



Department of
the Premier and Cabinet



South West Native Title Settlement

Annual Update – June 2022



Introduction

The South West Native Title Settlement (Settlement), in the form of six Indigenous Land Use Agreements (ILUAs), is a landmark agreement negotiated between the Noongar people and the Western Australian (WA) Government. It involves around 30,000 Noongar people and covers approximately 200,000 square kilometres of the south-west region.

In 2016, in the lead up to Settlement commencement, the WA Parliament passed the *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016* (the Act). The Act formally recognises the Noongar people as the Traditional Owners of the South West region of WA.

The Settlement commenced on 25 February 2021, followed by the establishment of the Noongar Boodja Trust (Trust) and Perpetual Trustee Company appointed as the initial Noongar Boodja Trustee (Trustee) on 29 March 2021 (Trust Effective Date). The resolution of native title in the Settlement area occurred on 13 April 2021.

The Settlement brings together a range of WA Government agencies to create sustainable outcomes and genuine partnerships with Noongar people. It is a long-term investment in the Noongar people and the shared future of WA.

The first historic annual State payment of \$60 million was made to the Trust on 22 April 2021, representing the first of many benefits that will flow from the Settlement to the Noongar people. The State annual payments will be used to grow the Trust's value over time, to finance the operations of the six Noongar Regional Corporations and the Central Services Corporation, and ensure that future Noongar generations will benefit. The second State payment of \$60 million plus indexation was made to the Trust on 26 April 2022, with further annual payments continuing over a period of 12 years until 2032.

Settlement Vision

The WA Government's vision for the Settlement is to support self-determination for future generations of Noongar people through the development of sustainable, community-led, economic, social and cultural opportunities.

The unprecedented scale of investment in the Settlement requires the WA Government to make every effort to ensure the Settlement's vision and objectives are met.

Achieving this vision requires WA Government agencies to not only meet their ILUA obligations but work towards building strong partnerships with the Noongar Governance Structure and the Noongar community based on respect and understanding.

Noongar Governance

Significant progress has been made in establishing the six Noongar Regional Corporations (Regional Corporations), representing the six ILUA groups, who will likely be operational before the end of 2022. The WA Government is required to endorse the Regional Corporations subject to being satisfied that there has been maximum Noongar Community engagement, transparency and accountability in the process of their establishment. Following this endorsement, the Trustee must also be satisfied that certain criteria are met,

and the Corporations are operationally ready, and will then appoint the Corporations and commence funding their operations.

Further commitments under the Settlement will commence once the Regional Corporations are established and operational. The Regional Corporations will benefit, advance and promote the six ILUA groups and their communities and also manage and care for the Cultural Land within their ILUA area.

The South West Aboriginal Land and Sea Council (SWALSC) was formally appointed by the Noongar Boodja Trustee as the Central Services Corporation (CSC) on 29 June 2022, following endorsement by each of the six ILUA groups, and the WA Government. As CSC, SWALSC will support and assist the Regional Corporations to grow and develop by providing financial, administrative and corporate services.



Map of the Settlement Area showing the six ILUA (Agreement) boundaries. A Regional Corporation is being established for each ILUA Area, to be supported by SWALSC as the CSC.

Noongar Land Estate

The Noongar Land Estate (NLE) is a key benefit under the Settlement which is intended to provide significant opportunities for Noongar people to achieve sustainable economic, social and cultural outcomes.

The first boodja (land) transfers were made to the Trust on 14 July 2021, commencing the five-year process for the transfer of up to 320,000 hectares (ha) of Crown land for cultural or development purposes to the NLE. Approximately 1,016 (ha) of Crown land, comprising land parcels already agreed for transfer under the ILUAs (Annexure X), is currently in the process of being transferred to the Trust. This includes the divestment of 19 properties from the Aboriginal Lands Trust Estate with more to follow in the near future.

The transfer of the Annexure X land parcels is an important milestone towards the establishment of a significant asset base to be developed in line with Noongar cultural, social and economic aspirations for generations to come.

The rate of land transfers is expected to increase once the Regional Corporations are established and can confirm with the Trustee the cultural values of land being considered for transfer. The Department of Planning, Lands and Heritage (DPLH) is working collaboratively with the Trustee and SWALSC to prioritise land for consideration, in addition to engaging with a broad range of stakeholders to obtain necessary land related information and approvals.

The Noongar Land Base Strategy (Strategy) at Annexure J to the ILUAs outlines hectare targets over five years for the identification of land for potential inclusion in the NLE. DPLH has now exceeded the current identification targets, as shown in Table 1 below.

Table 1: Year 0 & Year 1 DPLH Noongar Land Base Strategy targets – Identification of land

Identification of land			
Land Tenure	Year 0 Identification Target (ha) (Pre-Trust Effective Date)	Year 1 Identification Target (ha) (Trust Effective Date to 29 March 2022)	Year 0 and Year 1 Total amount identified (ha)
Reserve or leasehold	45,000	45,000	302,652.11
Freehold	2,000	2,000	64,255.74
TOTAL	47,000	47,000	355,023.06

The Strategy also contains acceptance targets for the Trustee to meet each year of ILUA implementation. To support the Trustee in meeting the acceptance targets, DPLH has ensured to offer sufficient land for Trustee consideration each year as shown in Table 2 below.

Table 2: Year 0 & Year 1 DPLH Noongar Land Base Strategy targets – Land offers

Land offers			
Land Tenure	Year 0 Offer Target (ha) (Pre-Trust Effective Date)	Year 1 Offer Target (ha) (Trust Effective Date to 29 March 2022)	Year 0 and Year 1 Total amount offered (ha)

Reserve or leasehold	30,000	30,000	94,475.32
Freehold	1,000	1,000	2,352.58
TOTAL	31,000	31,000	96,827.9

The Water Corporation is working to return Puntapin Rock to the Noongar people. Puntapin Rock is currently a managed reserve and was nominated by the Water Corporation for inclusion in the NLE. DPLH is working collaboratively with the Water Corporation, the Trustee and the Shire of Wagin to develop fit-for-purpose Terms of Allocation for the handover of the reserve. The success of this approach will inform the way forward for other managed land with cultural significance, including Devil's Lair and other sites yet to be nominated.

Since 2014, the Department of Mines, Industry Regulation and Safety (DMIRS) has provided Final Section 16(3) Clearances for land parcels totalling approximately 122,783 (ha) to enable DPLH to conduct final assessments and referrals on this land. Of the 599 land parcels considered by DMIRS, only thirteen parcels were not given clearance for transfer to the NLE due to mining access concerns, such as prospectivity, resources, infrastructure and mining activity. Where appropriate, DMIRS will recommend DPLH resubmit land parcels for consideration under an alternate land tenure or with the problematic area excised from the proposal.

Since 2015, DMIRS has also conducted Indicative Assessments of an additional 1,098,379 (ha), providing to DPLH an indication of those land parcels that are likely to receive a Final Section 16(3) Clearance, and the recommended tenure type. Of the 6,088 land parcels considered by DMIRS, only 656 were opposed due to mining access concerns. In 2021 DMIRS carried out a comprehensive review of those opposed land parcels. This review reintroduced a significant quantity of previously opposed land back into the process by recommending excision of the problematic area from the proposal, where appropriate, rather than oppose in full.

Conservation Estate

Noongar people will share their unique traditional knowledge and expertise in the future management of the South West Conservation Estate, comprising around a third of the Settlement area, through Co-operative and Joint Management Agreements between the Regional Corporations and the Department of Biodiversity, Conservation and Attractions (DBCA).

In preparation for the establishment of the Regional Corporations and the execution of their six respective Cooperative Management Agreements, DBCA is conducting Department-wide capacity development and preliminary work to facilitate the commencement of the six regional Cooperative Management Committees.

Noongar Heritage Management

The establishment of six Noongar Heritage Partnership Agreements, one between each of the Regional Corporations and DPLH, will support the ongoing identification, protection and preservation of Noongar Aboriginal Heritage sites across the South West.

Since the ILUAs were executed in 2015, a total of 519 Heritage Agreements have been reached between Government and Industry Proponents and SWALSC on behalf of the six Noongar ILUA Groups to May 2022 (see Table 3). As part of their Noongar Heritage management commitments under the Settlement, DPLH has actively supported Government and Industry in entering into these agreements with SWALSC, and now holds 215 Aboriginal Heritage Survey Reports arising from these Agreements.

To support the operation of the Heritage Agreements, and the management and protection of important places and sites of cultural and heritage significance to Noongar people, DPLH has in the past year provided a total of 15 Stakeholder Engagements (total of 148 individuals), 15 information sessions (total of 434 attendees) and 236 separate pieces of advice.

Table 3: Summary of Noongar Heritage Partnership Agreements/Aboriginal Heritage Agreements to May 2022

Noongar Standard Heritage Agreements (NSHA) /Aboriginal Heritage Agreements (AHA) Proponent	Number
Government NSHAs	62
Non-Government NSHAs	368
TOTAL NSHAs	430
Noongar Heritage Agreement for Local Government	2 (Shire of Dandaragan; Shire of Serpentine Jarrahdale)
Other AHAs	87
TOTAL of all Heritage Agreements	519

Access for Customary Purposes

In the South West region access to bushland and water source areas is of fundamental importance to the Noongar people. Amendments to the water by-laws required by the ILUAs were gazetted in 2016 to enable Noongar people to undertake certain customary activities at registered Aboriginal sites in Public Drinking Water Source Areas (PDWSAs).

The Water Corporation has conducted information sessions for Water Corporation regions impacted by the access to PDWSAs to help clarify the by-laws and to inform people in relation to access.

In efforts to spread awareness, the Department of Water and Environmental Regulation (DWER) is currently drafting a public-facing document about Noongar customary activities in PDWSAs. The Water Corporation is also drafting targeted communication materials for each of the six Regional Corporations detailing what Noongar people can do in PDWSAs within their ILUA region.

Since 2016, eleven PDWSAs have been abolished across the Settlement area as they were no longer needed for drinking water supply, with the Quinninup Dam Catchment Area abolishment being the most recent. Other catchments no longer used for drinking water supply will shortly be considered for abolition by DWER. This provides opportunities for Noongar customary and other activities in these areas as restrictions for drinking water protection will be removed.



Noongar Housing Program

The ILUAs prescribe the transfer of 121 properties to the Trust, establishing a Noongar Housing Portfolio. The Department of Communities (DoC) will partner with the Noongar Governance Structure to support the effective transfer and future management of the properties and explore other initiatives to achieve improved housing outcomes for Noongar people.

A Housing Working Group was established in May 2021 to facilitate communication and engagement between the Trustee, SWALSC, DoC (Housing Authority), the Department of the Premier and Cabinet (DPC) and the State Solicitor's Office regarding the Settlement's housing commitments.

In August 2021, the Property Transfer Deed and Noongar Housing Funding Agreement provided for in the ILUAs were signed by the Housing Authority and the Trustee, to enable the transfer of 121 ex native welfare properties to the Trust, and funding for their refurbishment, over a five-year period.

Housing Working Group representatives are now working in partnership with The Fulcrum Agency to develop a Scoping Paper. The paper will provide options for the best use of the 121 properties, for consideration by the Trustee in conjunction with the six Regional Corporations and CSC once established, to guide the development of a Noongar Housing Strategy.

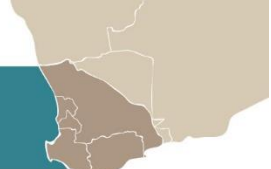
Partnerships to Support Community Development and Economic Participation

The Settlement's Community Development Framework aims to improve social and economic outcomes for the Noongar community, strengthen Noongar culture and enable Government and other service providers to work effectively in partnership with Noongar people in the design and delivery of human and community services. Commitments will commence once the Regional Corporations are established.

In preparation, DoC held an independently facilitated workshop with DPC, SWALSC and District Leadership Group (DLG) Chairs in the Settlement area on 22 October 2021 to discuss future governance arrangements between Regional Corporations and DLGs, and how the Regional Corporations and DLGs will work together to implement the framework. DoC are progressing work in strengthening DLGs to be able to support the implementation of the Community Development Framework.

SWALSC and the Aboriginal Affairs Coordinating Committee, who will form part of a Community Development Reference Group with the Regional Corporations to oversee implementation of the Framework, have also agreed to a draft Terms of Reference, for future consideration by the Regional Corporations.

Commitments under the Noongar Economic Participation Framework to assist development of Noongar business capacity and increase Noongar participation in the wider economy, will similarly only commence once the Regional Corporations are established. Select WA Government agencies with responsibilities for Aboriginal economic development have



convened an interim Noongar Economic Participation Steering Group (NEPSG), to prepare to engage effectively with the Regional Corporations once they are operational.

The interim group, chaired by the A/Director General of DPIRD, held its first meeting on 15 December 2021, and has since commenced work to summarise member agencies' existing programs and priorities that are relevant to Noongar economic participation in the South West. NEPSG government representatives look forward to engaging with the Regional Corporations to determine how they can best support their aspirations for Noongar economic participation.

Conclusion

The WA Government has coordinated efforts across multiple departments and agencies to deliver on early Settlement commitments and prepare for the formal commencement of partnership initiatives following the establishment of the Noongar Corporations.

The WA Government, Trustee and SWALSC have also worked in partnership to significantly progress the establishment of the Noongar governance structure, and coordinate the successful implementation of early Settlement initiatives, particularly relating to the transfer of assets, and heritage commitments.

The Regional Corporations are expected to be operational before the end of 2022. This will see the commencement of formal partnerships with the WA Government, laying the foundations for the delivery of improved, Noongar-led social, economic and cultural outcomes, and a stronger, shared future for all Western Australians.