



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

The South West Native Title Settlement

Noongar Boodja Trustee Selection

Newsletter September 2015

South West Native Title Settlement



Current Status

Between January and March 2015 the South West Native Title Settlement (Settlement) Indigenous Land Use Agreements (ILUAs) were authorised by all 6 claimants groups. On 8 June 2015, the Government of Western Australia (WA Government) executed the ILUAs. As a result the ILUAs have now been lodged for registration with the National Native Title Tribunal (NNTT).

On 16 September 2015, the NNTT commenced a three month notification period, during this period objections to the ILUAs can be lodged in accordance with the Commonwealth *Native Title Act 1993*.

It is important to note that the ILUAs only come into full effect after registration by the NNTT. Once the ILUAs come into effect the Noongar Boodja Trust Deed commences.

The comprehensive detail of the Settlement, including Trust Deed, is contained within the six ILUAs and can be found on the website of the Department of the Premier and Cabinet (www.dpc.wa.gov.au/lantu)

The WA Government and the South West Aboriginal Land and Sea Council (SWALSC) are currently working together to select the Initial Independent Professional Trustee (Trustee) for the Noongar Boodja Trust in anticipation of the ILUAs being registered and the Settlement commencing.

The Noongar Boodja Trust

The Noongar Boodja Trust (the Trust) is a key component of the Settlement, and has the potential to deliver enduring economic, social and cultural benefits to the Noongar people for generations to come. To realise its potential the Trust has been designed as a special purpose charitable trust that will operate in perpetuity.

The Trust is a charitable trust similar to a “Public Ancillary Fund” for tax purposes and is established solely for the provision of money, property or benefits to specified charities that are Australian Tax Office endorsed as income tax exempt charities. In this way, it is possible to have a specific group of beneficiaries, in this case the Noongar Corporations.

The Initial Trustee of the Noongar Boodja Trust will be an independent Professional Trustee (Trustee), selected through a formal tendering process to manage the Trust. The selection of the Trustee will be completed prior to the commencement of the



Trust Deed. Commencement of the Trust Deed is dependent on the NNTT registering the ILUAs.

The Settlement will provide the Noongar Community with a range of benefits from the WA Government over a 12 year period. The Trust will receive, hold and apply these benefits to or for the seven Noongar Corporations. The Noongar Corporations include the six Regional Corporations, which represent the six ILUA areas and one Central Services Corporation.

The Trust will receive and hold the following benefits:

- Noongar Future Fund - yearly instalments of \$50 million for 12 years;
- Operations Fund - yearly instalments of \$10 million for 12 years;
- Housing Land Fund - 121 Department of Housing properties transferred in freehold title;
- Cultural Land Fund – will hold land that forms part of the Noongar Land Estate for cultural purposes and is not for sale or development; and
- Development Land Fund – will hold land that forms part of the Noongar Land Estate for the purpose of development.

What will the Noongar Boodja Trustee do?

The Initial Trustee of the Noongar Boodja Trust will be an Independent Professional Trustee, and must apply the Trust Fund solely for the purpose of providing money, property or benefits to or for the Noongar Corporations. Importantly, the Trustee cannot distribute any payments to individuals, as the seven Noongar Corporations are the only beneficiaries to the Trust.

The Independent Professional Trustee Company will provide the following services in two stages:

- a) Preliminary Services: which may be provided prior to the declaration of the Trust, to pave the way for a successful and productive first year of the Trust; and
- b) Professional Trustee Services: to be provided upon the commencement of the Noongar Boodja Trust Deed. It is contemplated that these services will be for a period of up to twelve years as provided under the Deed.



The Professional Trustee Services to be provided by the Trustee will include (but are not limited to) the following:

- Support Noongar social, cultural and economic development;
- Manage the Future Fund so that it can meet operating costs of the Noongar Corporations after the 12 year WA Government Contribution Period;
- Invest and manage the Future Fund to reach a Target Capital Base, this is 90% of the total value of the Future Fund at the end of the 12 years of Government instalments. The Trustee will not be able to draw down on the Capital Base, to ensure perpetual funds for the benefit of the Noongar Community;
- Invest and manage the Operations Fund for annual distribution to the Noongar Corporations;
- Manage the Land Estate so that it contributes profits to the Future Fund and supports Noongar business and cultural development where possible;
- Hold and invest the housing stock in a manner that improves housing outcomes for the Noongar Community; and
- Consult with the Noongar Corporations Committee, the Noongar Advisory Company, the Noongar Relationships Committee, the Nominations Committee and the Investments Committee to ensure the Trustee is meeting the needs of the Noongar Community.

How will the Professional Trustee be selected?

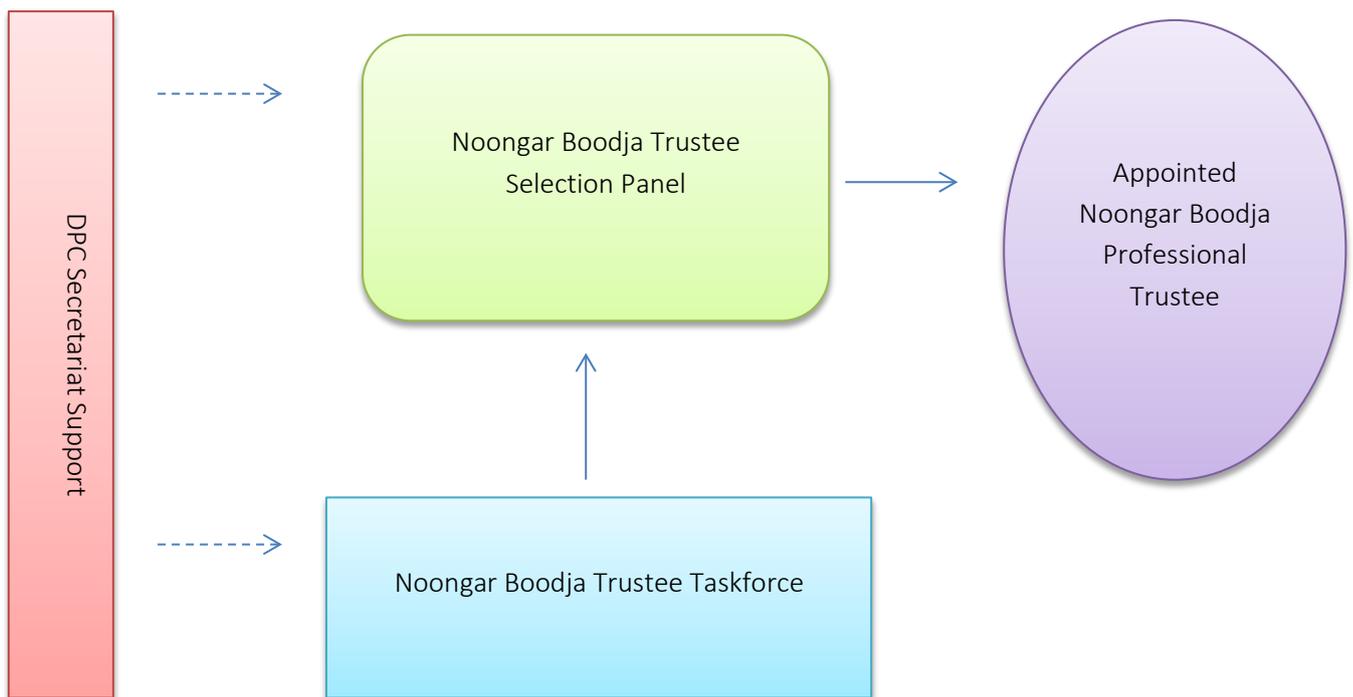
For the selection and appointment of the Trustee a formal tendering process, in accordance with WA Government procurement policies will take place. This important process will be managed collaboratively between the WA Government and SWALSC.

The process includes:

- An agreed State/SWALSC Trustee Selection Process, in accordance with State Government procurement policies;
- The establishment of a Noongar Boodja Trustee Selection Taskforce to facilitate the selection of the Professional Trustee;



- The establishment of a Noongar Boodja Trustee Selection Panel to conduct the assessment and selection process and to make the final formal appointment; and
- The appointment of the Trustee.



What is the role of the Taskforce?

The WA Government and SWALSC have delegated their authority to facilitate the selection of the Professional Trustee to the Noongar Boodja Trustee Selection Taskforce (Taskforce), in accordance with WA Government procurement policies. The Taskforce is made up of an Independent Chair, and four representatives from WA Government and SWALSC.

The Taskforce will drive the Trustee Selection Process, and is responsible for developing the key documentation that will guide the selection of the Trustee. The Taskforce is also responsible for selecting the Noongar Boodja Trustee Selection Panel, who will ultimately select the Trustee.



Who is on the Taskforce?

The Taskforce was selected collaboratively by the WA Government and SWALSC. Members were appointed based on their practical experience and expertise.

The Taskforce membership is as follows:

- Debbie Karasinski, Independent, Non-voting Chair;
- Angela Elder, WA Government Representative;
- Adam Levin, WA Government Representative;
- Jackie Tang, WA Government Representative;
- Craig Murrihy, WA Government Representative;
- Gordon Cole, SWALSC Representative;
- Malcolm Firth, SWALSC Representative;
- Glen Kelly, SWALSC Representative; and
- Kate Wilson, SWALSC Representative.

What is the role of the Noongar Boodja Trustee Selection Panel?

The Panel will be responsible for the ultimate selection and formal appointment of the Trustee, through the agreed WA Government / SWALSC Trustee Selection Process. Following this evaluation, the Panel will select a Professional Trustee Company to be appointed as the Trustee. The Taskforce will provide the Panel with strategic direction during this process which will run from July 2015 to April 2016.

The Taskforce have developed Selection Criteria that will guide the appointment of Panel Members.



Membership of the Panel

The Panel will have fixed membership of six people, appointed by the Taskforce in accordance with their Terms of Reference and Selection Criteria. Panel membership will consist of the following representatives:

- An Independent non-voting Chair;
- An Independent Financial Expert;
- An Independent Legal Expert;
- An Independent Practical Expert;
- A WA Government-nominated Representative; and
- A SWALSC-nominated Representative.

The Panel Membership is currently being settled.

Further Information

Documentation about the ILUAs and the Settlement is available on the Department of the Premier and Cabinet website: www.dpc.wa.gov.au and can be accessed by pressing the South West Settlement 'button'. Information includes:

- Copies of each of the 6 executed ILUAs (The Noongar Boodja Trust Deed is located at Annexure G, page 296);
- Maps of the relevant ILUA area boundaries;
- Technical descriptions of the 6 ILUA boundaries; and
- Supporting information, such as the Fact Sheets, that may assist in understanding of the Settlement.

DPC's South West Settlement Implementation Unit can also be contacted directly on:

- Email: southwestsettlement@dpc.wa.gov.au
- Phone: 08 6552 6191

Relevant documentation is also located on the SWALSC website: <http://www.noongar.org.au/> and can be accessed under the Noongar Settlement Information tab. This includes:

- Quick and Summary guides to the Settlement; and
- Apical Ancestor Lists for each claim area.