

SOUTH WEST NATIVE TITLE SETTLEMENT: OVERVIEW AND OPPORTUNITIES

**Presentation for PHCC's SHARE in the Shed
19 September 2019**

Angela Elder

**Department of the Premier and Cabinet:
Aboriginal Policy and Coordination Unit**

The South West Settlement

- The South West Native Title Settlement ('Settlement') will resolve all South West native title claims through a negotiated package of benefits.
- Aimed at greatly improved opportunities for Noongar cultural, social and economic development; strong partnerships with State Government, and other stakeholder groups.

Timeframes

- Legal Settlement through 6 'Indigenous Land Use Agreements' (ILUAs):
 - Signed 8 June 2015
 - Registered October 2018 but subject to further legal challenge
 - Next Court hearing: 25 November 2019
 - Settlement commencement: 2020
- The *Native Title Act 1993 (Cth)* and future act regime will continue to apply until the Settlement commences.



Settlement Outcomes - Overview

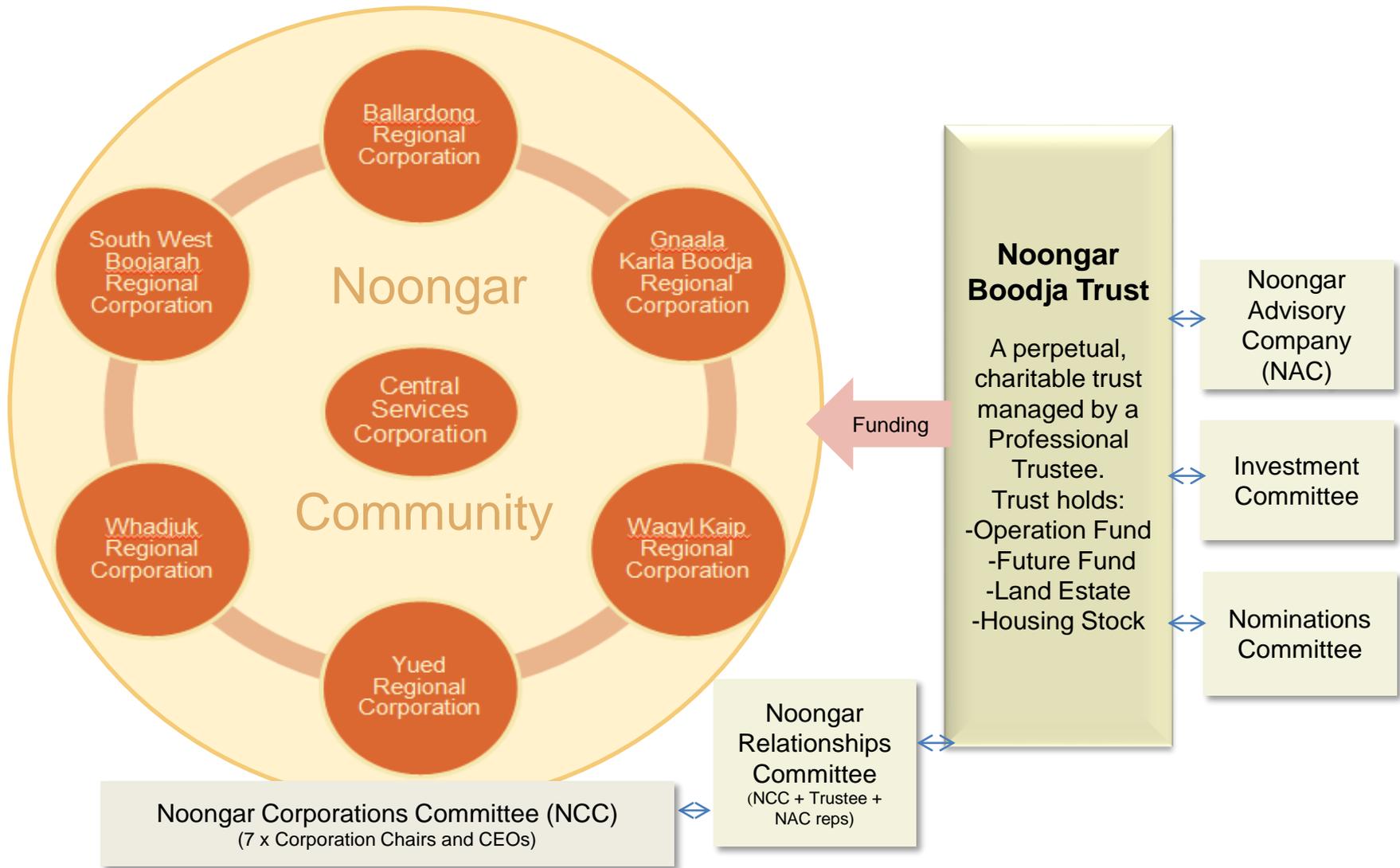
- **Noongar Recognition** – *Noongar (“Koorah, Nitja, Boordahwan”) (Past, Present and Future) Recognition Act 2016*
- **Sustainable Governance Structure:**
 - A Perpetual Trust (**‘Noongar Boodja Trust’**) managed by a Professional Trustee, to manage a \$600 mill future fund (paid to the Trust over 12 years); and
 - **6 Noongar Regional Corporations + 1 Central Services Corporation** with operational funding (\$120 mill over 12 years, managed by the Trust)
- **Noongar Land Estate** – up to 320,000 hectares, held by the Trust
- **Heritage management regime** - NSHA and Partnership agreements
- **Cooperative and joint management** of SW Conservation Estate
- **Access** to certain crown lands for customary activities
- **Noongar Land Fund** – up to \$46,850,000 , for land-related initiatives
- **Noongar Housing Program** – transfer and refurbishment of 121 properties
- **Economic Participation Framework**
- **Community Development Framework**
- **Noongar Cultural Centre** support and **office space** for Noongar Corporations

Noongar Recognition Act 2016

- Noongar recognition through an Act of Parliament was always considered one of the most important elements of the Settlement
- Premier's second reading speech acknowledged 45,000 + years of Noongar connection to country, the devastating effects of colonisation, the strength and resilience of the Noongar people, and their ongoing contribution to the development of WA
- Bill was passed with strong bipartisan support
- *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016* was proclaimed on WA Day (6 June) 2016.
- Acknowledges and honours the Noongar people as the traditional owners of Noongar lands.
- Recognises the living cultural, spiritual, familial and social relationship that the Noongar people have with Noongar land; and
- Recognises the ongoing, significant and unique contribution of Noongar people to the heritage, cultural identity, community economy and economy of the State.
- Replaces recognition under the *Native Title Act 1993*.



Settlement Governance Structure



Noongar Land Estate

- A key component of the Settlement is the transfer of up to 300,000 ha of Crown Land allocated as reserve or leasehold and up to 20,000 ha allocated as freehold, to the NBT, to create a Noongar Land Estate.
- Land is identified and selected through a strategy agreed to by the parties – Department of Planning, Lands and Heritage (DPLH - formerly Dept. Lands), DPC and SWALSC.
- Land identification and selection process has commenced and will continue during implementation of the agreement - can be for cultural or development purposes.
- Land being considered for transfer is mostly unallocated crown land and unmanaged reserve, as well as from the Aboriginal Lands Trust Estate. None from private landholdings.
- Lands to be transferred as reserve can be for social, cultural and/or economic purposes and may include conservation, with joint management opportunities.

Access for Customary Activities: Land Access Licences

- 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 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).
- It is akin to s211 of the Native Title Act, so that Noongar people can maintain connection to Noongar lands.

Access for Customary Activities: Public Drinking Water Source Areas

- The *Metropolitan Water Supply, Sewerage, and Drainage Amendment By-Laws 2016* and the *Country Areas Water Supply Amendment By-Laws 2016*
- Gazetted in June 2016, set out arrangements for Noongar access to some Public Drinking Water Source Areas for limited customary purposes:
 - preparing or consuming food customarily eaten by Aboriginal persons; or
 - preparing or using medicine customarily used by Aboriginal persons; or
 - engaging in artistic, ceremonial or other cultural activities customarily engaged in by Aboriginal persons; or
 - engaging in activities incidental to a purpose stated in paragraph (a), (b) or (c).
- Set out special arrangements for Noongar customary activities, including access to registered sites within reservoir protection zones, to undertake certain limited customary activities allowing Noongar people to visit and maintain sites and to teach and learn on country.
- The amended By-laws do not permit entry into or upon a stream, reservoir or watercourse within special provision catchment areas.

Access for Customary Activities: Surplus Water Reserve / Catchment Areas

- Minister for Water must, after the Trust becomes effective:
 - On advice from the Dept of Water, seek to have abolished the proclamation of, or to remove activity restrictions from, any water reserves (WR) or catchment areas (CA) that are no longer required for public drinking water supply.
- Intention is to remove any unnecessary drinking water catchment restrictions from impacting Noongar customary activities.
- The ILUAs identify specific water reserve/catchment areas for consideration: Padbury Reservoir CA, Mullalyup WR, Deep River WR, Warren River WR, Scotsdale Brook WR, Donnelly River WR and Kent River WR.
- Donnelly River WR has been retained.
- Remainder have now been abolished or activity restrictions have been removed, although activity restrictions apply to certain Warren River WR sub-catchment areas.

Economic Participation Framework

- Purpose is to maximise the potential for the Noongar community to engage in employment, business establishment and home ownership
- Primary focus will initially be on building capacity within the Noongar community about State government tendering and contracting policies, as well as the development and submission of tender documentation
- Aimed at increasing Noongar competitiveness in taking advantage of existing government (State and Federal) policies and support systems for Noongar business development
- Commitment that “every effort will be made to maximise Noongar employment within government and through contracting arrangements arising out of the implementation of the South West Settlement”.

Community Development Framework

- Establishes a broad structure and set of principles and priorities aimed at improving Noongar community development
- Housing, health, education, youth, strengthening Noongar culture, and capacity building are identified priorities
- Through the Noongar Regional Corporations, the Framework will provide human service agencies with greater scope for direct communication and collaboration with Noongar people to partner in the design and delivery of human services
- Regional Corporations will work in partnership with District Leadership Groups/Human Service Managers Groups to lead regional implementation of the Framework.
- A high level Reference Group will oversee and support Framework implementation.

Pre-Settlement Engagement

- Noongars already recognised as the traditional owners of the South West;
- SWALSC is acting on behalf of the 6 Noongar Agreement Groups:
 - takes instructions from 6 Working Parties on native title and heritage matters;
 - invites all members of each Agreement Group to meetings to prepare for the establishment of their Regional Corporations;
- For Heritage matters – contact SWALSC or DPLH (Heritage), follow NSHA principles;
- For acts that may impact native title prior to Settlement (‘future acts’) – contact SWALSC or DPLH (Lands);
- For Noongar Land Estate matters - contact SWALSC or DPLH (Lands);
- For Conservation Estate matters – contact SWALSC or DBCA.

Reconciliation and Truth-Telling opportunities

- The State Government has partnered with Reconciliation WA to promote truth and reconciliation for all Western Australians.
- Opportunities to work together throughout the Settlement area to support community led reconciliation and truth telling initiatives.
- One immediate opportunity in this International Year of Indigenous Languages is to partner with local Aboriginal communities and Local Governments to identify opportunities to preserve and reawaken Aboriginal language through place naming.
- **Dual place naming**, as well understanding and celebrating existing Aboriginal place names, provides an opportunity to build a shared sense of place, community understanding and pride in local Aboriginal heritage and culture.
- Developing local **Reconciliation Action Plans** can provide a framework for engagement.

Further information

South West Settlement

DPC (APCU)

- Website: www.dpc.wa.gov.au/swnts
- Email: southwestsettlement@dpc.wa.gov.au
- Phone: (08) 6552 6191

SWALSC

- Website: <http://www.noongar.org.au>
- Email: reception@noongar.org.au
- Phone: (08) 9358 7400

DPLH - Heritage

- Website: <https://www.dplh.wa.gov.au/projects-and-initiatives/south-west-native-title-settlement>
- Email: SWSHeritage@dplh.wa.gov.au
- Phone: (08) 6551 8070

DPLH – Lands

- Email: swsettlement@dplh.wa.gov.au
- Phone: (08) 6552 4708

DBCA – Joint Management

- Website: <https://www.dpaw.wa.gov.au/parks/aboriginal-involvement>
- Email: simon.choo@dbca.wa.gov.au
- Phone: (08) 9219 9799

Reconciliation Action Plans

Reconciliation Australia:

- <https://www.reconciliation.org.au/reconciliation-action-plans/>

Reconciliation WA

- <https://www.recwa.org.au/>

Aboriginal Place Name Initiative

Landgate

- Email: Charles.Hiew@landgate.wa.gov.au
- Phone: (08) 9273 7098