

**KURUMA
MARTHUDUNERA**
ABORIGINAL CORPORATION RNTBC
ICN 7612



Independent Director Package

For Kuruma Marthudunera Aboriginal Corporation RNTBC in the Pilbara

Dated February 2018

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EXECUTIVE SUMMARY

Thank you for expressing your interest in the position of independent director on the Kuruma Marthudunera Aboriginal Corporation RNTBC (ICN 7612) (KMAC) in the Pilbara.

This information package is confidential and for your review only.

The package consists of two sections:

KMAC Overview

Overview of KMAC, KM peoples native title claim and other KM entities.

Independent Director Requirements

Contains the independent director engagement process, qualifications required, commitments, remuneration, appointment and next steps for candidates.

CONTACT DETAILS

For further information please contact Sara Slattery, Chair, Kuruma Marthudunera Aboriginal Corporation RNTBC on 0467 480 598 or via email s.slattery@kmac.org.au

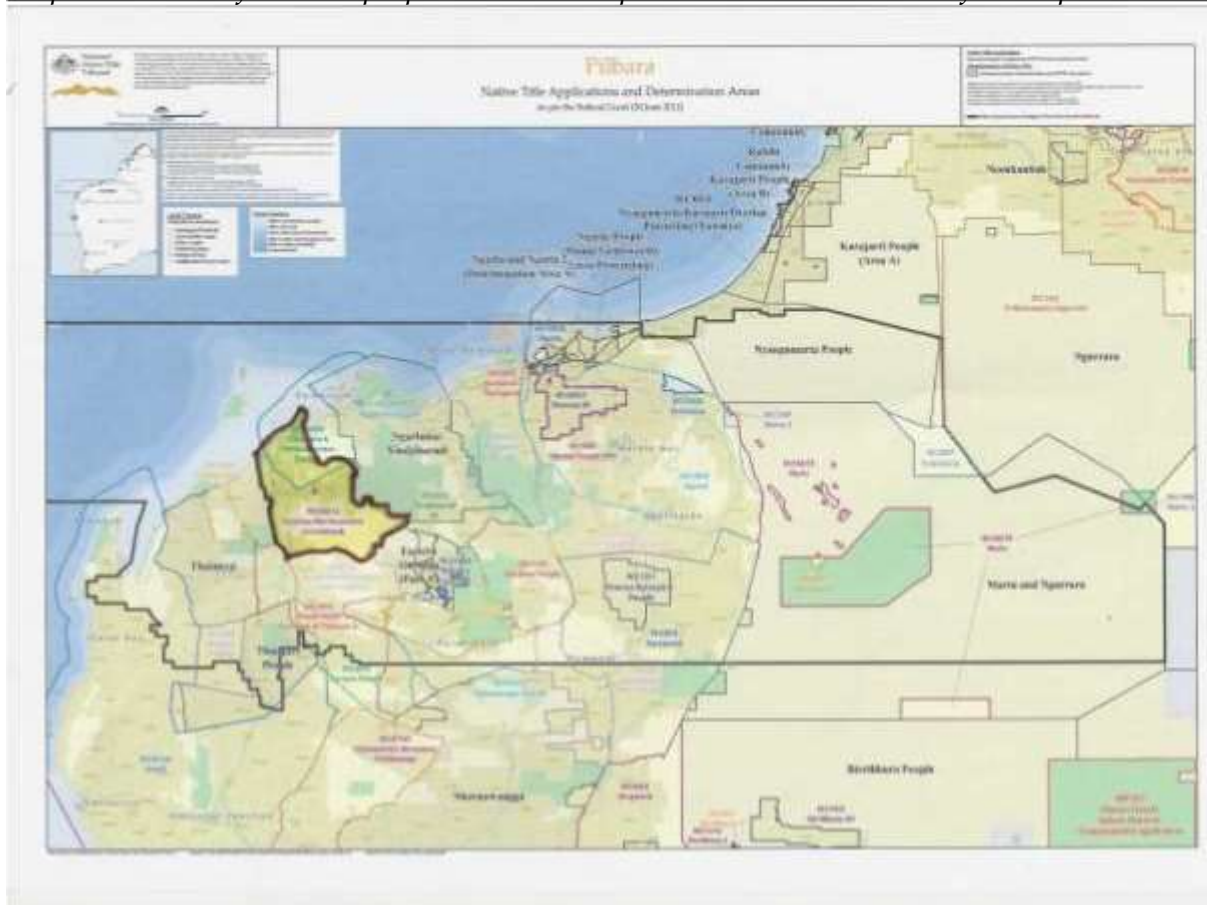
OVERVIEW: KURUMA AND MARTHUDUNERA PEOPLE

The Kuruma and Marthudunera (K&M) people have traditional rights to an area covering about 15,759 square kilometres in the Pilbara region of Western Australia.

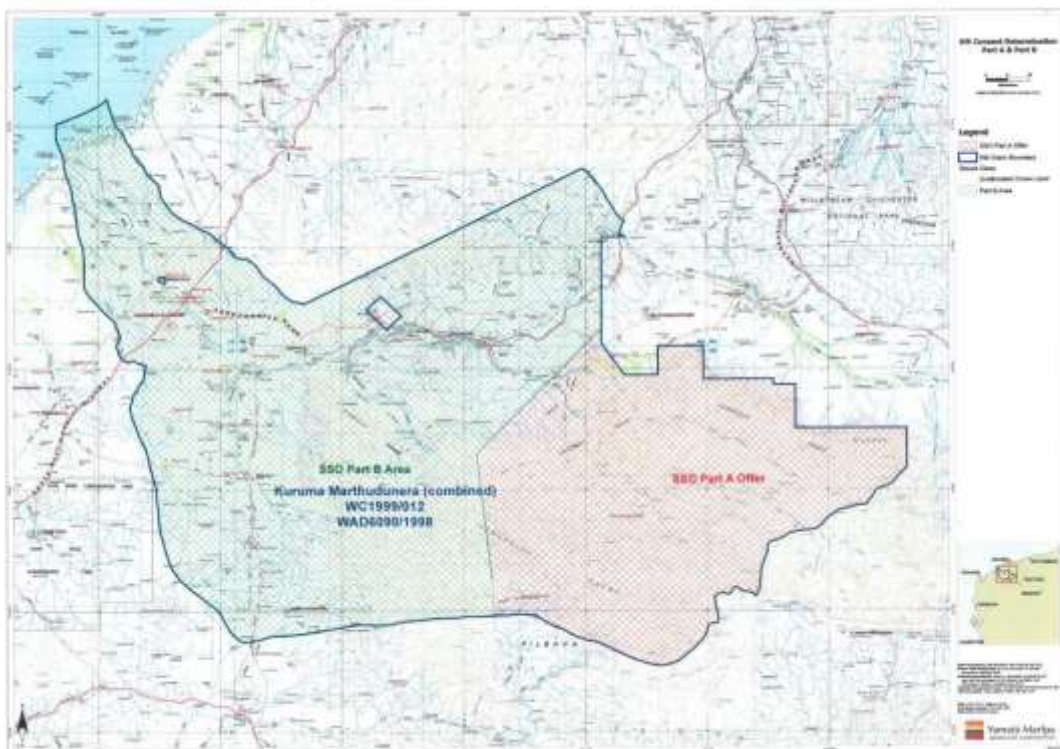
The K&M traditional lands lie within the Shire of Ashburton and comprise part of the Fortescue River and the complete river system of the Robe River, in the most westerly part of the Hamersley Range.

K&M people lodged their native title application in the Federal Court in 1999. All the necessary preparatory work in relation to claim boundaries, resolving matters relating to overlaps with other groups and genealogy have been finalised. While the substantive part of K&M's native title claim 'Part B' is still on foot in the Federal Court, determination of 'Part A' (to the east of the claim area) occurred on 1 November 2016.

Map 1: Location of the KM peoples' native title prior to recent resolution of overlap boundaries



Map 2: Native Title Claim Area: Part A and Part B



There are approximately 260 adult members in the K&M community. The total population including spouses and family members likely to benefit from KMAC programs is in the vicinity of 600 people.

Most of the K&M people reside in Roebourne, Karratha and Wickham with smaller numbers in Onslow.

A 2015 survey of K&M people found that:

- almost 50% of their families live below the poverty line (in a region where the cost of living is 37.1% higher than in Perth);
- over 50% of their families have at least one person with diabetes;
- over 25% of their population suffer from asthma, heart problems or obesity; and
- almost 75% of KM people have only completed primary or Year 10 schooling.

The Foundation of the K&M Entities

Following the successful negotiation of the Claim-Wide Participation Agreement (CWPA) with Rio Tinto Iron Ore (RTIO) in 2011, Kuruma Marthudunera Limited was established as the Trustee for the K&M people. It is responsible for holding and managing the monetary compensation payable by RTIO and other contributors (including API and CP) for the impact of operations on the native title rights and interests of the K&M People.

In 2013 the K&M established the Kuruma Marthudunera Aboriginal Corporation (KMAC) as a corporate entity for the K&M people. In November 2016 KMAC was appointed the Prescribed Bodies Corporate (PBC) for the K&M People for the determined Part A of the K&M Claim. KMAC is responsible for monitoring and implementing the obligations and commitments of RTIO and other contributors, and the K&M People, under various Participation Agreements. KMAC also provides services that protect and preserve K&M cultural heritage and utilises Charitable Trust funds to deliver programs for the betterment of the K&M people.

The K&M Corporate Structure

The K&M peoples' corporate structure attempts to incorporate 'customary' or 'adopted' decision-making processes. Their governance systems are therefore based on carefully validated cultural and family structures. The guidance of K&M people, particularly the Traditional Owner Council (TOC) as spokespeople for the community and the Heritage Advisory Committee (HAC) as K&M culture and heritage advisors to KMAC, has considerable cultural authority within the group.

The six key K&M decision-making bodies are:

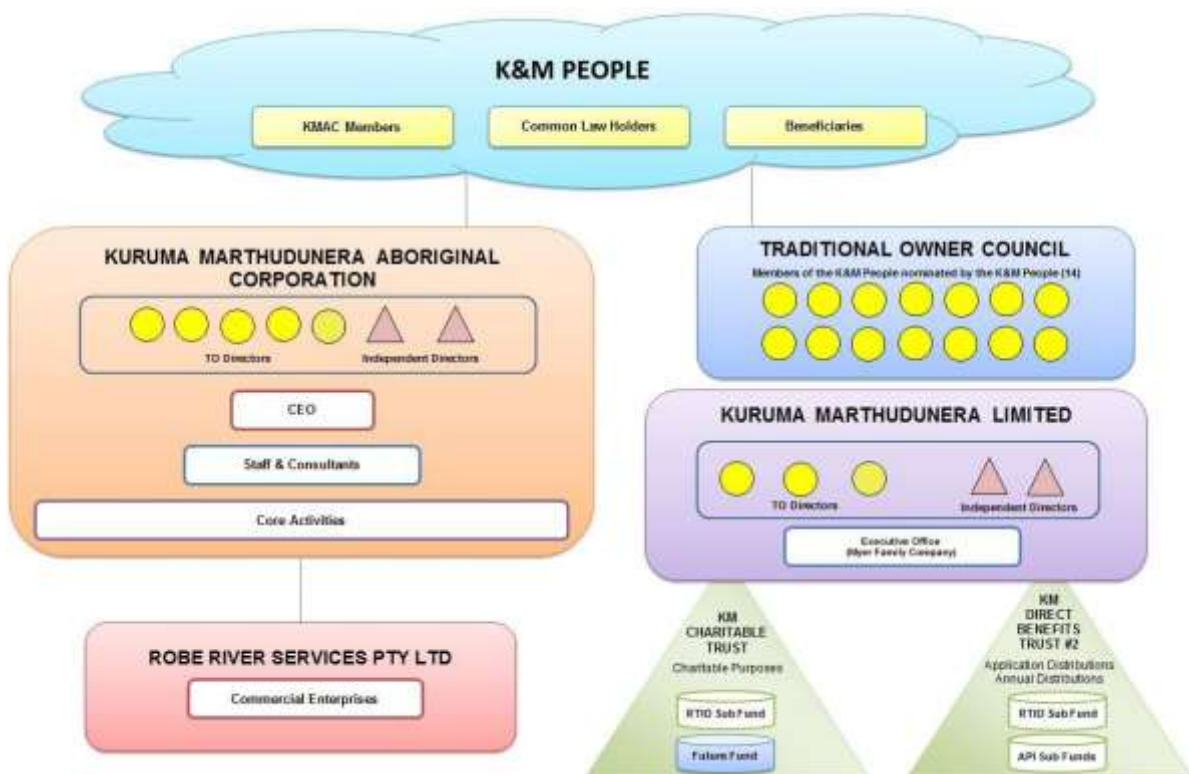
- **KML** – a company limited by guarantee receives, holds and disperses mining benefits and other income and holds those receiving funds accountable. It manages a Charitable Trust and a Direct Benefit's Trust. KML has three Traditional Owner directors and two independent directors.
- **TOC** – an unincorporated entity consisting of representatives from the six apical ancestors. The TOC endorse major policies and are an advisory group to the Trust.
- **KMAC** – an Aboriginal Corporation and PBC which is the active, operative entity entering into contracts and undertaking initiatives. KMAC is the sole member of KML and receives funding from it, and reports to its members in accordance with its Rule Book and the *Corporations (Aboriginal and Torres Strait*

*Islander) Act 2006 (Cth) (CATSI Act). KMAC also has various functions and obligations as regulated by the *Native Title Act 1993 (Cth)* and the *Native Title (Prescribed Bodies Corporate) Regulations 1999 (Cth)*. KMAC currently has five Traditional Owner directors and one independent director, and is seeking to appoint a second independent director. KMAC and KML have a crossover Traditional Owner director and independent director.*

- **HAC** – senior members of the K&M group who have been appointed by the community to speak with authority on matters of Native Title, culture and heritage.
- **Negotiation Advisory Committee (NAC)** – comprises representatives of K&M decision-making committees and are appointed as a working group for negotiations with mining proponents.
- **Robe River Services Pty Ltd (RRS)** – a newly established company limited by shares and solely owned by KMAC. RRS serves as the business development arm of KMAC, however is not yet fully operational. The RRS Board comprises the KMAC Board.

The corporate entities have aligned strategic and annual plans approved by the membership and are required to annually provide members with an audited report on outcomes and financial performance.

Its diligent approach to good governance has earned the K&M a reputation for being one of the most resilient and effective Traditional Owner Groups in the Pilbara – a reputation for which they are very proud.



KMAC: THE PROCESS TO DATE

In August 2017, Alan Hudson was appointed as the Chief Executive Officer of KMAC.

The current directors on the KMAC Board include:

- Sara Slattery (Chairperson, Traditional Owner)
- Kristie Hughes (Traditional Owner, crossover Traditional Owner Director with KML)
- Naomi Bobby (Traditional Owner)
- Aiden Irvine (Traditional Owner)
- Elaine James (Traditional Owner)
- Peter Iancov (Independent Director, crossover Independent Director with KML)

Additional Corporate Supports

KMAC's functions are supported by a range of professional service providers, including:

- Myer Family Company (MFCo)
- Auditor
- Consultants
- Legal Counsel

Independent Director Requirements:

- ⊙ *Engagement process and requirements*
- ⊙ *Appointment of independent directors*
- ⊙ *Next steps for candidates*

ENGAGEMENT PROCESS AND REQUIREMENTS

The following outlines the independent director engagement process:

Mar 08	KMAC to circulate the Expressions of Interest for independent directors.
Mar 21	Expressions of interest lodged with KMAC together with short form curriculum vitae. List of candidates circulated to KMAC Board for review and feedback.
Mar 23	Short list candidates are notified. Candidates may be contacted to provide further information and obtain WA Police - National Police Clearance Certificate.
Mar 28	KMAC Board selects candidates for telephone interviews.
Apr 03	KMAC Board conduct interviews and selects at least two candidates to invite to the Pilbara to 'meet and greet' TO directors.
Apr 10	KMAC Board passes resolution to appoint an independent director.
Apr 13	Successful candidate notified, subject to members endorsement. Balance of candidates remains on register.
Apr 30	Independent director attends the first board meeting.
May 11	Appointments confirmed at the General Meeting of members.

INDEPENDENT DIRECTOR REQUIREMENTS

You will only be eligible for the appointment of independent director of KMAC if you meet the criteria identified below.

Board Experience: two years recent experience as a director of an Australian company governed by the Corporations Act; can demonstrate a preparedness to question, challenge and critique, and a willingness to understand and to commit to the highest standards of governance.

Financial Literacy: is 'financially literate' as such qualification is interpreted by the board in its judgment.

Leadership Experience: possesses leadership experience, and shall possess qualities reflecting a proven record of accomplishment and ability to work with others.

Absence of Conflicting Commitments: does not have commitments that would conflict with the commitments of a director of the company.

Reputation and Integrity: is of high repute and recognised integrity and has not been convicted in a criminal proceeding or named a subject of a pending criminal proceeding (excluding traffic violations and other minor offences). Such person shall not have been found in a civil proceeding to have violated any federal or state securities or commodities law, and shall not be subject to any Court or regulatory order or decree limiting his or her business activity, including in connection with the purchase or sale of any security or commodity.

Is a Responsible Person, meaning an individual who:

- Performs a significant public function; or
- Is a member of a professional body having a code of ethics or rules of conduct; or
- Is officially charged with spiritual functions by a religious institution; or
- Is a director of a company whose shares are listed on the Australian Stock Exchange; or
- Has received formal recognition from government for services to the community; or

- Is a responsible person as described by the Commissioner of Taxation in Taxation Ruling TR 95/27 or otherwise determined by the Commissioner of Taxation.

An Independent Person is not (and a member of the person's immediate family is not):

- One of the traditional owner group;
 - A lineal descendant of, or first cousin of, one of the traditional owner group;
 - Married to or in a de facto relationship with one of the traditional owner group; nor
 - A parent or sibling of a person who is married to or in a de facto relationship with one of the traditional owner group;
- Have, or within the first year of the independent director's term, complete, a director's course approved by the Australian Institute of Company Directors (AICD) or a suitable successor to the AICD; and
 - Have no previous convictions in relation to a fraud offence.

A person is preferred to be appointed as an independent director if they:

- Have experience working with indigenous communities;
- Have experience or knowledge of native title processes and/or Aboriginal heritage matters; and
- Have – as a minimum – two years financial or business management experience; and experience dealing with similar Aboriginal organisations.

COMMITMENTS AND REMUNERATION

The KMAC Rule Book requires that the KMAC Board meet a minimum of four times a year. The KMAC board is resolved that they meet on a monthly basis, normally for two days. The independent director will be expected to provide some level of engagement between meetings. The KM directors may request further active mentorship and involvement by the independent directors in the development and operation of projects and commercial business opportunities.

Directors' remuneration is approved by a resolution of the members. Currently, remuneration is set at \$30,000 for directors and \$45,000 for the chairperson.

Travel and related costs will be paid for by KMAC.

It is acknowledged that the remuneration will not be commensurate with the time requirements and skills the independent director will be providing.

COMMUNICATION AWARENESS

If you are selected as a potential independent director by the KMAC Board, you will be invited to the Pilbara to meet and greet the KM directors and KM people. During this period you will have the opportunity to learn more about the K&M heritage and culture. It is anticipated that any appointed independent director will carry out a recognised cross cultural course as soon as practical after your appointment.

APPOINTMENT OF INDEPENDENT DIRECTORS

NOMINATION

- ⦿ The board will review its composition to ensure it has the appropriate mix of expertise and experience. The board will nominate appropriate candidates with the relevant qualifications, skills and experience.
- ⦿ Where a vacancy exists, the board may only nominate a person who fulfils all of the requirements in the Rule Book for the number of and qualifications of directors.
- ⦿ Candidates are evaluated using criteria adopted by the board to determine their suitability based on the information supplied by the candidates and information obtained from other sources.

APPOINTMENT

The board may, by resolution, appoint the most suitable nominee subject to approval of the members.

COMMUNITY ENDORSEMENT

The appointment of an independent director is subject to the consent of KMAC members.

TERM

- ⊙ An independent director will continue to be a member of the board for the earlier of a period of up to two years, the independent director retires or is removed or the office becomes vacant by virtue of such other rule of the Rule Book.
- ⊙ Probationary period of 6 months with option to an additional three months will apply to the appointment. During the probationary period the independent director will act in an advisory capacity and have no voting entitlement.
- ⊙ In most cases, an independent director may attend and speak (but not vote) at general meetings of the members of the traditional owner group.

VACATION OF OFFICE

In addition to the circumstances in which the office of a director becomes vacant by virtue CATSI Act or another provision of the Rule Book, the office of director becomes vacant if the director:

- ⊙ Resigns or retires from office by written notice to the corporation;
- ⊙ Becomes bankrupt;
- ⊙ Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- ⊙ Is absent without the consent of the directors from three consecutive meetings of the directors and the board resolves that the office of that director be vacated;
- Is convicted on indictment of an offence and the directors do not within one month after that conviction resolve to confirm the director's appointment or election (as applicable) to the office of director; or
- ⊙ Becomes prohibited from being a director by reason of an order made under the CATSI Act.

DIRECTOR'S FEES

- ⊗ Subject to this rule, each director is entitled to such reasonable remuneration as the ordinary members in a general meeting decide. If the Commissioner of Taxation (in relation to charitable trusts) or the members have fixed a limit on the amount of remuneration payable to the directors, the total remuneration of the directors under this rule must not exceed that limit.
- ⊗ The remuneration for each director must be approved by members and it is currently \$30,000 per annum.