



South West Native Title Settlement – Heritage Fact Sheet

Noongar Standard Heritage Agreements

Conducting an Aboriginal Heritage Survey and Selection of Aboriginal Survey Participants

On 8 June 2015, after extensive negotiations, and authorisation by the Noongar people, the WA Government signed (executed) six South West Native Title Settlement (Settlement) Agreements with the Ballardong People, Gnaala Karla Booja, South West Boojarah #2, Wagyl Kaip & Southern Noongar, Whadjuk People and Yued Agreement Groups.

The Noongar Standard Heritage Agreement (NSHA), a component of the Settlement, took effect upon the signing of the Settlement Agreements by the parties on 8 June 2015. State Government land users (Proponents) are required to enter into and follow the NSHA if an Aboriginal Heritage Survey is required and a pre-existing heritage agreement was not in place as at 8 June 2015.

The NSHA component provides a uniform and efficient approach to Aboriginal heritage surveys in the South West, in compliance with the *Aboriginal Heritage Act 1972* (AHA). The NSHA provides all parties with a clear, timetabled framework about their various Aboriginal heritage obligations. The NSHA also delivers a process for improving the quality of data on the Aboriginal Heritage Inquiry System (AHIS), which in turn enhances protection of Aboriginal heritage through identification of sites that are important to Noongar people.

Nothing in the NSHA purports to authorise any act or omission that would be in breach of the AHA.

Copies of the six NSHAs can be found at <https://www.dplh.wa.gov.au/information-and-services/aboriginal-heritage/noongar-heritage-and-history/noongar-standard-heritage-agreement/resources-and-templates>

Need for an Aboriginal Heritage Survey

The Department of Planning, Lands and Heritage (DPLH) maintains a Register of known Aboriginal Places and Objects as defined under s5 of AHA, however there are many Aboriginal heritage places that are not included on the Register. All Aboriginal heritage sites or places to which section 5 of the AHA applies are protected under the AHA.

To ensure Aboriginal heritage is adequately protected when there is a proposed land use that may impact Aboriginal heritage, an Aboriginal heritage survey over the area of the works may be required.

Following the issue of an Activity Notice by a Proponent (NSHA clauses 8.1 and 8.2) the parties need to agree whether a survey is required (NSHA clauses 8.3, 8.4 and 9.2). The parties then need to agree on specific matters and conduct the survey in accordance with NSHA clauses 9 and 10 including methodology, estimate of costs, selection of the Aboriginal Heritage Service Provider (AHSP), survey team and commencement of survey.

The discussions between SWALSC and the Proponent about Survey Methodology shall be conducted with a view to reaching agreement on a Survey Methodology that is fit for purpose, having regard to SWALSC's concerns for the Survey Area and the Activities proposed by the Proponent (NSHA clause 9.4).

Selection of the Aboriginal Participants in the Heritage Survey Team

If SWALSC does not elect either to be the AHSP or to contract the AHSP, the names and contact details of the Aboriginal Consultants for the Survey will be provided by SWALSC to the Proponent (NSHA clause 8.3(d)(vii)).

If the contact details of the Aboriginal Consultants are not provided to the Proponent either in the Activity Notice Response or within 10 Business Days after the Survey Agreement Date (as defined in the NSHA), the Proponent may contact DPLH for details of persons identified by DPLH who have previously been recorded on the Aboriginal Heritage Register in relation to particular sites in the Survey Area (NSHA clause 8.3(d)(vii)).

The AHSP will organise the Survey Team consisting of up to 8 Aboriginal Consultants with appropriate experience and authority, as is necessary in the opinion of the AHSP in consultation with SWALSC, to examine the Survey Area and assist in the Survey (NSHA clause 10.1(a)(i)).

Aboriginal Heritage Survey Conduct and Reporting

The survey team will as appropriate in the circumstances (NSHA Clause 10.2 (d)):

- visit the Survey Area and identify any Aboriginal Sites in the Survey Area or, in the case of a Site Avoidance Survey, determine the area to be avoided due to the presence of an Aboriginal Site; and
- provide sufficient information to the AHSP, or any other heritage consultant accompanying the Survey Team, to enable them to:
 - record the external boundaries of all Aboriginal Sites or, in the case of a Site Avoidance Survey, the area to be avoided due to the presence of an Aboriginal Site, using a GPS;
 - record relevant Aboriginal Site information or, in the case of a Site Avoidance Survey, the area to be avoided, on a Heritage Information Submission Form;
 - mark the external boundaries of identified Aboriginal Sites or, in the case of a Site Avoidance Survey, the external boundaries of the area to be avoided due to the presence of an Aboriginal Site, on a map;
 - make recommendations for the protection and management of any Aboriginal Site identified by the Survey Team; and
 - prepare a Survey Report complying with the requirements of NSHA clause 12 & Schedule 4.

Contact Information

Further information on NSHAs can be found at <https://www.dplh.wa.gov.au/projects-and-initiatives/south-west-native-title-settlement/noongar-standard-heritage-agreement>

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South West Native Title Settlement Area

