QUESTIONS AND ANSWERS

1. Why has the Government of Western Australia entered into these negotiations?
   All native title claims are filed in the Federal Court as formal actions against the Government of Western Australia and must be prosecuted and brought to finality before the Court. This is achieved through agreement or litigation. Federal Court native title processes are time-consuming, costly and can be inconclusive.

   In 2009 the Government and the Noongar native title claimants agreed to seek to resolve all native title claims in the South West by agreement.

   If the negotiations are unsuccessful, each of the South West native title claims must ultimately be programmed for trial by the Federal Court.

   A negotiated agreement in the South West can deliver opportunities far greater than those that might arise from litigation. The State Government’s offer is an investment in the future of the Noongar community and will provide positive outcomes as a result of improved efficiencies in the delivery of Government programs and services.

2. How will the South West Settlement (the Settlement) benefit the Noongar People?
   The Settlement will:
   - recognise Noongar people as the traditional owners of the South West through an Act of Parliament. This will have great symbolic significance within the Noongar community;
   - provide the Noongar community, through the Noongar Regional Corporations, with strong governance and leadership at a regional level, as well as the resources to manage their own cultural, social, and business programs;
   - improve the effectiveness and accessibility of government services to Noongar people;
   - provide Noongar employment, training and business opportunities;
   - enhance the protection of Noongar cultural heritage; and
   - promote greater public awareness of Noongar culture and society.
3. **What area is included in the South West Settlement?**
   The area includes six native title claims with the outer boundary of the claim area running from a point south of Dongara on the west coast, proceeding roughly east to a point north of Moora in the southern wheat belt and then south-easterly to a point midway between Albany and Esperance. Please refer to the attached map on page 9.

4. **Who has the State Government negotiated with?**
   The WA Government has negotiated with the South West Aboriginal Land and Sea Council (SWALSC), the authorized native title representative body, and key negotiators drawn from the six principal native title claim groups.

   The six principal groups are:
   - Yued (Jurien, Moora, Lancelin, Gingin);
   - Gnaala Karla Boodja (Mandurah, Bunbury, Donnybrook);
   - South West Boojarah (Busselton, Dunsborough, Margaret River, Pemberton, Nannup) plus the Harris Family Claim;
   - Wagyl Kaip (Katanning, Gnowangerup, Albany);
   - Ballardong (York, Northam, Hyden, Kondinin); and
   - Whadjuk (Perth Metropolitan area).

   There has been extensive research into the ancestry of the six groups by both the State Government and SWALSC to ensure the right people have been identified within each claim group.

5. **Will individual Noongar people receive direct financial benefits?**
   No, the proposed agreement is between the State Government and the Noongar people as a whole society, representing more than 30,000 people. No individual will receive direct benefits.

   As a result of the Settlement, seven Noongar corporations will be established – a Central Services Corporation and six Noongar Regional Corporations representing each claim area. The Noongar Regional Corporations will be the major beneficiaries of financial support. Their broad purpose is to provide a range of services for the Noongar community including heritage management, community development, land management and advice to government service deliverers.
6. **If the State Parliament passes the Noongar Recognition Act, will similar legislation need to be passed for every other native title claim group in Western Australia?**

No, Aboriginal people make native title claims in order to be recognised as the traditional owners of the areas they claim. If Noongar native title claimants surrender their native title rights as a condition of the Settlement, they will still receive recognition as the traditional owners of the region. The proposed Noongar Recognition Act is in exchange for the Noongars not seeking native title recognition and does not carry with it any of the statutory rights that flow with native title recognition.

7. **In future could the Noongar Recognition Act put new obligations on the State?**

The purpose of the Noongar Recognition Act is to recognise the Noongar people as traditional owners of the South West. If passed into law, the Act can have no effect upon any civil claim, action or proceeding, or any right of review of an administrative decision, and cannot conflict with any other State or Commonwealth law.

The terms of the Settlement will be set out in six Indigenous Land Use Agreements (ILUAs), one for each claim area, which must be registered by the National Native Title Tribunal and conform with precise terms under the **Native Title Act 1993**. The ILUAs will clearly set out all obligations, dispute resolution processes, and penalties for failure to comply. The ILUAs will also refer to the Noongar Recognition Act and reinforce draft clause 6 to make clear that the Act does not give rise to any future liability. In the event that the State Government found itself in breach of the ILUAs, the breach would be dealt with under the proceedings for breach of contract detailed within the ILUAs.

8. **Are all Aboriginal people in the South West involved?**

Not all Aboriginal people residing in the South West are of Noongar descent, and an agreement of this nature can only be made with Noongar people (i.e. people who have ancestors who were Noongar). The ancestry of the people who make up the principal Noongar native title claim groups has been subject to extensive research by both SWALSC and the State Government. The National Native Title Tribunal also assisted in 2012 with an extensive campaign in all local newspapers requesting Noongar people to contact SWALSC with any questions or concerns about the negotiation process.

Some Noongar people have made the decision not to take part in the negotiations with the Government. All reasonable efforts will continue to be made to ensure that all eligible members of the Noongar community have the opportunity to be informed about the Settlement negotiations and to have their views taken into account.
9. **How will Noongar assets be managed?**

   All land and funds will be placed in a trust, the Noongar Boodja Trust, managed by a professional independent trustee. The selection of an independent trustee requires the approval of both the WA Government and Noongar representatives. The WA Government will make funding contributions over 12 years into the Trust which must accrue during those 12 years.

   The Trust will function as a perpetual fund. After 12 years, the Trust can only distribute a fixed percentage of the total capital base annually to ensure that there is an ongoing source of funds for Noongar cultural, social and economic programs. No trust dividends can be paid to individuals.

   Investment decisions about the Trust assets will be made by the professional independent trustee who will be advised by both Noongar and independent directors. The WA Government retains oversight of the Trust for the first 12 years and the Trust is also subject to Commonwealth financial regulation. The accounts of the trust will be publicly available.

10. **How are decisions made for the distribution of money from the trust?**

   The Noongar Boodja Trust will have a number of expert committees to provide advice to the Trustee about investment and allocation decisions. Each committee will have both Noongar representatives and other experts who must have extensive knowledge and experience in working with Trusts. Please refer to the page 10 for a diagrammatic representation of the proposed Trust structure. The roles and responsibilities of the Trust and committees are attached at page 11.

   For the first 12 years the State will provide funding to the Noongar corporations for administration and planning. After 12 years the Trust can distribute earnings to the different Noongar corporations to maintain services to the Noongar community.

11. **Will the Settlement impact on private land holders?**

   No. There is no impact on private land holders. No land or property held by third parties can be included in the final offer.

12. **Will the agreement impact on water or fishing rights?**

   No. The final offer has no impact on water rights or fishing rights. The Settlement will be consistent with current laws and regulations for water and fishing. No offshore or marine areas are involved.
13. Will public access to national parks be affected if Noongar people are involved in joint management of the State’s conservation estate?
No. Public access to national parks, nature reserves, conservation reserves, rivers, beaches and any other public area is not affected. State and Commonwealth laws governing access to land and environmental protection apply.

14. What is the effect of the Settlement on Aboriginal heritage?
The Settlement acknowledges the cultural authority held by the Noongar people and establishes that heritage matters must be managed by the six Noongar Regional Corporations. Under the Settlement, there will be clear processes for addressing heritage matters.

The main objectives are to:

- improve the preservation of Aboriginal/Noongar heritage;
- increase awareness and respect for Noongar culture;
- standardise heritage procedures and policies throughout the South-West, consistent with the Aboriginal Heritage Act 1972 (WA); and
- set out consultation and engagement practices with the relevant Noongar people about proposed land developments and/or activities.

15. How much will the Settlement cost taxpayers?
The State Government’s core offer includes:

- $50 million indexed annually for 12 years into the Noongar Boodja Trust as the basis for an investment fund;
- $10 million indexed annually for 12 years for the administration of the Noongar corporations;
- a Land Fund of approximately $4 million annually for 10 years for land transfer costs, for Noongar training, and for joint conservation and land management programs;
- a total of $22.5 million in capital commitments, including funds for the establishment of Noongar offices (7 locations) and start-up funding for the development of a Noongar cultural centre.

In addition the State will transfer a maximum of 320,000 hectares of Crown land in multiple parcels to the Noongar Boodja Trust during the first five years of the Settlement. There is no direct cost to taxpayers as the land is drawn from existing Crown land holdings. The offer also requires Government agencies to change their approach to
service delivery to Aboriginal communities in the South West for improved outcomes in a range of key areas across the Noongar community.

16. **Will the Noongar Regional Corporations replace the services of Government and non-Government organisations?**
   No, the Noongar Regional Corporations will not duplicate or compete with the existing services of Government agencies, non-government organisations and established Noongar service organisations. It is intended that the Regional Noongar Corporations will work with service deliverers to improve outcomes in the Noongar community.

17. **How much land will the Noongar Community get through the Settlement?**
   A maximum of 320,000 hectares of Crown land will be transferred to the Noongar Boodja Trust in multiple parcels over a period of five years. This includes land in the region currently held by the Aboriginal Lands Trust. The transfer of any Crown land is subject to all standard approval processes within government (e.g. Department of Mines and Petroleum, Department of Planning, Department of Lands etc.). Local government authorities will also have the opportunity to comment.

18. **Do the agreements bind future state-governments?**
   All existing native title agreements in Western Australia have been honoured by successive governments. The Settlement’s legal arrangements will ensure future state governments cannot breach a settled agreement that has been negotiated in good faith.

19. **What is the Commonwealth Government’s role in the Settlement?**
   The Commonwealth is not an active party to the Settlement negotiations. The State has made multiple requests to Commonwealth agencies to have them to contribute to the Settlement and continues to seek their involvement.

20. **Is private sector funding likely to be included in the Settlement?**
   Private sector funding is not included. Over time the Settlement will very likely attract private-sector funding and joint venture investment opportunities.

21. **What is the status of Crown lands which are currently leased i.e. pastoral/farming leases? Can they be transferred?**
   With the exception of some Aboriginal Lands Trust properties involving sub-leases, Crown land with a lease to a third party is not included. People leasing Aboriginal Lands Trust properties will have their leases honoured.
22. If land held by the Settlement’s investment trust was sold for resource operations, would royalties still go to the State?

The land must be treated the same as any other land. The State Government owns all mineral rights. The Independent Trustee would be required to approve a business case for the sale of any land.

23. What is the proposal for a Noongar Cultural Centre in Perth?

The Noongar community has expressed interest in a Cultural Centre in metropolitan Perth. As part of the Settlement, the State Government has offered to contribute to the development of a Noongar Cultural Centre, including an appropriate parcel of Crown land to build on. The offer of land and funding is conditional on the Noongar community securing external funding, for example from the Commonwealth Government and/or private sector, for the Cultural Centre’s full construction and ongoing maintenance costs.

24. What should Local Government be doing?

Local Government Authorities (LGAs) have a major role in terms of their engagement with the Noongar community. At this stage it is recommended that LGAs promote awareness about the Settlement and the opportunities it can provide for improved local and regional community relations. No local government function is affected by the Settlement offer.

Many LGAs already have an excellent working relationship with Aboriginal people and the Settlement can only assist in building better partnerships in the South West.

25. What local Government areas are included in the Settlement?

- City of Albany
- City of Armadale
- Shire of Augusta-Margaret River
- Town of Bassendean
- City of Bayswater
- City of Belmont
- Shire of Beverley
- Shire of Boddington
- Shire of Boyup Brook
- Shire of Bridgetown-
- Greenbushes
- Shire of Brookton
- Shire of Broomehill
- Shire of Bruce Rock
- City of Bunbury
- Town of Cambridge
- City of Canning
- Shire of Capel
- Shire of Goomalling
- City of Gosnells
- City of Harvey
- City of Joondalup
- Shire of Jerramungup
- Shire of Kalamunda
- Shire of Katanning
- Shire of Kellerberrin
- Shire of Kent
- Shire of Kojonup
- Shire of Kondinin
- Shire of Koorda
- Shire of Kulin
- Shire of Lake Grace
- City of Mandurah
- Shire of Manjimup
- City of Melville
- Shire of Serpentine-
- Jarrahdale
- City of South Perth
- City of Stirling
- City of Subiaco
- City of Swan
- Shire of Tambellup
- Shire of Tammin
- Shire of Toodyay
- Shire of Trayning
- Shire of Victoria Plains
- Town of Vincent
- Shire of Wagin
- Shire of Wandering
- City of Wanneroo
- Shire of Waroona
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RELATIONSHIP BETWEEN THE CENTRAL SERVICES AND REGIONAL NOONGAR CORPORATIONS AND THE NOONGAR BOODJA TRUST

The CSC and Noongar Regional Corporations receive funding from the Trust.
ROLES AND RESPONSIBILITIES:

1. Noongar Boodja Trust
   i) Professional Independent Trustee
      The Trustee is to apply the Trust Fund solely for the purpose of providing money, property and benefits to or for the Eligible Noongar Entities, including the Central Services Corporation and the Noongar Regional Corporations, or for the establishment of these organisations as the Trustee decides. The Trustee will operate with the support and on advice from the Noongar Advisory Company and the three functional committees as outlined below.

   ii) Noongar Advisory Company Pty Ltd
       A key role of the Noongar Advisory Company (NAC) is to provide recommendations to the Trustee to enable the Trustee to fulfil its purpose as outlined above.

       This includes:
       - investment and distribution advice for the Operations and Future Funds, all decisions regarding cultural and development land holdings, annual budgets, funding guidelines and allocations.
       - consultation with the Trust on key activities of the Trust including modifying the Future Fund Capital Base, variation of the Trust Deed, Strategic Review of the Trust as well as winding up or terminating the Trust.
       - guidance to the Trustee with regards to it dealing with the traditional laws and customs of the Noongar community, as well as assist the Trustee to manage its relationship and to liaise with the Noongar Community, the Noongar Corporations Committee the CSC and the Noongar Regional Corporations.

       The NAC will be comprised of:
       - a Trust representative plus,
       - one State Representative,
       - two independent representatives, and
       - two Noongar Experts.

   iii) Noongar Relationship Committee
       The Noongar Relationship Committee (NRC) will be responsible for:
       - reviewing the nature and delivery of CSC Regional and Optional Services.
facilitating negotiations between the CSC and the Regional Corporations to establish service agreements for the provision of CSC Regional and Optional Services.

- monitor the Corporation’s compliance with these agreements, as well as monitoring the Trustee’s compliance with its obligations under the Trust Deed.

- provide guidance to the Trustee with regards to it dealing with the traditional laws and customs of the Noongar community.

- consult with the Trustee on key activities of the Trust including determining the allocation of the net proceeds of property development activities or sale of Development Land, modifying the Future Fund Capital Base, variation of the Trust Deed, Strategic Review of the Trust as well as winding up or terminating the Trust.

The NRC will be comprised of:

- a Trustee Representative (Chair),
- one Independent Representative and one Noongar Expert from the NAC,
- CEO and Chair of each of the Regional Corporations and the Central Services Corporation.

iv) Investment Committee

The focus of Investment Committee (IC) is:

- to review proposals from Investment Managers,
- review the draft Investment Policy prepared by the Trustee and provide recommendations and feedback to the Trustee’
- to assist the Trustee in reviewing the performance of investments made by the trustee,
- reviewing the Trustee’s compliance with its investment obligations under the Trust Deed,
- guidance on Property Development Advice to the Trustee.

The IC is comprised of:

- one Trustee Representative (Chair),
- two Independent Representatives with property development experience and expertise,
- two independents with investment experience and expertise,
- two Noongar representatives with property development or investment expertise and/or experience.

All these positions have a required level of qualifications to be eligible for these roles.
v) Nominations Committee
The Nominations Committee (NC) will facilitate the process of selecting and securing individuals for positions as directors and committee representatives for the Trust and the Noongar Corporations. The NC is required to approve eligibility of Directors for the NAC and a Dedicated Trustee. Once these processes are undertaken the NC will then make recommendations to the Trustee.

The NC will comprise of:

- one Trustee Representative (Chair),
- one Representative nominated by the Noongar Relationship Committee,
- two Noongar Representatives with directorship and board experience, and
- two Independent Representatives with directorship and board experience.

2. Eligible Noongar Entities
   i) Central Services Corporation
The Central Services Corporation (CSC) will be established to:

- oversee the implementation of the Indigenous Land Use Agreements,
- support, assist and provide services to the Regional Corporations,
- provide a number of centralised administrative services to the Noongar Regional Corporations,
- develop and manage cultural and community programs,
- conduct research,
- work with all levels of Government.

Other optional services can be delivered in consultation with the Regional Corporations. The CSC will have a Service Agreement with the Regional Corporations for the delivery of these services.

   ii) Noongar Regional Corporations
Six Regional Corporations (RC) will be established to ensure the implementation of the Indigenous Land Use Agreement. The RCs will be responsible for communicating all information regarding the Settlement to the local Noongar community in a culturally appropriate manner.

The RC will also be responsible for:
• developing and maintaining relationships with key stakeholders, including government and non-government organisations as well as community members.
• developing and delivering programs and services to the local Noongar community and also work with other RCs in a cooperative working relationship,
• management of land will be a key responsibility of the RCs, which includes development land and cultural land, as well as partnering with the Department of Parks and Wildlife to manage the South West Conservation Estate,
• managing Noongar heritage, that is, the identification, registration and maintenance of significant sites in each region.

All of the RCs will have the support of the CSC, as well as opportunities to work with the Trustee to ensure that the implementation of the ILUAs support the specific needs of each region. The RCs will have opportunities to work together to improve social, cultural and economic outcomes across the Noongar community.

iii) **Noongar Corporations Committee**
The CSC is required to establish a Noongar Corporations Committee (NCC) under its Rule Book. The NCC is to:
• provide a forum for the executive of the CSC and all RCs to consider matters relating to the Noongar Boodja Trust,
• consider matters of ILUA implementation,
• develop partnerships between Corporations,
• determine policy and program priorities as well as providing a network for operational policy and program matters and
• to encourage knowledge sharing to improve efficiencies and effectiveness across the Noongar community.

The NCC is comprised of the CEO and Chair of each RC and the CSC.