



Extract from Register of Indigenous Land Use Agreements

NNTT number	WI2017/013
Short name	South West Boojarah #2 Indigenous Land Use Agreement
ILUA type	Area Agreement
Date registered	17/10/2018
State/territory	Western Australia
Local government region	Shire of Augusta-Margaret River, Shire of Bridgetown-Greenbushes, Shire of Capel, Shire of Donnybrook-Balingup, Shire of Manjimup, Shire of Nannup, City of Busselton

Description of the area covered by the agreement

'Agreement Area' means the land and waters that are described in Part 1 of Schedule 1 to this Agreement and shown on the map in Part 2 of Schedule 1 to this Agreement.

[A copy of Schedule 1 is attached to this register extract.

The following general description of the agreement area has been provided by the National Native Title Tribunal to assist people to understand the location of the agreement area. It is provided for information only and should not be considered part of the Register of ILUAs:

Approximately 12,000 sq km located along the south west coast of WA, extending east of Manjimup, north of Busselton and seaward to the 3 nautical mile limit.]

Parties to agreement

Applicant

Party name	State of Western Australia
Contact address	c/- State Solicitor's Office David Malcolm Justice Centre 28 Barrack Street Perth WA 6000

Other Parties

Party name	Conservation and Land Management Executive Body
Contact address	c/- State Solicitor's Office David Malcolm Justice Centre 28 Barrack Street Perth WA 6000

Party name	Conservation Commission of Western Australia (now the Conservation and Parks Commission)
Contact address	c/- State Solicitor's Office David Malcolm Justice Centre 28 Barrack Street Perth WA 6000

Party name Donald Hayward, Bertram Williams, William Thompson, Barbara Corbett-Councillor Stammner, Wendy Williams, Anthony Bennell, Glen Colbung, Dallas Coyne, Aden Eades, Ezzard Flowers, Jack Hill, Robert Isaacs, Carol Pettersen, Trevor Walley, Beryl Weston

Contact address c/- South West Aboriginal Land and Sea Council
PO Box 585
Cannington WA 6987

Party name Housing Authority

Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Marine Parks and Reserves Authority (now the Conservation and Parks Commission)

Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Minister for Aboriginal Affairs

Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Minister for Environment

Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Minister for Lands

Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Minister for Mines and Petroleum

Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Minister for Water

Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Minnie Edith Van Leeuwen

Contact address

Party name South West Aboriginal Land & Sea Council

Contact address PO Box 585
Cannington WA 6987

Party name Water Corporation
Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Party name Western Australian Land Authority (LandCorp)
Contact address c/- State Solicitor's Office
David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000

Period in which the agreement will operate

Start date not specified

End Date not specified

3.1 Commencement

This Agreement commences on the Execution Date.

3.5 Termination

(a) This Agreement will terminate on the occurrence of any of the following events:

- (i) any of the Legislative Conditions not being satisfied by the Sunset Date;
- (ii) the State electing to terminate this Agreement under clause 9.6 of this Agreement;
- (iii) SWALSC electing to terminate this Agreement under clauses 6 or 7 of the Settlement Terms;
- (iv) all Parties agreeing in writing to terminate this Agreement at any time before the earlier of:

A. the first of the Deemed Settlement Effective Date and Related Deemed Settlement Effective Dates to occur; and
B. the Settlement Effective Date; or

(v) this Agreement being removed from the ILUA Register by the Native Title Registrar and remaining de-registered:

A. at a date that is 60 Business Days after the date on which this Agreement was removed from the ILUA Register provided that no legal proceedings have been commenced seeking the re-instatement of this Agreement on the ILUA Register whether by application to the Federal Court at first instance or on appeal from a decision of the Federal Court ordering the Native Title Registrar to remove the Agreement from the ILUA Register (Re-instatement Application); or

B. otherwise, at a date that is 40 Business Days following the exhaustion and determination of the final available legal proceedings in respect of the Re-instatement Application.

(b) No Party may terminate this Agreement for any other reason, including by reason of breach or repudiation of this Agreement by any Party (although a Party may exercise any other right or remedy otherwise available to it in respect of such breach or repudiation).

'Sunset Date' has the meaning given in the Settlement Terms.

'Legislative Conditions' means the Conditions set out at paragraphs (a) to (c) of the definition of Conditions in clause 1.3 of the Settlement Terms.

Statements of the kind mentioned in ss. 24EB(1) or 24EBA(1) or (4)

[Six Indigenous Land Use Agreements (Area Agreements) were negotiated between the State of Western Australia and the Noongar People. These agreements provide for a full and final settlement of all current and future applications made, or to be made, by the Noongar People under the *Native Title Act 1993* (Cth).]

6.1 Validating of Invalid Acts

(a) The Parties agree to and consent to, on and from 11.59pm on the day before the date on which the Surrender will take effect under clause 6.2 of this Agreement, the validating of all Invalid Acts that have been, or are being, carried out by the State or any State Party in relation to any part of the Agreement Area.

(b) Clause 6.1(a) of this Agreement is a statement for the purposes of section 24EBA(1)(a)(i) of the *Native Title Act 1993* (Cth) and regulation 7(5)(d) of the ILUA Regulations.

6.2 Surrender of Native Title Rights and Interests

(a) The Parties agree to and consent to the Surrender.

(b) The Surrender will take effect:

(i) on the date that is 30 Business Days after the earlier of:

A. the Deemed Settlement Effective Date; and

B. the Settlement Effective Date; or

(ii) immediately before the State and SWALSC file with the Federal Court executed Consent Orders, together with supporting affidavits and supporting joint submissions, in accordance with clause 6.3(c)(v) of this Agreement, whichever is the earlier.

(c) The Parties agree that the Surrender is intended to extinguish all Native Title Rights and Interests that exist in relation to the Agreement Area at the time of the Surrender.

(d) Clause 6.2(c) of this Agreement is a statement for the purposes of:

- (i) section 24EB(1)(b)(i) and 24EB(1)(d) of the NT Act; and
- (i) regulation 7(5)(a) and 7(5)(c) of the ILUA Regulations.

6.3 Determinations of Native Title

(c) Subject to clause 6.3(e) of this Agreement, the Parties agree that:

(v) within 20 Business Days after receipt of the last of the executed Consent Orders, the State will execute the Consent Orders and the State and SWALSC will file in the Federal Court:

A. the executed Consent Orders;

B. affidavits in support of the making of the Consent Orders; and

C. joint submissions in support of the making of the Consent Orders; and

(vi) the State and SWALSC will jointly request the Federal Court to list the Claim for the making of a Determination of Native Title in accordance with the Consent Orders as soon as possible following the filing of the documents referred to in clause 6.3(c)(v) of this Agreement.

'Deemed Settlement Effective Date' means the date that is 40 Business Days after the date of a Deemed Settlement Effective Date Notice.

'Deemed Settlement Effective Date Notice' means a notice, which may be given by the State to SWALSC in the circumstances set out in clause 3.4 of this Agreement, of the State's decision that there will be a Deemed Settlement Effective Date in respect of this Agreement.

'ILUA Regulations' means the *Native Title (Indigenous Land Use Agreements) Regulations 1999* (Cth).

'Invalid Act' has the meaning given in the Settlement Terms.

'NT Act' has the meaning given in the Settlement Terms.

'Settlement Effective Date' has the meaning given in the Settlement Terms.

'Settlement Terms' means the document entitled "South West Settlement Terms" which is attached at Schedule 10 to this Agreement.

'State Party' has the meaning given in the Settlement Terms.

'Surrender' means the surrender to the State of all Native Title Rights and Interests in relation to the Agreement Area.

7. (a) Subject to clauses 9.6, 9.7 and 10, the State will make the payments and provide the benefits described in the Settlement Terms, in accordance with the provisions of the Settlement Terms, in consideration for the giving by the Native Title Agreement Group and the Related Native Title Agreement Groups of the consents and agreement mentioned in clauses 6 and 13 of this Agreement and of each of the Related Agreements.

(b) The Parties acknowledge that the Compensation provided for in the Settlement Terms includes compensation for the purposes of sections 24EB(5) and 24EBA(5) of the NT Act.

(c) The Parties acknowledge that the Settlement Terms, including the provisions of the Trust Deed, have been designed to ensure that the Compensation is to be applied for the benefit of the members of both the Native Title Agreement Group and the Related Native Title Agreement Groups generally.

'Compensation' has the meaning given in the Settlement Terms.

'Trust Deed' has the meaning given in the Settlement Terms.

Attachments to the entry

[WI2017_013 Schedule 1 Part 1 Description of external boundary.pdf](#)

[WI2017_013 Schedule 1 Part 2 Map of the Agreement Area.pdf](#)