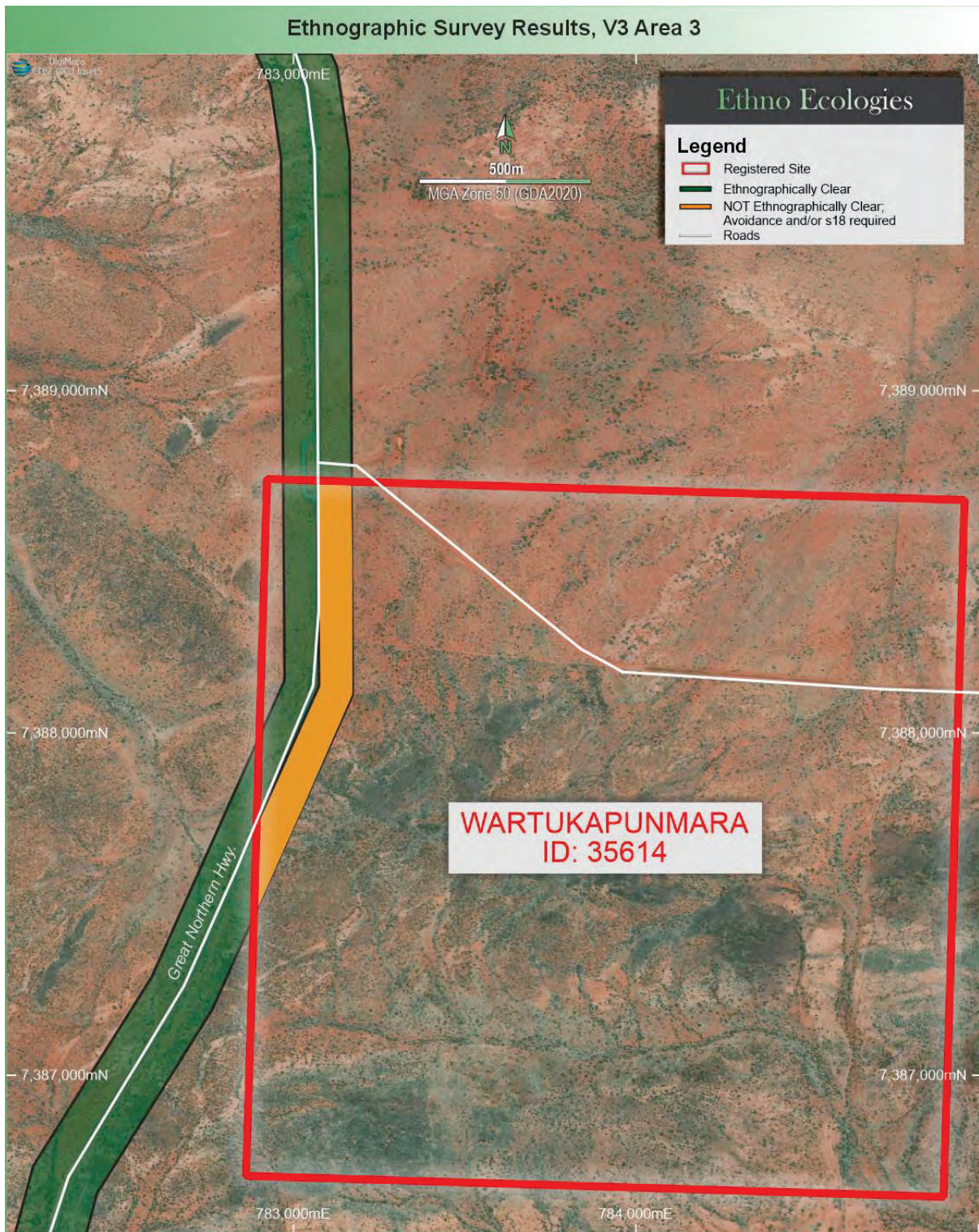
**Vocus are advised to make a section 18 application under the reinstated Aboriginal Heritage Act 1972 to seek Ministerial consent to use the land on the western side of the GNH. If Vocus adhere to the KNAC representatives’ request to keep the fibre-optic cable installation to the west of the GNH at this juncture, they will avoid disturbance to this site, as indicated by the KNAC representatives.**

**It is recommended that Vocus engage KNAC representatives as monitors during the ground-breaking works necessary for the fibre-optic cable installation.**



*Plate 1: View south-east towards Registered site Wartukapunmara from truck bay at approx. 50K  
783055mE 7388710mN*

Figure 8: NOT CLEAR Eastern side of Survey Corridor within public boundary of Registered Site, Wartukapunmara





#### 4.3.1.3 ID 17388, Tjimmari Quarry

As can be seen in Figure 6, the DPLH-mapped public boundary of this “Registered Site” occurs on both the west and east sides of the Great Northern Highway, and this boundary overlaps the 200 m wide survey corridor.

After the survey of April 2023 the anthropologist was able to access the site file for this “Registered Site” / “ACH Directory” place and read information pertaining to the site and its location to the survey team during the July 2023 survey. The site file contained a report excerpt that described the site as being:

*“Located approximately 800m south-east of the Fortescue River and 6km west of the Great Northern Highway. This site is a series of low hills running north-east / south-west” (McDonald Hales and Associates, 1994: 157).*

Additional information about the cultural importance of the Site was also provided.

The Site description excerpted from the report is anomalous in relation to the DPLH-mapped location of the Site and its overlap with the 200 m wide survey corridor – as can be seen in Figure 6, the mapped boundary of the site occurs on both the west and east sides of the Great Northern Highway (GNH) and yet the written description for the site states that it is approximately 6km west of the Great Northern Highway. Another anomaly occurs in that a set of location coordinates given in the Site file provide a point approximately 150 m to the west of the edge of the GNH but inspection by the survey team revealed no discernible cultural heritage feature at the given location.

The KNAC representatives present on the survey were not aware of the presence of a quarry site in immediate proximity to the GNH that was a source of material for the ceremonial purposes described by the Site description in the Site file; this fact, in addition to the description of the Site as being approximately 6km west of the GNH – and therefore well outside the 200 m wide survey corridor – would seem to indicate that the risk of damage to an Aboriginal cultural heritage place during installation of the fibre-optic cable within the 200 m wide corridor where it intersects with the DPLH-mapped boundary of Site ID 17388, Tjimmari Quarry, is minimal. Additionally, the anomalous coordinate for the central point of the Site that is recorded in the site file provides a location approximately 150 m west of the western edge of the GNH. If there is a Site present at the location, its central point is located approximately 45 m outside the western edge of the survey corridor.

It may be that the archaeological survey of the 200 m wide corridor can confirm the presence or absence of artefactual material within the DPLH-

mapped public boundary of this Site and thereby refine the location data for Tjimmari Quarry.

**Vocus are advised that they will need to make a section 18 application under the reinstated Aboriginal Heritage Act 1972 to seek Ministerial consent to use the land within the survey corridor where it intersects with the DPLH-mapped “public” boundary of this site.**

If section 18 consent is granted, Vocus should take additional care when installing the fibre-optic cable within the public-boundary of this elusive-to-locate Tjimmari Quarry site. As mentioned, archaeological ground-proofing may provide additional data about the presence or absence of this Site within the 200 m wide survey corridor and **Vocus are advised to refer to the results of the separate archaeological survey to gain any additional information about the possible location of this place.** In the absence of additional information from the archaeological survey, **it is recommended that Vocus engage KNAC representatives as monitors** during the ground-breaking works necessary for the fibre-optic cable installation at this area.

#### **4.3.1.4 ID 17390, Jingudardi (Round Hill)**

As can be seen in Figure 6, the DPLH-mapped public boundary of this “Lodged” place occurs on both the west and east sides of the Great Northern Highway, and this boundary is overlapped by the 200 m wide survey corridor.

After the survey of April 2023 the anthropologist was able to access the file for this “Lodged” place and read information pertaining to the place and its location to the survey team during the July 2023 survey. The file contained a report excerpt that described the place as being:

*“A prominent hill located between Number 18 Well and the Great Northern Highway near Capricorn Roadhouse”  
(McDonald Hales and Associates, 1994: 159).*

The place is further described as being of “Ceremonial and Mythological” type and being “highly significant” and, in cultural practice, unable to be approached by “women and the uninitiated”.

A set of location coordinates given in the file, from which a 1km avoidance radius around the place was suggested in its initial reporting, render a point approximately 770 m from the western edge of the GNH and some 640m outside the western edge of the 200 m wide survey corridor.

The KNAC representatives of the survey team stated that they had not been told the cultural information about this place but agreed that if installation works are contained within the proposed 200 m wide corridor when working

on the fibre-optic cable installation then the hill and its cultural values would not be impacted upon.

**Vocus are advised that they will need to make a section 18 application under the reinstated Aboriginal Heritage Act 1972 to seek Ministerial consent to use the land within the survey corridor where it intersects with the DPLH-mapped “public” boundary of this site.**

**If Vocus confine the fibre-optic cable installation works within the surveyed area at this juncture they will avoid disturbance to this site, as indicated by the KNAC representatives.**

**It is recommended that Vocus engage KNAC representatives as monitors during the ground-breaking works necessary for the fibre-optic cable installation.**

#### **4.3.1.5 ID 11237, Djakatitina Hill**

After the first fieldwork period in April 2023, post-survey email correspondence with a Senior Heritage Officer at DPLH resulted in advice from DPLH that the 200 m wide survey corridor did not intersect with the “actual boundary” (as visible only to DPLH staff on their computer system) of this Registered Site / ACH Directory place and, as such, no section 18 approval would be required under the AHA 1972 to conduct the proposed works in the survey corridor as **there is no risk of works within the 200 m wide survey corridor impacting upon the “actual boundary” of this Aboriginal cultural heritage place.**

Indeed, when this place was discussed again during the July 2023 survey, the KNAC representatives confirmed that *Djakatitina Hill* was further to the west and outside of the survey corridor. They did not have any concerns that this hill would be disturbed by the proposed fibre-optic cable installation works.

**Vocus are advised that a section 18 application to conduct works within the survey corridor where it intersects the “public boundary” of ID 11237, Djakatitina Hill, is not necessary.**

#### **4.3.1.6 ID 38827, Minderoo Well**

As can be seen in Figure 6, the DPLH-mapped public boundary of this “Registered Site” occurs on both the west and east sides of the Great Northern Highway, and this boundary overlaps the 200 m wide survey corridor.

##### **4.3.1.6.1 Results from April 2023 ethnographic survey**

During the first fieldwork period of April 2023 the survey team stopped within the DPLH-mapped public boundary for this Registered Site to discuss any potential impacts to the site from the proposed fibre-optic cable installation.

The KNAC representatives stated that the historic stockyards form only one culturally significant element of this site. These stockyards are on the western side of the GNH. Between the western edge of the GNH and further west to the edge of the survey area corridor, immediately east of the stockyard, there is an open area with gravel / blue metal dumps used by either the Shire of Newman or Main Roads WA for roadwork purposes.

The KNAC representatives stated that there are other culturally significant elements to the Minderoo Well site, in addition to the stockyards, and that these are located outside and to the north-west of the survey corridor and they stated that the fibre-optic cable installation could occur on the western side of the GNH, and east of the stockyards, without impact or disturbance to the spiritually significant aspects of the Registered site ID 38827, Minderoo Well. This assessment is further modified by comments made by the KNAC Representatives during the July 2023 survey (detailed below). **However**, post-survey email correspondence with a Senior Heritage Officer at DPLH resulted in advice from DPLH that as the survey corridor intersected with both the public boundary and the “actual boundary” (as visible only to DPLH staff on their computer system) of this Registered site, **the Proponent (Vocus) would, under the AHA 1972, need to apply for section 18 consent** to use the land to proceed with any ground disturbing works within the boundaries of this site.



*Plate 2: April 2023, View northwest showing stockyards on west side of GNH as part of ID 38827, Minderoo Well, with borrow pit in foreground*

#### 4.3.1.6.2 Results from July 2023 ethnographic survey

After the survey of April 2023 the anthropologist was able to access the file for this “Registered Site” and read information pertaining to the place and its

location to the survey team during the July 2023 survey. The KNAC representatives were well aware of the cultural heritage values present at this location. The file described that the stockyard element of the place was the easternmost of two “primary loci” that made up the ACH place. The more western component of the ACH place is of high spiritual / religious significance but is located outside of the 200 m wide survey corridor and is thought to not be at risk of being impacted upon if installation works are contained within the proposed 200 m wide corridor when working on the fibre-optic cable installation. Additional comments about avoiding impact to the stockyard component of the ACH place are discussed below.

During the second fieldwork period of July 2023 the survey team stopped within the DPLH-mapped public boundary for this “Registered Site”/ “ACH Directory” place to discuss any potential impacts to the site from the proposed fibre-optic cable installation.

Vocus informed the survey team that advice they had received from Main Roads WA, who manage the road reserves in which Vocus intend to install the fibre-optic cable, is that the installation has to occur at least 30 metres from the edge of the road.

When the **KNAC representatives** considered the 30 m distance west of the Great Northern Highway and the proposed alignment of the fibre-optic cable installation in relation to the presence of the historic stockyards that are part of the Site ID 38827 Minderoo Well , they **stated that Vocus could use the corridor between 30 -50 m from the edge of the road ( a 20 metre wide working corridor) for the proposed fibre-optic cable installation works.**

Effectively, the KNAC representatives stated that Vocus' **proposed fibre-optic cable installation works should not occur at any point west of 50 metres from the roadside and within the boundary of this “Registered Site” in order to avoid impacting upon the historic stockyard and the spiritual / religious elements elsewhere at the Site.**

**Vocus are advised that they will need to make a section 18 application under the reinstated Aboriginal Heritage Act 1972 to seek Ministerial consent to use the land within the survey corridor where it intersects with the DPLH-mapped “public” boundary of this site.**

**If Vocus confine the fibre-optic cable installation works to within the survey corridor at 30-50 metres distance west of the GNH road edge at this juncture, they will avoid disturbance to this site, as indicated by the KNAC representatives.**

**It is recommended that Vocus engage a minimum of two KNAC representatives as monitors during the ground-breaking works necessary for**

the fibre-optic cable installation at this, or any other, Registered Site, Lodged Other Heritage Place, or “avoidance” area.

### **4.3.2 Newman township to Christmas Creek Gatehouse, and CEV III, via Marble Bar Road**

#### **4.3.2.1 ID 10138, Trugallenden Area West**

As can be seen in Figure 6, the DPLH-mapped public boundary of this “Registered Site” occurs on both the west and east sides of the Marble Bar Road, and this boundary overlaps the 200 m wide survey corridor.

After the survey of April 2023 the anthropologist was able to access the file for this “Registered Site”/ “ACH Directory” place and read information pertaining to the place and its location to the survey team during the July 2023 survey. The file contained a report excerpt that described the place as being:

*“a ridge extending some 5 km to the west of the railroad, . . . [which] is a ‘danger place’ . . . according to Aboriginal tradition”.*

The same excerpt provided some detail about the secret / sacred religious nature of this place and the cultural taboos regarding which members of Aboriginal society may approach or visit the place. DPLH staff notes within the file also recommend that the site name be changed for this place, using the cultural names recorded during previous ethnographic surveys as reported in the site file, to reflect the significant cultural / religious nature of this place. To date, this suggestion has not been actioned.

An excerpt from the desktop research from a 2010 survey conducted in the area (McDonald and Coldrick, 2010:11-12) collated information from other studies done in the area in 1979 (Clarke and Smith; full reference missing from text excerpt) and 1996 (O’Connor; full reference missing from text excerpt) and provided four pairs of coordinates indicating the location of this “Registered Site” / “ACH Directory” place. These coordinates place the location of the place within the 200 m wide survey corridor on the western side of the Marble Bar Road and within the larger DPLH-mapped public boundary for this Registered Site / ACH Directory place. **Vocus-supplied GIS and GPX “alignment” data indicates that Vocus’ preliminary planning proposes to align / install the fibre-optic cable approximately 50 metres east of the eastern side of the Marble Bar Road for the entire extent of its passing through the DPLH-mapped “public” boundary of the ID 10138 Trugallenden Area West ACH place.**

Ground inspection during the July 2023 ethnographic survey of the location indicated by the four pairs of coordinates for the Trugallenden Area West site confirmed the presence of a banded ironstone(?) ridge that occurs right up to the western edge of the road (see Plate 3). The sheer physical presence of the

ridge right up to the road edge makes it seemingly highly more practical to install the fibre-optic cable on the eastern side of the Marble Bar Road at this particular section of the Project, as is Vocus' current intention as indicated by their supplied "alignment" data.



Plate 3: View NNE of stone ridge at Trugallenden Area West, on west side of road

**If the cable installation works occur on the eastern side of the Marble Bar Road for the entire extent of its passing through the DPLH-mapped public boundary of the ID 10138, Trugallenden Area West ACH place, then the risk of harm to *this particular ACH place* is removed. However, Vocus are also advised to take note that there are several Registered archaeological-type sites in the immediate area (ID 9554, ID 10137, and ID 10139 -see Figure 6) and that they will need to heed whatever recommendations arise from the archaeological inspections of the area. The recommendation here is that all Registered sites and OHPs are to be avoided, as required by law. If Vocus deem they are unable to avoid impacts within the public boundaries of these sites, they should advise KNAC that they will need to seek section 18 consent from the Minister to use the land within the boundaries of these Registered sites.**

**Vocus are advised that they will need to make a section 18 application under the reinstated Aboriginal Heritage Act 1972 to seek Ministerial consent to use the land within the survey corridor where it intersects with the DPLH-mapped "public" boundary of this site.**

**It is recommended that Vocus engage KNAC representatives as monitors during the ground-breaking works necessary for the fibre-optic cable installation.**





#### 4.3.2.2 Claypan adjacent to ID 6344, Kalgan Creek South

Kalgan Creek South is the name given to a Registered Site (ID 6344) that is recorded as being of the type “Artefacts / Scatter”. Its circular DPLH-mapped public boundary occurs approximately 130 metres outside and to the west of the western boundary of the Area 3 survey corridor, on the western side of the Marble Bar Road. However, there is a claypan immediately to the east of this Registered Site, back towards the road, that the KNAC representatives stated is of cultural significance to them and has an associated mythological narrative. At the time of the April 2023 survey, the claypan was full of water (see Plate 4).



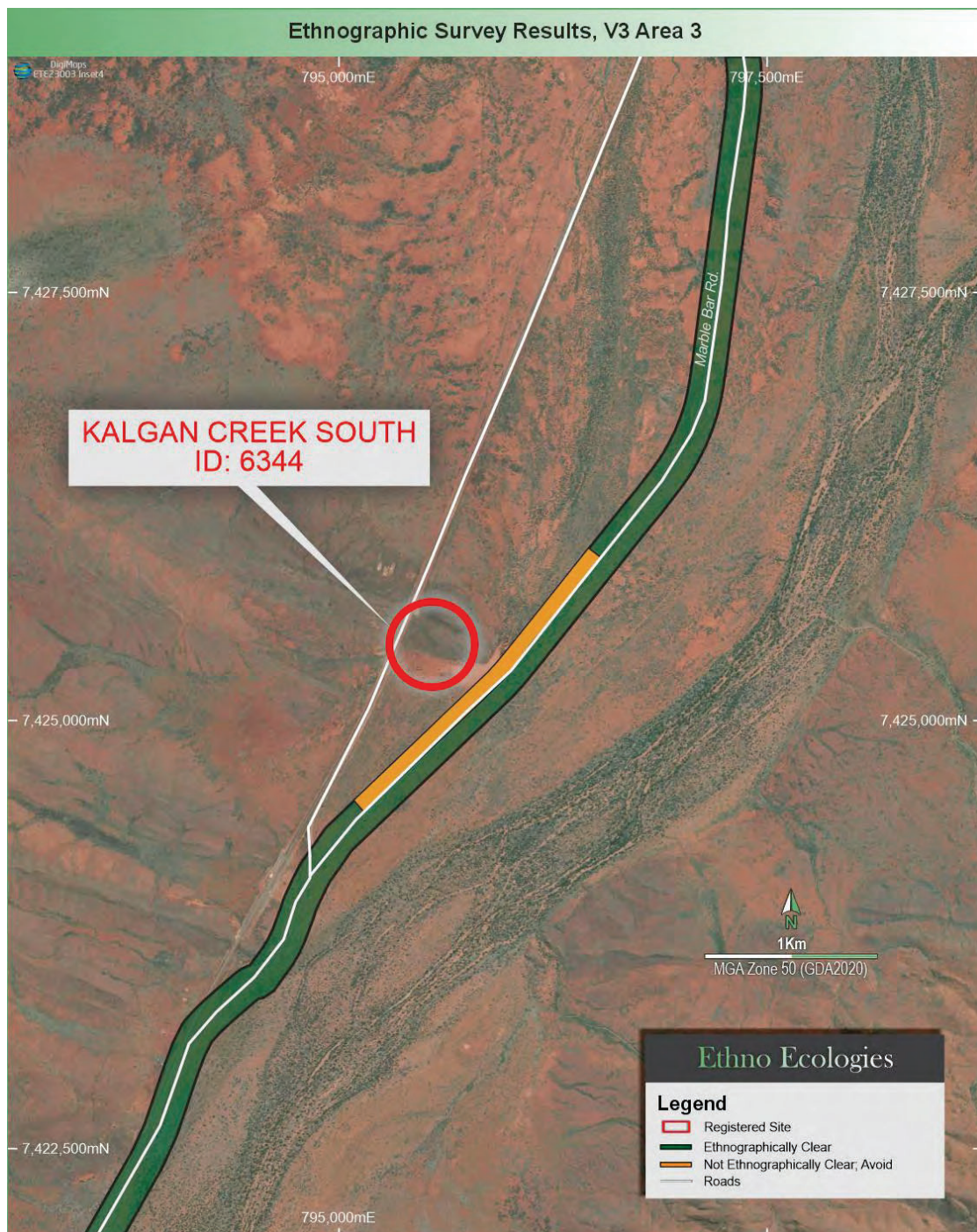
Plate 4: View north-west showing culturally significant claypan to be avoided

Curiously, there is already an existing Telstra communications infrastructure buried not far from the eastern shore of this claypan, on the western side of Marble Bar Road; however, the KNAC representatives have designated the survey corridor on this western side of the Marble Bar Road as “not ethnographically clear” in order to keep the fibre-optic cable installation works away from impacting upon this culturally significant claypan.

In designating **the western side of the survey corridor “not ethnographically clear” in proximity to this claypan**, the KNAC representatives nominated a distance of 1 km south and north from the approximately central eastern side of the claypan as “not ethnographically clear” (see Figure 9) and requested that Vocus use the eastern side of the Marble Bar Road when installing the fibre-optic cable past the claypan.

The KNAC representatives stated to the anthropologist that they did not want this site added to the ACHIS; however, Vocus should treat this place as though it were a Registered Site of spiritual /religious significance and ensure they avoid disturbance to it by conducting the fibre-optic installation works on the eastern side of the road.

Figure 9: Avoidance area associated with claypan adjacent to ID 6344



### 4.3.2.3 CEV II – Marble Bar

The location for the proposed CEV II was inspected and was deemed **clear of ethnographic concerns** by the KNAC representatives. CEV II occurs within the 200 m wide survey corridor, on the eastern side of the Marble Bar Road, which is also clear at this location and adjacent parts of the survey area mapped as “ethnographically clear” (see Figure 10).

Figure 10: Results of ethnographic survey near CEV II - "Marble Bar"



#### **4.3.2.4 ID 36753 and North of Fortescue River Bridge to south of Christmas Creek mine turn-off**

The scar trees in this region that are mapped in several north-south polygons for archaeological-type **Site ID 36753**, named MR16-003, have been previously recorded during other cultural heritage surveys and have been designed around by other land users in the area. For instance, Roy Hill mining company has a large “dewatering” pipeline in the area that is used to channel water pumped-out from mining pits to other locations. The alignment of this dewatering pipeline has been designed around the location of stands of scarred trees present in the area, and the KNAC representatives have advised Vocus to liaise with Roy Hill and seek permission to use the service road easement immediately alongside this Roy Hill dewatering pipeline as a potential alignment for the fibre-optic cable installation.

In delineating a portion of the Area 3 survey corridor as **not ethnographically clear** owing to the presence of scarred trees on both sides of the Marble Bar Road, the KNAC representatives advised that the survey corridor is **“not clear” for fibre-optic cable installation works to occur from a point on the north side of the bridge over the Fortescue River (50 K 804814mE 7493025mN) on the Marble Bar Road and north to the coordinate 50 K 806127mE 7499985mN** (a straight-line distance of approximately 7 km, south to north – **see Figure 11**) – this stretch of road roughly corresponds to the DPLH-mapped locations of Registered Site ID 36753, named MR16-003; though, the official AHIS Register does not indicate what “type” of Site this is (see **Error! Reference source not found.**). The site is known to contain culturally-modified trees because of information provided by KNAC and the KNAC representatives.

The KNAC representatives discussed with the Vocus staff present on the survey, and with the anthropologist, that if Vocus can negotiate with Roy Hill mining company to use the service road immediately parallel to the dewatering pipeline, then the KNAC representatives support the alignment of the fibre-optic cable installation using this already existing service road. **If Vocus cannot negotiate with Roy Hill to make use of the dewatering pipeline service road they will need to map an alternative route for the fibre-optic cable installation, and that new proposed alignment corridor will need to be the subject of further ethnographic and archaeological heritage surveys.**

#### **4.3.2.5 ID 11802, Djiwirdi**

As can be seen in Figure 11, the DPLH-mapped public boundary of this “Registered Site” occurs mostly on the western, and partly on the eastern, side of the Marble Bar Road, and this boundary overlaps with the 200 m wide survey corridor.

During the first fieldwork period in April 2023 the KNAC representatives had stated that **the 200 m wide survey corridor, for the entire extent of its passing**

**through the DPLH-mapped public boundary of the Registered Site ID 11802, Djiwirdi, is not ethnographically clear** (see Figure 11). The KNAC representatives designated this area as “not ethnographically clear” due to the presence, further to the south, of many previously recorded scarred trees (DPLH Site ID 36753, named MR16-003) occurring on both sides of the road and within the survey corridor (as discussed immediately above at 4.3.2.4).

Due to the north-south extent of the multiple stands of scarred trees that make up Site ID 36753, MR16-003, the KNAC representatives nominated an approximately 7 km stretch of the survey corridor from the southmost occurrence of these scar trees to a point just north of the public boundary of ID 11802, *Djiwirdi*, as “not ethnographically clear”, in an effort to protect the culturally important trees occurring in this region.

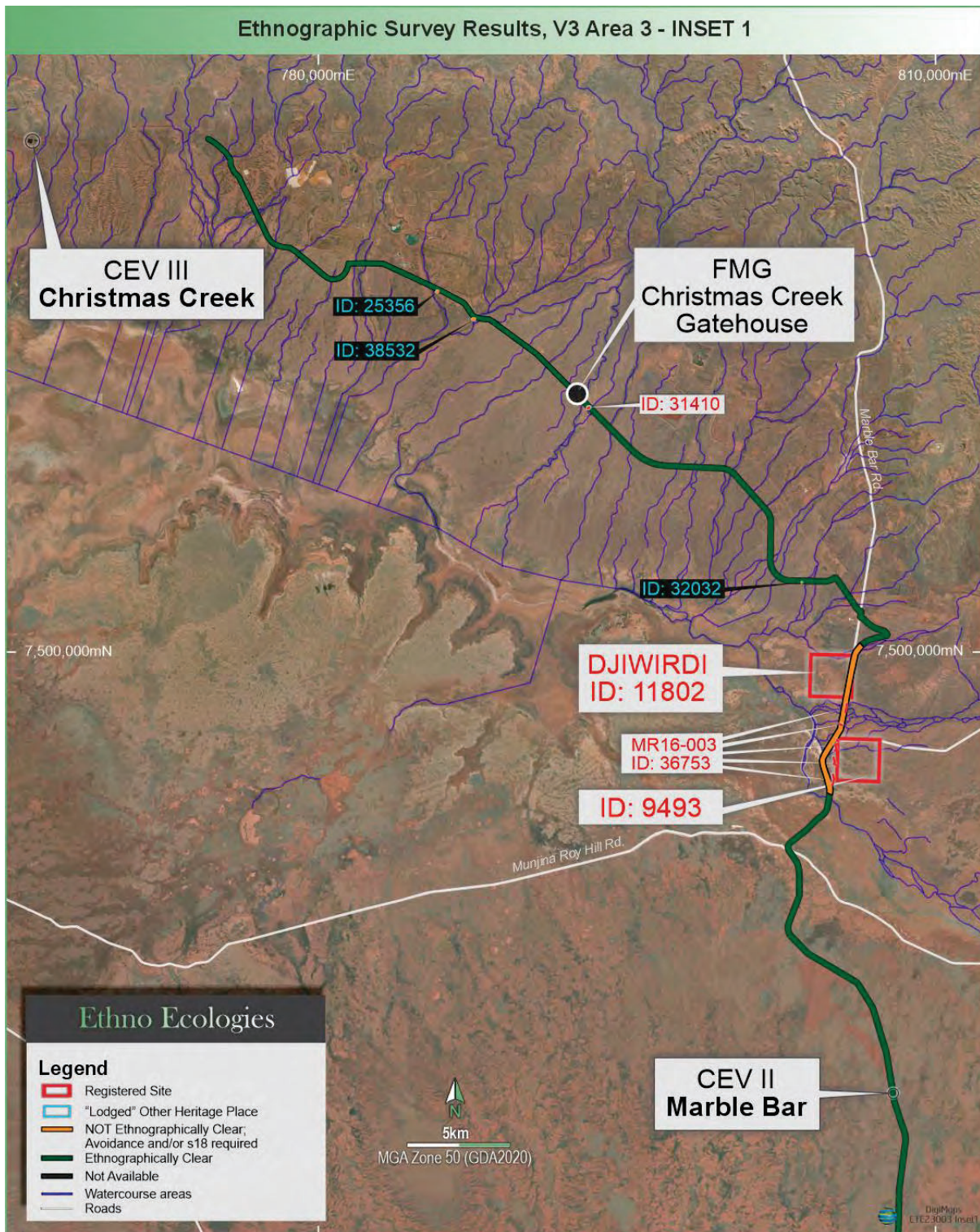
After the first fieldwork period in April 2023, post-survey email correspondence with a Senior Heritage Officer at DPLH resulted in advice from DPLH that the 200 m wide survey corridor did not intersect with the “actual boundary” (as visible only to DPLH staff on their computer system) of this Registered Site (ID 11802, *Djiwirdi*) and, as such, no approvals would be required under the AHA 1972 to conduct the proposed works in the survey corridor as there is no risk of works within the 200 m wide survey corridor impacting upon this particular Aboriginal cultural heritage place.

KNAC representatives also confirmed during the April 2023 survey that this site occurred beyond the western boundary of the survey corridor and was not at risk of being impacted upon.

However, as advised above, the KNAC representatives do not agree to ground-disturbing works occurring within the approximately 7km described above and illustrated in Figure 11.

It should also be said that the “public” and “actual” boundaries of Registered Site ID 9493, Roy Hill Station, visible in Figure 11, is not overlapped by the current 200 m wide survey corridor and, as such, there is no risk of disturbance to this place.

Figure 11: Ethnographic survey results at northern end of V3 Area 3



#### 4.3.2.6 CEV III – Christmas Creek

Prior to the July 10-13, 2023, fieldwork period, Vocus supplied additional GIS shapefiles requesting survey of two additional survey areas immediately to the west and to the east of the originally proposed CEV III – “Christmas Creek” location.

The results of the ethnographic survey of these three possible locations for CEV III are as follows:

- Originally proposed CEV III – “Christmas Creek” polygon is **“ethnographically clear”**. Works can proceed here without risk of damage to ACH places of predominantly ethnographic type.
- Christmas Creek alternative East is **“ethnographically clear”**. Works can proceed here without risk of damage to ACH places of predominantly ethnographic type.
- Christmas Creek alternative West was **deemed by the FMG staff present on the survey to be not available for use by Vocus**. FMG had already begun grading the area with heavy machinery and it was under construction for purposes related to their mining operations.

See Figure 12, below, for visual representation of these results.

**Vocus are advised to consider these results in conjunction with any results and recommendations resulting from an archaeological survey** of these same areas.

Figure 12: Ethnographic Survey Results, proposed locations for CEV III - Christmas Creek





## 5 RECOMMENDATIONS

Vocus Fibre Pty Ltd, and KNAC, are advised:

1. the ethnographic survey results and recommendations in this Report should be read in conjunction with the results and recommendations of any separate reporting detailing the separate archaeological surveys;
2. that the survey results have also been presented as GIS shapefiles submitted with this report;
3. that Vocus should only conduct installation works in those areas designated as “Ethnographically Clear” or for which they have obtained Ministerial consent under section 18 of the *Aboriginal Heritage Act 1972* (WA);
4. that V2 Area 1 and V2 Area 2 are “ethnographically clear” for the fibre-optic cable installation works to occur. These results should be compared to recommendations from separate archaeological survey reports;
5. that the V3 Area 3 200 m wide survey corridor overlaps the public boundaries of 12 Registered Sites and 5 “Lodged” Other Heritage Places and that section 18 Ministerial consent will be required to undertake works in the majority of these instances (see Table 3 and Recommendations summarised in Table 4);
6. CEV I, “Capricorn”, is “ethnographically clear” for the fibre-optic cable installation works to occur;
7. CEV II, “Marble Bar”, is “ethnographically clear” for the fibre-optic cable installation works to occur;
8. CEV III, “Christmas Creek” is “ethnographically clear” for the fibre-optic cable installation works to occur (see Figure 12);
9. CEV III, alternative location West is “not available” for use because of FMG construction works (see Figure 12);

10. CEV III, alternative location East is “ethnographically clear” for the fibre-optic cable installation works to occur (see Figure 12);
11. that **one new Aboriginal cultural heritage place** – a claypan – **was indicated during the ethnographic heritage surveys**. The claypan is adjacent (immediately east) to existing Registered Site ID 6344, Kalgan Creek South. KNAC representatives designated an approximately 1 km long avoidance area on the west side of the GNH where installation works should not occur in order to minimise impacts to this place. See section 4.3.2.2 and Figure 9;
12. there is **one approximately 7km section of the survey corridor** that the KNAC representatives have stated **is not ethnographically clear for any works to proceed** (see Figure 11), **owing to a high concentration of culturally modified trees**. Comments and recommendations about this place are given at 4.3.2.4 and 4.3.2.5 and summarised at Table 4;
13. that, with regard to the 7 km length of survey corridor designated “not ethnographically clear”, commencing on the north side of the Fortescue River bridge crossing, the KNAC representatives suggest that Vocus negotiate with Roy Hill mining company to make use of an existing dewatering pipeline service road for the fibre-optic cable installation and that, if this is not possible, then Vocus will need to propose a new alignment corridor to be the subject of further ethnographic and archaeological heritage surveys;
14. that Vocus will need to apply for section 18 consent from the Minister, under the *Aboriginal Heritage Act 1972 (WA)*, to conduct any works within the “actual” site boundaries, and some of the “public” boundaries, overlapped by the 200 m wide proposed fibre-optic cable installation corridor for those Registered Sites and “Lodged” Other Heritage Places as indicated at Table 3 and summarised at Table 4;
15. that Vocus should notify KNAC prior to submitting any application for Ministerial consent under section 18 of the *Aboriginal Heritage Act 1972 (WA)*;

16. if section 18 consent is granted to conduct fibre-optic cable installation works within Registered Sites and “Lodged” OHP boundaries, **Vocus should** follow any mitigation recommendations suggested by the KNAC representatives (as included in this report and summarised at Table 4) as well as **engage a minimum of two (2) KNAC representatives as monitors** during installation works at these places;
17. that where the V3 Area 3 survey corridor overlaps **DPLH ID 35614, Wartukapunmara**, in addition to seeking section 18 ministerial consent, Vocus should confine installation works to the western side of the GNH, as requested by KNAC representatives, to avoid disturbance to this mythologically important cultural heritage place;
18. that where the V3 Area 3 survey corridor overlaps **DPLH ID 38827, Minderoo Well**, in addition to seeking section 18 ministerial consent, Vocus should **confine installation works to a 20 m wide working corridor between 30 -50 metres from the western edge of the Great Northern Highway**, as suggested by KNAC representatives, to avoid disturbance to this mythologically and historically important cultural heritage place;
19. that where the V3 Area 3 survey corridor overlaps **DPLH ID 10138, Trugallenden Area West**, in addition to seeking section 18 ministerial consent, Vocus should **confine installation works to the eastern side of the Marble Bar Rd**, as suggested by KNAC representatives, while at the same time avoiding the nearby archaeological-type sites - ID 9554, ID 10137, and ID 10139 – that occur on this eastern side of the road;
20. that Vocus **engage a minimum of two KNAC representatives as monitors** during the ground-breaking works necessary for the fibre-optic cable installation, particularly for those sections of the installation for which section 18 consent may have been granted, or which are in immediate proximity to Aboriginal cultural heritage places.

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