



Government of **Western Australia**  
Department of the **Premier and Cabinet**

# **The South West Native Title Settlement**

An Agreement reached between the  
Noongar People and the WA Government

## **Fact Sheets**

South West Settlement Fact Sheets as at 7 July 2015



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## Summary

The South West Settlement (the Settlement) is the largest and most comprehensive agreement to settle Aboriginal interests over land in Australia since colonisation. Involving around 30,000 Noongar people and covering approximately 200,000 square kilometres, the Settlement provides an opportunity for the WA Government to work in partnership with the Noongar community to improve their economic, social and cultural development.

The Settlement provides certainty and long term cost benefits for Government and all land users in the South West. The Settlement represents a significant investment in both the Noongar community and the shared future of the Western Australian community as a whole.

### How does the Settlement benefit the Noongar people?

Once the Settlement commences, native title rights and interests will be surrendered, Invalid Acts will be validated and the WA Government is released from any compensation liabilities. In exchange the Noongar People have accepted the WA Government's settlement package which includes.

- **Recognition through an Act of Parliament** - the *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill*.
- **Noongar Boodja Trust** - a perpetual trust, receiving yearly instalments of \$50 million for 12 years
- **Noongar Corporations** - the establishment of six Noongar Regional Corporations and one Central Services Corporation, with funding support of \$10 million yearly for 12 years.
- **Noongar Land Estate** - up to 320,000 hectares, held by the Noongar Boodja Trust.
- **Co-operative and joint management** - of South West Conservation Estate.
- **Land Access** - to certain crown lands for customary activities.
- **Noongar Standard Heritage Agreement** - Standard processes for determining when to carry out heritage surveys on Noongar Lands, and the procedures applicable to those surveys in partnership with the Regional Corporations.
- **Noongar Heritage Partnership Agreement** - collaboration framework for identifying, recording, protecting and managing Noongar Heritage values and sites.
- **Noongar Housing Program** - transfer and refurbishment of 121 properties.
- **Economic and Community Development** - through development frameworks.
- **Capital Works Program** - Contribution to Noongar Cultural Centre and office space for Noongar Corporations.
- **Noongar Land Fund** - up to \$46,850,000, for land-related initiatives.



## Who are the Native Title Agreement Groups and where are they located?

The South West Aboriginal Land and Sea Council (SWALSC) negotiated on behalf of the following agreement groups:

- Ballardong People;
- Gnaala Karla Booja;
- South West Boojarah #2;
- Wagyl Kaip and Southern Noongar;
- Whadjuk People; and
- Yued.

The Harris Family native title claimants had independent legal representation during the negotiations. The Harris Family is a signatory to the South West Boojarah Indigenous Land Use Agreement.

The area covered by the Settlement includes six native title claims with the outer boundary of the claim area running from a point south of Dongara on the west coast, proceeding roughly east to a point north of Moora in the southern wheat belt and then south-easterly to a point midway between Albany and Esperance.





## Timeline for Commencement

<b>DATE</b>	<b>EVENT</b>
September 2006	Metropolitan Area Native Title Trial – judgment in favour of Noongar Native Title over the Perth Metropolitan area.
April 2008	An Appeal by the WA Government is upheld in the Federal Court. Following on from this decision the WA Government and SWALSC agreed to develop a new strategy to resolve the claims by negotiation.
December 2009	The WA Government entered into a ‘Heads of Agreement’ with SWALSC to commence negotiations.
January 2010	Negotiations commenced between SWALSC and the WA Government.
December 2011	The WA Government made an ‘in-principle offer’ to SWALSC.
January 2012	Negotiations continued based on the in-principle offer.
July 2013	The WA Government’s presented a ‘final offer’ to SWALSC for consideration by the Noongar people.
October 2014	SWALSC confirmed in-principle agreement of the Indigenous Land Use Agreement (ILUA) documentation.
January-March 2015	All six claimants groups authorised the Agreement at authorisation meetings held in each ILUA area.
June 2015	Government Parties signed and executed the six ILUAs.
June-December 2015	The Noongar Boodja Trustee selection process is conducted.
August 2015-March 2016	Registration process for the six authorised ILUAs commences with the Registrar of the National Native Title Tribunal.
July 2016	Earliest possible commencement of South West Settlement, contingent on how long it takes to register the ILUAs and the extent to which there are objections to registration that need to be considered by the Registrar and/or the Federal Court.

Please note that comprehensive detail of the Settlement is recorded in the six ILUAs made in compliance with the Commonwealth *Native Title Act 1993*, which can be accessed on the Department of Premier and Cabinet’s Land, Approvals and Native Title Unit [website](#).

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## Recognition Through an Act of Parliament

The *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act* will recognise for the first time in WA the Noongar people as the traditional owners of the South West.

### When will the Bill be introduced to Parliament?

The Noongar Recognition Bill will be introduced and sponsored in Parliament as soon as practicable after the Indigenous Land Use Agreements (ILUAs) are executed.

### Will similar legislation need to be passed for every other native title claim group in Western Australia?

No. By proceeding with a native title claim, Indigenous Australians seek recognition of their ancestral links to particular areas of land and water under the Commonwealth *Native Title Act 1993*. In the South West, the Noongar native title claimants are agreeing to surrender any native title rights across the entire region and the Noongar Recognition Act (WA) will replace recognition under the Commonwealth legislation. This is a unique set of circumstances.

### Will the Noongar Recognition Act place new obligations of the WA Government?

The Act recognises the Noongar people as traditional owners of the South West. The Act has no effect upon any civil claim, action or proceeding, or any right of review of an administrative decision and cannot conflict with any other State or Commonwealth law.

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## Noongar Boodja Trust

**The Noongar Boodja Trust is the centrepiece of the Settlement and has the potential to deliver enduring economic, social and cultural benefits to the Noongar people for generations to come.**

### How will the Noongar Boodja Trust be managed into the future?

The Noongar Boodja Trust will be managed by an independent professional Trustee. The WA Government will make funding instalments of \$50 million yearly for 12 years into the Trust. These financial contributions must accrue during those 12 years.

The Trust will function as a perpetual fund. After 12 years, the Trust can only distribute a fixed percentage of the total capital base annually to ensure that there is an ongoing source of funds for Noongar cultural, social and economic programs.

Investment decisions about the Trust assets will be made by the Trustee who will be advised by both Noongar and independent directors. The WA Government retains oversight of the Trust for the first 12 years and the Trust is also subject to Commonwealth financial regulation.

### How will the Trustee be selected and appointed?

The WA Government, in consultation with the South West Aboriginal Land and Sea Council (SWALSC) has developed a detailed selection process for the appointment of the Trustee.

This process will be managed by the WA Government and must comply with State procurement policies. The Noongar Boodja Trustee selection process will be conducted between June 2015 and February 2016.

### How are decisions made for the distribution of money from the Trust?

In making decisions, the Noongar Boodja Trustee will draw on advice from the expert committees about investment and allocation decisions. Each committee will have both Noongar representatives and other relevant experts who hold extensive knowledge and experience in working with Trusts.



## Will individual Noongar people receive direct financial benefits from the Trust?

No individual will receive direct monetary payments, but the Settlement will provide lasting benefits to the Noongar community as a whole.

The Noongar Regional Corporations will become the major beneficiaries of financial support from the Trust over time. Their broad purpose is to provide service to the Noongar community including assistance with land and heritage management, community and economic development, and advice to government and non-government service deliverers.

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## The Noongar Corporations

**Six Noongar Regional Corporations, which represent the six Indigenous Land Use Agreement (ILUA) areas, and one Central Services Corporation, will be established to engage with the Trustee and identify regional priorities.**

### What is the purpose of the Central Services Corporation?

The Central Services Corporation will support the Noongar Regional Corporations by providing financial, administrative, and legal services. It is possible that the South West Aboriginal Land and Sea Council (SWALSC) may transition to become the Central Services Corporation, but this needs the endorsement of a majority of the 6 Agreement Groups. The 6 Agreement Groups are made up of people who are descended from Noongar people who lived in the different agreement areas around the time of colonisation.

Figure 2: the governance structure of Noongar Regional Corporations.



Over time, the Noongar Regional Corporations may take on more and more of their own administration and rely less on the Central Services Corporation.

### What is the role of the Noongar Regional Corporations?

The key purpose of a Noongar Regional Corporations is to benefit, advance and promote the Agreement Groups and their communities within the Region and to manage and care for the Cultural Land in the Region. Each Noongar Regional



Corporation will develop a strategic plan based on the area's priorities and key projects. This will probably vary between the 6 Corporations based on local priorities.

## Will the Noongar Regional Corporations replace the services of the Government and non-Government organisations?

No, the Noongar Regional Corporations should not seek to duplicate or compete with the existing services of Government agencies, non-government organisations and established Noongar service organisations. It is intended that the Noongar Regional Corporations will develop partnerships with other organisations aimed at improved outcomes for the Noongar community. This will almost certainly vary between the 6 Corporations.

## Who will be eligible to become members of the Noongar Regional Corporations?

Once the Noongar Regional Corporations are established, a person will be eligible to apply for membership if he/she is a member of the Native Title Agreement Group as defined in the relevant ILUA and is over 18 years of age. Eligibility for membership will apply to those descended from Noongar people who have a traditional connection to that particular ILUA Area.

## How will the directors of the Noongar Regional Corporations be elected?

The members will elect between two and four directors (Member Directors), who must be members of that Noongar Regional Corporation, following a postal voting process. It is also proposed that there will be two additional directors who are appointed by the Member Directors on the basis of their expertise, ie financial or legal skills (Expert Directors).

## How will the Noongar Regional and Central Services Corporations be established?

The transparent and accountable establishment of the Central Service Corporation and the six Noongar Regional Corporations is a critical factor in building a better future for the Noongar community. The corporations must ultimately be able to represent the Noongar community in engagement with all levels of government (local, state and federal) and with other interest groups.



The WA Government and SWALSC have agreed to Transition Principles to guide the establishment of the corporations in 2015-16. The Principles were designed to ensure an informed, impartial and transparent process takes place to decide who will have a role in the new corporations. The WA Government will only endorse the corporations if it is confident that they have been established in line with the Transition Principles.

To assist the WA Government to make a final decision about endorsing the different corporations, the Government has appointed an Independent Consultant to monitor and report on the processes undertaken prior to their establishment. The Independent Consultant has commenced communications with SWALSC and will advise them on their communications as the process unfolds.

## What is SWALSC's role in establishing these organisations?

SWALSC is facilitating the establishment of the Noongar Regional Corporations. In doing so, SWALSC must ensure that Noongar people are fully informed and have the opportunity to be involved in the process. SWALSC will advertise the details regarding the purpose, time and locations for the meetings to consider the establishment of the Central Services Corporation and the Noongar Regional Corporations.

## When will the Central Services Corporation and the Noongar Regional Corporations be established?

It is intended that the nominee Central Services Corporation and the nominee Noongar Regional Corporations will be established by the commencement of the Settlement, which should be around July 2016.



## The Noongar Land Estate

**A maximum of 300,000 hectares of reserve land and a maximum of 20,000 hectares of freehold land will be allocated to the Noongar Boodja Trust as part of the Noongar Land Estate.**

### What land is being allocated?

The land being allocated includes land that is currently Unallocated Crown Land, Unmanaged Reserves and Aboriginal Lands Trust properties in the South West. There are very well defined procedures for allocating this land to the Trustee. Please refer to the Land Base Strategy (Annexure J of the Indigenous Land Use Agreement).

### What is the land base strategy?

The land base strategy incorporates the following processes:

- Identification of suitable land;
- Government assessment of land;
- Land selection process by the Noongar community (Regional Corporations); and
- Quotas for allocation each year for five years.

### How and when will the transfer of land commence?

All land transfers, coordinated by the Department of Lands (DoL), are subject to statutory clearances and consultation with any affected State or local government interest. Land will be allocated as freehold title (up to 20,000 hectares) or leasehold or managed reserves (up to 300,000 hectares). None of the land will be from private land holdings.

### As a private landholder does the Settlement affect me?

No, not at all. No private land holding is included.

The 320,000 hectares of land that is being transferred by the WA Government to the Noongar Boodja Trust does not include any privately owned land. Crown lands which are currently leased to a third party including, for example pastoral or farming leases, are not included in the transfer (with the possible exception of some Aboriginal Lands Trust properties involving sub-leases which will carry over with the transfer of land title to the Trustee).



## How will the land be managed?

Once land has been allocated to the Trustee, the Trustee must deal with the land in accordance with the requirements of the Trust Deed. Any further dealings with the land – including possible sale of land – is subject to the agreement of the Trustee, in consultation with the relevant Noongar Regional Corporation.

All reserve land will be held under a management order for “Noongar social, cultural or economic benefit”. The WA Government retains its normal statutory rights, powers and duties in relation to the land.

## What is the difference between Freehold land and Managed Reserve Land?

Each form of land tenure has different benefits.

- Freehold is land that the Noongar Boodja Trust will own like any other private land owner in the State. It allows for the land to be developed, used for commercial purposes, used as security against loans, or to be sold. Like all other freehold land, there are costs that must be met, including local government rates and charges, insurance, fire service levies and any land management cost.
- Managed reserves are areas of Crown land that has been reserved for a particular purpose. The Trustee will consult with the Noongar community as to the use of any individual reserve – i.e. whether it is held for particular Noongar social, cultural, or economic benefit, whether it can be subdivided, and so on.

## What does it mean when a parcel of land has been identified as part of the land transfer package to the Noongar Land Estate?

The identification of a parcel of Crown land is the first step in the land allocation process, which has been divided into the following five parts:

1. Identification;
2. Selection;
3. Assessment;
4. Finalisation of terms of allocation; and
5. Allocation.



For the allocation of freehold land:

- WA government agencies will identify freehold land that may be eligible for allocation. The Department of Lands (DoL) will then present details of the eligible land to the Noongar Boodja Trust.

For the allocation of Managed Reserves from UCL and UMR:

- DoL, SWALSC, and (on its establishment), the Noongar Boodja Trust are all involved in the identification process. Once they have identified land that may be eligible for allocation the Department of Mines and Petroleum will then assess the suitability of the proposed tenure for the land before determining whether the parcel of land can proceed to the selection process.

## When will local governments be consulted about their interests in the land?

Consulting with local government is a central aspect of the approach being taken by DoL. DoL will engage with local governments as required under section 14 of the *Land Administration Act 1997 (WA)*. The consultation will occur at the assessment stage of the land transfer process.

## On what basis are local governments able to comment on parcels of land being reserved for Noongar interests?

Local governments cannot veto a proposal but will be invited to advise the Department of Lands with regard to:

- Whether there are existing local interests in the same land that cannot be met elsewhere;
- Whether there are future proposals for the same land or land within the same general location;
- Whether there are planning schemes that could affect future use of the land;
- Whether there are other relevant land management issues; and
- Any other advice they may wish to provide about the allocation of the land to the Noongar Boodja Trust.

DoL will take account of all reasonable responses from local government authorities. Depending on the circumstances DoL may ask for further information or seek a meeting with the local government body.



With respect to the freehold implementation process, there is no requirement for local government to be consulted, as the land being transferred is owned in freehold title by the WA Government.

## Will the Noongar Boodja Trust need to comply with zoning and planning laws when developing or using Reserve land allocated under the Settlement?

Yes. Nothing in the agreement removes the need for the Noongar Boodja Trust to obtain planning, development and other necessary regulatory approvals in order to develop or do other activities with the Reserve land. Any lessee of Reserve land, for example a Noongar Regional Corporation, will also need to comply with all applicable laws.

## Will the Noongar Boodja Trust need to pay rates on the Freehold land allocated under the Settlement?

As the owner of the freehold land, the Noongar Boodja Trust will be required to meet the normal costs, including rates or service charges, associated with owning freehold land. Freehold land can be exempted from rates under s. 6.26(2)(g) of the *Local Government Act 1995* (WA) where that land is used exclusively for charitable purposes. However, if the freehold land is used for a commercial purpose or leased for a commercial enterprise, it will not be exempt from rates.

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## Noongar Housing Program

**The Noongar Housing Program is supported by the Department of Housing and promotes Noongar economic prosperity through homeownership and property management.**

### What will the program include?

The program includes the transfer in freehold title of 121 properties to the Noongar Boodja Trust by the Department of Housing and funding for the refurbishment of these properties. It also includes a shared commitment to promote increased Noongar home ownership using existing government support programs like KeyStart and the potential for joint ventures on affordable housing between the Trust, the Department of Housing or other stakeholders. The actual use of the 121 properties will depend on future decisions about the best use of assets, assisted by the Trustee, to improve Noongar home ownership.

### Where are the properties that will be transferred located?

The properties that will be transferred are located in the Perth metropolitan area as well as throughout the South West Region. In order to protect confidentiality of current lease arrangements, further information regarding their exact location is unable to be disclosed.

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# Co-operative and Joint Management of the South West Conservation Estate

**The establishment of co-operative and joint management arrangements across the State's South West Conservation Estate between the Department of Parks and Wildlife and the Noongar community.**

## What will Co-operative Management be in the South West?

It is the pursuit of joint management opportunities of the Conservation Estate between the Department of Parks and Wildlife (DPAW) and the Noongar Regional Corporations through Co-operative Management Committees.

## What will Joint Management allow for?

Noongar people will engage with Department of Parks and Wildlife managers to make decisions about how land held by DPAW is managed. This will contribute to a new and lasting relationship between Noongar people and the DPAW based on the recognition of each party's connection to and responsibility for the land within the Conservation Estate, including for example:

- Noongars input to appropriate place names and signage in conservation areas.
- Options for Noongar small business and contracting opportunities (e.g. future tourism, accommodation development) in relation to the Conservation Estate.
- Noongars will assist the Department of Parks and Wildlife to improve its employment of Noongar people.
- Noongars will also be able to have input into other Department of Parks and Wildlife policies such as fire management plans and logging guidelines.

## How will Joint Management Arrangements be established?

Cooperative Management Committees will be established in each of the six agreement areas to identify and prioritise special areas of the South West Conservation Estate to be jointly managed under the formal *Conservation and Land Management Act (1984)* Joint Management Agreements.



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## Will public access to national parks be affected if Noongar people are involved in co-operative and joint management of the State's Conservation Estates?

No, public access to national parks, nature reserves, conservation reserves, rivers, beaches and any other public area is not affected. State and Commonwealth laws governing access to land and environmental protection will still apply.

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## Land Access

**The Regional Corporation Land Access Licence will allow access to certain Crown lands for customary activities (e.g. traditional gathering of flora, cultural activities, the passing down of bush skills to the next generation). Further, amended water by-laws regarding Noongar customary activities in public drinking water source areas will also give Noongars the capacity to undertake certain particular traditional activities in those areas.**

### Why is this significant to the Noongar people?

Access to bush land and water sources in Noongar country is of fundamental importance to Noongar people because of their spiritual relationship to the land and the desire to carry out traditional practices validly and pass on knowledge to future generations. The issue of valid access to Crown lands was a key factor in obtaining support in the Noongar community for the agreement with the Government.

### What is the purpose of the Land Access Licence?

The Land Access Licence will give registered members of the Regional Corporations a right to access Unallocated Crown Land and Unmanaged Reserves in the relevant Indigenous Land Use Agreement (ILUA) area to undertake customary activities.

The areas involved are in addition to the land which will be held by the Noongar Boodja Trust or the estate of the Department of Parks and Wildlife.

### How will the Land Access Licence be authorised?

A license will be issued under the Land Administration Act which defines which activities can take place and on which conditions (including indemnification of the Government against unplanned actions on the land)

### What will the Land Access Licence allow?

Noongar people will be able to do the following things in specific areas of Unallocated Crown Land and Unmanaged Reserves under the legal protection of a Land Administration Act Licence:

- Visit and care for sites and country;
- Gather, prepare, and consume bush tucker and bush medicine;
- Conduct ceremonies and cultural activities;
- Camp on country;
- Light camp and ceremonial fires; and
- Have meetings on country.



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The Noongar Regional Corporations will assist Noongars in identifying areas where the Access Licence applies. Both the Land Access License and the terms of access to Water Catchment Areas are restricted by all other statutory systems that govern, for example, the use of firearms, the lighting of fires, protection of public drinking water, and so on.

## What are the changes to access to Water Catchment Areas?

The Metropolitan Water Supply Sewerage and Drainage Amendments By-Laws 2014, and the Country Areas Water Supply Amendments By-Laws 2014 set out arrangements for access to water catchment areas to undertake certain limited customary activities. The by-law changes will allow Noongar people to visit and maintain sites and to teach and learn on country.

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## Heritage Regime

**The Heritage Regime will protect and manage Noongar Heritage values and sites through a Standardised Heritage Agreement and Partnership Agreement over the Settlement area.**

### What is the Noongar Standard Heritage Agreement (NSHA)?

The Noongar Standard Heritage Agreement (NSHA) is the new Aboriginal heritage agreement for the South West that will provide a uniform and efficient approach to heritage surveys.

The NSHA will streamline land approvals in compliance with the *Aboriginal Heritage Act 1972* (AHA). It provides all parties with a clear, timetabled framework about their various obligations. The NSHA also delivers a process for improving the quality of data on the Aboriginal Heritage Inquiry System (AHIS).

The NSHA is informed by the State Government's Aboriginal Heritage Due Diligence Guidelines which advise all land users on how to take adequate precautions to avoid impacting on Aboriginal heritage in Western Australia.

### Who does the NSHA apply to?

From 8 June 2015 when the Indigenous Land Use Agreements (ILUAs) were executed, the parties to the ILUAs (including 'the State', which encompasses all WA Government Departments and certain WA Government agencies) are now required to enter into a NSHA with the Noongar Regional Corporations (or, until they are established, SWALSC on behalf of each ILUA group), when conducting Aboriginal Heritage Surveys within an ILUA area, unless they have an existing Heritage Agreement in place. It is also intended that other WA Government agencies and instrumentalities enter into the NSHA, when conducting Aboriginal Heritage Surveys in the ILUA areas.

Registered holders of a Mining or Petroleum Tenement or Access Authority granted after the execution of the ILUAs will also have a condition on their title requiring them to enter into a Heritage Agreement with SWALSC/the Noongar Regional Corporation. This may be either the NSHA or another form of Heritage Agreement if agreed to by SWALSC/the Noongar Regional Corporation. Local Government and other private land users requiring Heritage Surveys in the ILUA areas are not bound to, but are encouraged to use the NSHA.



## When do I need the NSHA?

A NSHA *must* be used when conducting Aboriginal Heritage Surveys in South West ILUA areas by the parties to the ILUAs (including 'the State', which encompasses all WA Government Departments and certain WA Government agencies) if there is no existing Heritage Agreement. It is *recommended* that a NSHA is entered into, and an 'Activity Notice' issued under the NSHA, if there is a risk that an activity will 'impact' (i.e. by excavating, damaging, destroying or altering in any way) an Aboriginal heritage site. The Aboriginal Heritage Due Diligence Guidelines, which are referenced by the NSHA, provide guidance in how to assess this risk (see the [South West Settlement website – www.dpc.wa.gov.au](http://www.dpc.wa.gov.au))

Please note that emergency activities are exempt from the need for a cultural heritage assessment.

## What is the benefit of using the NSHA?

The NSHA provides both parties with a clear, timetabled framework about their various obligations and costs, streamlines land approvals, and delivers a process for increasing and improving Department of Aboriginal Affairs (DAA) site information while protecting and preserving Aboriginal Sites and Objects in accordance with the AHA.

## Does a proponent have the same obligations under an NSHA when it contracts with another party to undertake the ground disturbing activity?

Proponents (whether Government or non-government) should seek their own advice about their obligations in these circumstances.

The NSHA requires that if the proponent carries out any activities through a contractor, it must ensure the contractor is aware of the obligations under the *Aboriginal Heritage Act 1972* and the NSHA.



## What is the Noongar Heritage Partnership Agreement?

The Noongar Heritage Partnership Agreement provides a framework through which the Department of Aboriginal Affairs and the Noongar community, through six Noongar Heritage Partnership Steering Groups, can work in partnership in the areas of identifying, recording, protecting and managing Noongar Heritage values and sites within the ILUA area. This will assist in:

- Improving site preservation;
- Improving data on the AHIS; and
- Improving the exchange of information with regard to sites.



## Economic and Community Development

Noongar economic and community development is central to every aspect of the South West Settlement. The Settlement specifically focuses on this through the Economic Participation Framework and the Community Development Frameworks.

### Noongar Economic Participation Framework

A Noongar Economic Participation Steering Group will be established with the goal to improve economic participation outcomes for Noongar people in the South West.

#### What are the Noongar Economic Participation Steering Group's immediate objectives?

The primary focus of this Framework at the commencement of the Settlement will be on building capacity within the Noongar community about government tendering and contracting policies, as well as the development and submission of tender documentation. This is aimed at increasing Noongar competitiveness in taking advantage of existing government (State and Federal) policies and support systems for indigenous business development. Other strategies will be developed over time.

### Community Development Framework

The key focus of the Framework is for increased capacity for Government and other service providers to work more effectively, and partner with Noongar people in the design and delivery of human and community services.

#### What are the priorities identified for the Community Development Framework?

A key objective is to provide WA Government human service agencies with greater scope for direct communication and collaboration with the Noongar community. Initially the main interface will be via the Regional Managers Forums which already involve the Departments of Health, Education, Child Support and Family Support, local and regional government representatives, and other government and non-government interest holders. Improved Noongar health and youth outcomes are identified priorities.





## Capital Works Program

The delivery of a Capital Works program that provides for office accommodation for the seven Noongar Corporations and the development of a Noongar Cultural Centre.

### What is the funding for administrative offices?

The WA Government has committed \$6.5 million indexed for 2 years to establish offices for the Central Services Corporation and six Noongar Regional Corporations. This commitment will extend to the fitting out and/or leasing of existing buildings.

### How much funding has been set aside for the Noongar Cultural Centre?

\$3.5 million indexed for two years has been committed to support the development and construction of a Noongar Cultural Centre. This funding is contingent on the Noongar community obtaining the remaining funding from other sources as well as demonstrating a financially viable Cultural Centre management plan. Up to two hectares of Crown land will also be provided in the Perth Metropolitan Area, to facilitate the location of the Centre.

### Has a decision been made about where the Cultural Centre will be located?

Not yet. The location and centre is intended to include and represent the entire south west Noongar community.

**PLEASE CONTACT** the *South West Settlement Implementation Unit* If you need further information:  
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## Frequently Asked Questions

### Do the agreements bind future WA Governments?

Yes. The Settlement has the support of both major political parties. All native title agreements in Western Australia involving one State Government have been honoured by successive governments.

### What is the impact upon Local Government Authorities (LGAs) in the South West Settlement area?

LGAs have a major role in terms of their engagement with the Noongar community.

Many LGAs already have a good working relationship with Aboriginal people and the Settlement can only assist in building better partnerships in the South West. This can be achieved through LGAs engaging with the Noongar Regional Corporations in their work to provide better service delivery to the Noongar Community.

No local government function will be affected by the Settlement. While LGAs are not bound to use the Noongar Standard Heritage Agreement (NSHA), they are encouraged to enter into NSHAs with Regional Corporations as it will provide a uniform and efficient approach to heritage surveys to streamline compliance with the Aboriginal Heritage Act 1972.

### What are ILUAs?

Indigenous Land Use Agreements (ILUAs) are agreements made between a native title group and others about the use of land or waters. These agreements allow people to negotiate flexible, pragmatic agreements to suit their particular circumstances. The agreements must be authorised by the native title group. When registered under the *Native Title Act 1993*, the ILUAs bind all people who hold or may hold native title in a particular ILUA area.

ILUAs can provide many benefits to all parties concerned. As they are flexible they are able to reflect the specific needs of the parties involved. They are able to deal with a wide range of native title matters such as the consent to future acts, compensation, and protection of significant sites and culture. ILUAs also provide certainty for other parties to carry out activities and developments on the land and waters in the agreement area.

The ILUAs that have been negotiated over the South West are unprecedented in Australia as they involve the surrender of any native title that may exist over the entire South West of Western Australia. Importantly resolving native title through an alternative settlement has provided an alternative to the lengthy and expensive



Native Title litigation that had been running in the Federal Court for more than 12 years.

## Why didn't the six native title claim groups litigate for a native title determination?

The WA Government and SWALSC agreed that their resources would be better spent developing a Settlement for the Noongar community. The Indigenous Land Use Agreements (ILUAs) were developed on the basis of resolving the six Noongar native title claims over Perth and the South West by negotiation rather than by slow and costly legal action.

The ILUAs also avoid the uncertainty of a litigated outcome with greater flexibility for what can be included in an agreement. In the South West Settlement, the ILUAs deliver broader rights and benefits to Noongar people and access to most Crown land, including a great deal of the land in the South West where native title rights have previously been extinguished.

The Settlement also provides a full and final resolution of any compensation liability for the past extinguishment of native title in Settlement Area by the WA Government.

## What components of the Settlement begin before commencement of the Agreement?

Whilst the ILUAs were executed on 8 June 2015, they will not commence until they are registered with the National Native Title Tribunal. However upon execution the WA Government is now required to:

- Introduce and sponsor the Noongar Recognition Bill through Parliament;
- Introduce and sponsor an Enabling Bill through Parliament to provide for the grant of the Noongar Regional Corporation Land Access Licence and the establishment of the Noongar Land Estate.
- Observe key heritage provisions, through use of the Noongar Standard Heritage Agreement when conducting Aboriginal heritage surveys in the ILUA areas, and imposing a heritage condition on newly granted mining and petroleum tenements and related access authorities ; and
- Promulgate the Water By-Laws before Settlement.



## What is the registration process for the six ILUAs and is there an opportunity to make any objections?

The registration process for the six authorised ILUAs will commence now that the ILUAs have been signed. This process includes the opportunity to make objections and involves:

- All six ILUAs being submitted for registration to the Registrar of the National Native Title Tribunal.
- A preliminary assessment of each ILUA and application for registration against the requirements for ILUA registration will then be conducted.
- A three month notification period during which objections can be lodged commences shortly after the Registrar publishes notices in newspapers.
- Any objections to registration of the ILUAs will be considered by the Registrar of the National Native Title Tribunal.
- If any objections are upheld the WA Government will have to consider whether and on what basis it can proceed with the Settlement.
- If the Registrar decides to register the ILUAs Settlement will commence 60 days after the registration date of all six ILUAs.
- If there are one or more judicial review proceedings, the Settlement will commence only once those legal proceedings are finalised (and if the ILUAs remain registered).
- Given the time required for the registration process, the earliest possible date for the Settlement to commence will be mid-2016.

## Why won't the ILUAs commence once they are signed- why the long wait?

While there is no set time for the registration process, it is important to ensure an open and transparent registration process can occur and provides interested parties with an opportunity to raise concerns. The registration period time frame will depend on the consideration of objections, whether objections are upheld or if there is any resulting mediation or judicial review proceedings.

## If I am a Noongar person in the South West how does this Settlement affect me?

Every Noongar person is able to benefit from the outcomes of the Settlement. The way that the Noongar Boodja Trust and Noongar Regional Corporations are being established means that the economic, social and cultural benefits under the Settlement will be enjoyed by all Noongars in generations to come.



The Settlement has no effect on usual funding for education, housing, health or any other government services and there are no changes to Centrelink payments.

## As a Noongar person how can I get involved in the Establishment of the Noongar Regional Corporations?

Over the next year there is a great opportunity to become involved through the establishment of the Noongar Regional Corporations. This is a crucial element of the Settlement and involvement from the Noongar community is critical to its success.

The Noongar Regional Corporations will be run by boards of six directors. Up to four directors will be Noongar community members and two will be expert directors elected by the Noongar board members.

Noongar people that are eligible to nominate are encouraged to put themselves forward for these positions. SWALSC will be holding a number of community consultations in the coming months throughout the South to focus on:

- Identifying membership;
- Selection of interim Boards; and
- Discussing potential governance structures.

## As a Noongar Person am I selling off my culture if I support this agreement?

No. The agreement is an alternative settlement of various claims under the *Native Title Act* for the recognition of native title. Through the settlement, the Noongar people will obtain recognition as Traditional Owners of the Settlement Area and a range of benefits, including access and ownership of land that will allow cultural activities to continue and expand. Although any native title rights and interests are surrendered under the Settlement, the range of benefits associated with the Settlement should foster Noongar social, economic and cultural development. It does not involve giving up any of the traditions and customs as a Noongar person.

## What will happen to Noongar's rights in relation to Future Acts under the Native Title Act?

Once native title rights have been surrendered through the registration of the ILUAs, procedural rights no longer apply in relation to future acts under the *Native Title Act* 1993. In the interim period, until full commencement of the Settlement, future act rights still apply.



## What is the Noongar Land Fund?

A State-managed Land Fund will be established to achieve objectives related to land management, Noongar land ownership and Aboriginal heritage protection. The Fund will resource programs facilitated by partnerships between WA Government land agencies and the Noongar Regional Corporations but which are beyond the existing remit of mainstream services.

These programs will include enhancing Noongar land capacity, Noongar heritage site protection programs, targeted conservation programs, and remediation of certain Crown land parcels included in the land transfer process. The partnerships will also encourage Noongar employment and economic participation within the WA Government's land agencies.

## How much will the Settlement cost?

The WA Government's core offer includes:

- \$50 million indexed annually for 12 years into the Noongar Boodja Trust as the basis for an investment fund;
- \$10 million indexed annually for 12 years for the administration of the Noongar corporations;
- A Land Fund of approximately \$4 million annually for 10 years for land transfer costs, for Noongar training, and for joint conservation and land management programs; and
- A total of \$22.5 million in capital commitments, including funds for the establishment of Noongar offices (7 locations) and start-up funding for the development of a Noongar cultural centre.

In addition the WA Government will transfer a maximum of 320,000 hectares of Crown land in multiple parcels to the Noongar Boodja Trust during the first five years of the Settlement.

## What is the Commonwealth Government's role in the Settlement?

The Commonwealth was not an active party to the Settlement negotiations. The WA Government has made multiple requests to Commonwealth agencies to have them to contribute to the Settlement and continues to seek their involvement.

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