



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

# **The South West Native Title Settlement**

Newsletter July 2015



## Current Status

On 8 June 2015 the State Government executed the 6 South West Native Title Settlement Indigenous Land Use Agreements (ILUAs). The signing was significant as it represented the State Government's commitment to the largest and most comprehensive agreement to settle Aboriginal interests over land in the history of Australia.

The comprehensive detail of the South West Native Title Settlement is recorded in the 6 ILUAs made in compliance with the Commonwealth *Native Title Act 1993*. The 6 ILUAs are the same in content except each is made between the State, the Government Parties, the South West Aboriginal Land and Sea Council and a different set of Noongar people (the different native title agreement groups) and refers to a different geographic part of the South West (the different native title agreement areas).

## Next Steps

The State Government's execution of the ILUAs does not signal the commencement of the South West Settlement as there are the legal procedures that must still take place with the National Native Title Tribunal (NNTT).

The ILUAs have been lodged with the NNTT which will now commence a formal process to determine if they should be registered and become final. The NNTT will undertake a 3 month notification period during which objections can be lodged according to the terms of the *Commonwealth Native Title Act 1993*.

The ILUAs can only come into full effect once they have been registered by the NNTT. Their registration will then resolve all native title claims in the South West of Western Australia and trigger the commencement of the full agreement.

## Interim Period: Pre-Commencement

In the period between execution and commencement, the State must use all reasonable endeavours to enact and commence:

- the *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2014*,
- the *Land Administration (South West Native Title Settlement) Bill 2015*, a Bill to facilitate implementation of the Noongar land access licence and the allocation of land to the Trust, and
- by-laws to provide for certain customary activities to take place in public drinking water source areas.

The Noongar Standard Heritage Agreement also commenced operation from 8 June 2015 (see further details below).

During the interim period the Department of Premier and Cabinet (DPC) will work with the South West Aboriginal Land and Sea Council (SWALSC) toward the selection and appointment of an independent professional trustee to manage the Noongar Boodja Trust.



SWALSC has the responsibility at this time for establishing the 6 Noongar Regional Corporations who will represent the ILUA agreement groups, and establishing the supporting Central Service Corporation, in accordance with a set of agreed principles (see further details below).

## Implementation Planning

DPC is consulting with State Agencies involved in implementation of the Settlement on a Government Service Management Plan (GSMP). The GSMP records the obligations of each State government department involved in the Settlement, including the DPC, for the implementation of the ILUAs over the coming years. The GSMP outlines reporting arrangements, obligations and how meeting those obligations will be monitored. It is intended to be a useful tool for Government agencies in meeting their obligations and the broader objectives of Government under the South West Native Title Settlement.

The DPC will also be working with a number of agencies on Memorandums of Understanding regarding budget allocations for 2016/17 and beyond, which reflect the intent of resources allocated to the Settlement.

## Noongar Standard Heritage Agreement

As already noted, from 8 June 2015 the ILUAs bind the parties (including 'the State', which includes all State Departments and certain State agencies) to enter into a Noongar Standard Heritage Agreement (NSHA) when conducting Aboriginal Heritage Surveys in the ILUA areas, unless they have an existing heritage agreement. DPC is also encouraging all other State agencies and instrumentalities enter into the NSHA.

Since 8 June 2015 when the Department of Mines and Petroleum (DMP) grants new Mining, Petroleum and related Access Authority tenures within the ILUA areas, it places a condition on these tenures requiring a heritage agreement or a NSHA before any rights can be exercised.

During the interim period SWALSC will be signing up to the NSHA on behalf of the ILUA groups.

The DPC, in conjunction with the Department for Aboriginal Affairs (DAA), has now provided a number of briefings on the operation of the NSHA to Government agency staff. Further briefings on the South West Settlement and the NSHA will be offered in the South West at our Regional Briefings in Bunbury and Albany or if agencies specifically request a session. A further general briefing will also be offered in Perth on 26 August 2015.

The template NSHAs, maps and technical descriptions for each ILUA area can be found on the DPC website at:

<https://www.dpc.wa.gov.au/lantu/Claims/Pages/SouthWestSettlement.aspx>

To assist Proponents in determining which ILUA area/s an activity may fall within, the DAA Aboriginal Heritage Information System is currently being updated to show the boundaries of the ILUAs. DAA can be contacted for further advice at [heritageenquiries@daa.wa.gov.au](mailto:heritageenquiries@daa.wa.gov.au).



## South West Settlement Briefings

Representatives from the DPC, in conjunction with the DAA and the Department of Lands (DoL), will be attending Bunbury and Albany next month to offer briefings on the South West Native Title Settlement and the operation of the NSHA. The sessions are for Government Departments, agencies and instrumentalities (including agencies on the Interagency Reference Group for Native Title and Aboriginal Heritage) who need or wish to know more about the potential intersection of the South West Native Title Settlement with their business.

Regional agency staff have been invited to attend. However for anyone that is unaware of these briefings the schedule is set out below.

### **BUNBURY: TUESDAY 11 AUGUST 2015**

**Venue:** South West Sports Centre, 1 Rotary Ave, Bunbury

**Timetable:**

10:30am-11:30am: South West Native Title Settlement

11:30am-12:15 noon: Lands Identification and Transfer Process

LUNCH

1:15-2:45: Noongar Standard Heritage Agreement

### **ALBANY: THURSDAY 27 AUGUST 2015**

**Venue:** Stirling Club Inc, 14 Stirling Terrace, Albany

**Timetable:**

10:30am-11:30am: South West Native Title Settlement

11:30am-12:15 noon: Lands Identification and Transfer Process

LUNCH

1:15-2:45: Noongar Standard Heritage Agreement

An additional Perth briefing will be also offered as follows:

### **PERTH: WEDNESDAY 26 AUGUST 2015**

**Venue:** Dumas House, 2 Havelock St, West Perth

**Timetable:**

10:30am-11:30am: South West Native Title Settlement

11:30am-12:15 noon: Lands Identification and Transfer Process

LUNCH

1:00-2:30: Noongar Standard Heritage Agreement

Please contact the South West Settlement Implementation Unit at [southwestsettlement@dpc.wa.gov.au](mailto:southwestsettlement@dpc.wa.gov.au) if you or relevant regional staff wish to attend any of these briefings, or arrange a separate meeting on specific heritage matters.



## Establishment of the Noongar Corporations

As the ILUAs have now been executed and await formal registration by the NNTT, SWALSC has the task of establishing the 6 Noongar Regional Corporations and the Central Service Corporation. There are a number of provisions contained within the Noongar Boodja Trust Deed, the Noongar Corporation's Rulebooks and the ILUAs that establish the requirements for each of the seven Noongar Corporations to be eligible for appointment by the Noongar Boodja Trustee.

In addition, the State and SWALSC are required to give effect to the "Transition Principles", as per Clause 20 (a) of the Settlement Terms of the ILUAs. The purpose of the 'Transition Principles' is to ensure that a transparent and accountable process is undertaken to identify and establish these corporations.

Those principles reflect the fact that a sustainable and robust governance structure is crucial to the South West Settlement's longevity and success. To support this outcome, the WA Government has a responsibility to ensure that the seven Noongar corporations are established with the fullest confidence of both the State and the wider Noongar community.

The State has developed a 'Framework of Assessment of Transition Principles' to assist the WA Government to determine whether the seven Noongar Corporations have been established through an open, transparent and accountable process. The State has also engaged an independent Consultant to work with SWALSC on the communication, consultation and participation plan to be provided to the State. The independent Consultant will also report on and advise the State about compliance with the Transition Principles Framework.

## Trustee Selection Process

A formal tendering process will occur for the selection and appointment of an independent professional trustee to be the Initial Trustee of the Noongar Boodja Trust (Trustee) in accordance with State procurement policies. It is a significant process, which will be undertaken in collaboration between DPC and SWALSC. A Noongar Boodja Trustee Selection Taskforce has been established, and is comprised of an independent Chair, and four representatives from both the State and SWALSC.

The Taskforce will provide strategic direction and leadership to select and guide the Noongar Boodja Trustee Selection Panel in their ultimate selection of a suitable Professional Trustee Company to become the Trustee upon the declaration of the Noongar Boodja Trust. This process will run from July 2015 to March 2016.



## Information about the ILUAs

### Fact Sheets

To assist in stakeholder and broader community understanding of the various components of the South West Native Title Settlement, the DPC has put together Fact Sheets that summarise the Settlement. The Fact Sheets outline the specific benefits being provided through the Settlement, including answers to frequently asked questions raised by various stakeholder groups during consultations. The Fact Sheets are available on the DPC website.

Whilst these Fact Sheets are provided for information, it is also intended that the Fact Sheets can be distributed by local governments, local Members of Parliament and government agencies to the wider community when they seek information about the Settlement. An electronic copy of the Fact Sheets is also available on the DPC's website if further copies are required for distribution.

### DPC website

All relevant documentation to the ILUA is available on the DPC website: [www.dpc.wa.gov.au](http://www.dpc.wa.gov.au) and can be accessed by pressing the South West Settlement 'button'.

This includes:

- Copies of each of the 6 executed ILUAs;
- Maps of the relevant ILUA area boundaries;
- Technical descriptions of the 6 ILUA boundaries;
- Template Noongar Standard Heritage Agreements for each ILUA area; 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](mailto:southwestsettlement@dpc.wa.gov.au)

Phone: 08 6552 6191