



South West Aboriginal
Land & Sea Council

19 January 2012

Offer from the State of WA to Settle Native Title Claims in the SW

I am writing to you today about an important development in our effort to settle our native title claims.

I am happy to advise that in late November, the State Cabinet agreed to make an offer to resolve the native title claims of the south west. This was followed in December by a formal letter from the Premier confirming the Government's commitment to a settlement and confirming this offer.

This is a very significant development, and is the breakthrough SWALSC was waiting for during the course of 2011.

For several years SWALSC has been working with the Noongar community to negotiate with the State of Western Australia, and other parties such as the Commonwealth. Our goal has been a fair and just outcome to the native title claims, which have been before the Federal Court since the late 1990's.

For many years, the State of Western Australia refused to engage in negotiations. After the court cases we fought in 2005-2008, the State position changed. The State indicated that it would be interested in a settlement, if all the claims could be settled together. On this basis, and in consultation with claim groups, SWALSC commenced discussions in 2009 and formal negotiations in 2010.

The basis for the negotiations was the 10 areas set out in a "Heads of Agreement" document agreed in late 2009. The subject areas for negotiation reflected the aspirations of Noongars drawn from many meetings and discussions over many years.

The areas include:

- Recognition of Traditional Ownership
- Land Base
- Sustainable Economic Base
- Joint Management of Conservation Estate (National Parks)
- Access to Crown Land
- Access to Natural Resources for traditional purposes
- Community Development
- Revised Heritage Scheme
- Land Use Activity Regime
- Governance and operational structure

The important first step in moving to final agreement is a meeting between the State and a joint meeting of all the Working Parties - Yued, Ballardong, Whadjuk, Gnaala Karla Booja, South West Boojarah, and Wagyl Kaip. This will be known as the Working Party Congress and is planned for February 2012.

(please turn over)

At the Working Party Congress it is expected that the State will provide further details about the scope and overall size of the proposed agreement. The Working Party representatives will be able to address key State representatives to try to make sure the proposed in-principle agreement is as good as possible and covers all important matters.

The Working Party Congress will **not** be the sign-off for an agreement, this can only occur at full claim group meetings scheduled for late 2012. With the benefit of the feedback from the Congress, SWALSC and the Negotiation team will negotiate a final agreement with the State before coming back before a further Working Party Congress later in 2012 for final scrutiny before going to the claim groups.

If SWALSC and the Working Party Congress are satisfied that the final positions are as favourable as possible, and on balance, a better likely outcome than any which could be achieved through a native title battle in the Federal Court, the proposed settlement agreement will be presented to authorisation meetings of each of the claim groups late in 2012. The claim group meetings will be open to all members of each claim group.

At the end of the process, the final decision will rest with the Noongar people through their native title claim groups. Only if all the claim groups are in favour of the proposed final agreement can the agreement go ahead.

While the negotiations are proceeding, SWALSC will be holding an extensive series of community and claim meetings around Noongar country. SWALSC and negotiation team members will be talking with individuals, families, and larger groups about what is proposed and asking what people think.

This is history in the making. We have come this far in negotiations because we believe that the settlement proposed has the potential to be a strong form of recognition and more substantial, widespread, permanent and useful set of outcomes than the very limited rights and interests that would flow from a determination of native title, if we were successful in proving the native title case.

There are still many questions to be asked and answered on behalf of the Noongar People, by the Working Party Congress, by SWALSC, by the Negotiation Team and by members of the community.

SWALSC is excited about the prospect of reaching agreement with the State as such an agreement can be of great benefit to the Noongar people. SWALSC will be doing its best to keep you informed at every important step along the way, and will be advocating the best possible outcome for all Noongar people.

Yours sincerely



Glen Kelly
Chief Executive Officer

On behalf of the Negotiation Team



Noongar Native Title Negotiations with the WA State Government

Frequently Asked Questions

1. Will I get any of the settlement money?

Because a native title settlement is about the Noongar nation, the money from a settlement is for the support of all Noongar people and to cover the ongoing costs of programs and assets that come out of a settlement. This will all need to be self-funding so monies will go into an investment fund that will become the core communal financial resource for all Noongars (**Noongar Future Fund**). The annual interest earned from the Future Fund over the first ten years will be ploughed back into the fund so it grows into a more substantial fund. The underlying principle is that the settlement money is a communal resource (a **Noongar commonwealth**) that should be continually grown and available for all current and future generations of Noongars. The operations of the six new **Regional Noongar Corporations** will be funded for the first ten years by separate government funding. After that time, the funding for their operational programs will come from the interest earned by the Future Fund.

If the settlement money was simply divided up between individual Noongars, it would be quickly spent, and would be of no lasting value to future Noongar generations. So, while there will be no payments to individuals, there will be substantial **Community Development Programs** provided by regional Noongar corporations, as well as lands and assets that will be used to advance Noongar cultural, social and economic goals.

2. What type of Community Development Programs might be offered?

Each corporation will decide what programs are needed in their region. It's expected that programs will have to be capable of making a real difference to Noongars and a significant contribution to **nation-building** before they will be adopted. These might include **educational scholarships** (for school, TAFE, apprenticeship, university, and job training and re-skilling, school attendance and meal support); **cultural strengthening and language development; healing programs; business and employment enterprise support; an advocacy service** providing better access for Noongars to government and non-government health, housing, social and other services; **justice diversion, suicide prevention and youth engagement; and hardship support**.

3. Will I get a house?

No, a native title settlement doesn't buy houses for people. You will be able to use the **advocacy support service** that may help you get better access to public housing, access financial advice that might help you get a mortgage to buy a home, or take advantage of the many opportunities that will arise in order to secure yourself a home.

4. Will I get land?

The negotiation process has identified over 2,000 parcels of land that SWALSC wants transferred as part of the settlement. While the intention is that these parcels will become part of the Noongar commonwealth as the **Noongar Land Estate**, it is possible that some parcels may be sold or used for developments that would be of benefit to Noongar people. For example, it's conceivable that some land could be sold to fund developments such as Noongar retirement homes, or be developed to support Noongar housing. In addition, many of these parcels of land are designed to preserve important places, give Noongars cultural opportunities, and return significant amounts of country to Noongar people.

5. Will I get a car?

No, a native title settlement won't buy cars for people.

6. Will I get a job?

A good settlement is expected to lead to more employment opportunities for Noongars. The establishment of six regional Noongar corporations will each need to employ a small team to operate the community development programs, and most of these jobs will go to Noongars. However, real growth in Noongar employment is more likely to come through the efforts of the advocacy support unit in each region negotiating employment agreements associated with industrial and commercial developments in each region, through improved educational outcomes from scholarship support, and through joint management agreements and land management initiatives that require the employment of Noongar rangers.

7. Will I be able to get hardship help?

Each regional Noongar corporation is expected to provide a range of community development programs that would specifically include means-tested hardship help, especially for the elderly. These programs might include help with things like food parcels, urgent housing repairs, or funeral costs.

8. What will I get?

The settlement is designed to secure rights, interests, and recognition today, and to set up a better future for Noongars. The main components of the settlement are:

- (1) **Formal recognition** of Noongars (by Act of Parliament) as traditional owners of the south west;
- (2) **Customary rights** to access Country for hunting, fishing and cultural reasons;
- (3) A significant contribution of lands for the **Noongar Land Estate**;
- (4) A significant contribution of funds to the **Noongar Future Fund**, for all future generations;
- (5) Contribution of funds for governance and operations of the **Noongar Corporations** for ten years;
- (6) **Joint management of conservation estate** (national parks) including access to Crown land and natural resources for traditional purposes.

The first direct benefit all Noongars will get from the settlement is the long overdue recognition and respect as the acknowledged traditional owners of south west of WA. The second benefit will be equitable and transparent access to all the community development programs provided by the new Noongar Regional Corporations, including strengthening culture and language, support for wealth creation opportunities through education, employment, business, and land development, and improved health and welfare. A good settlement will give the Noongar nation a level of self-determination they have not enjoyed since before the colonisers "assumed" sovereignty over Noongar country on 11 June 1829.

9. What will my family get?

Families with children will benefit from the settlement as they will be able to access a range of support services designed to improve the educational outcomes and employment prospects of Noongar kids. The long term aim is to see a lot more young Noongars moving up into professional positions such as teachers, lawyers, doctors, and business leaders (where they can put something back and contribute to the nation building of the Noongar community). This is in addition to support for traditionally popular Noongar career paths such as the trades, public service, and the mining sector. Education is particularly important, and as Malcolm X said: **"Education is the passport to the future, for tomorrow belongs to the people who prepare for it today"**.

10. Will I still get government help?

Yes, all Noongars will still be able to access all the existing services provided by the State and Federal governments. The Noongar corporations will provide services that the Noongar community need, and that are not provided by other agencies.

11. Will I get help to start a business?

Yes. The Noongar corporations are expected to strongly support Noongar people wanting to start their own businesses.

12. Can we develop the land we get back?

Yes, it's possible that some of the parcels of land that are expected to be transferred to the Noongar Land Estate may be suitable for development. While this land will initially be a communal rather than an individual asset, it is expected that some land will be available for sub-lease to individuals and families on beneficial terms.

13. How can I become a Board member?

All Noongars over the age of 18 and who are members will be eligible to stand for election to their respective regional Noongar corporation board (subject to all the normal requirements).

14. What happens to Working Party members?

The role of the Working Parties will be transferred to the regional Noongar corporations, and members of the Working Parties will be eligible to stand for election to their respective regional Noongar corporation.

15. Will there be a youth council?

Yes, the future of young Noongars will be a major focus of the settlement, and a **Noongar Youth Council** will be expected to play a key part in the nation-building process.

16. In 50 years, how will people know who the Traditional Owners are?

The formal recognition of the Noongars as the traditional owners of the south west of WA (by Act of Parliament), and 50 years of nation-building that will follow are expected to result in renewed respect for the cultural authority of the Noongars, which will re-position us at the centre of West Australian cultural identity.

17. What happens to SWALSC and SWALSC staff?

SWALSC will be transformed into the **Central Noongar Corporation** and will provide support services to the Regional and Metro Noongar Corporations. The SWALSC staff profile will change, with less focus on native title legal issues and more intense focus on community, cultural and economic development, land management and nation building.

18. What happens to the cultural and language materials held by SWALSC?

All the cultural, language and historical materials will remain with SWALSC as the central Noongar corporation. It is intended that materials be developed into cultural resources for Noongar people and the Regional Corporations.

19. Will Kaartijin still be funded and running?

The funding supporting the Kaarrtijin project has been exhausted. SWALSC, as the central Noongar corporation will be expected to seek funding for the continuation of the project.

20. Who will look after the money?

The Noongar Future Fund will be administered by a board consisting of experienced business professionals, government and Noongar community representatives. The Regional Corporations will receive ongoing annual funding to run the programs, events and services that help their local community.

21. Who will look after the land?

The central **Noongar Trust** will hold Noongar Land Estate as a communal asset, but each regional corporation will take responsibility for the management of Noongar land in their respective region.

22. Why should Noongars support the negotiations?

Because it has the potential to deliver much better and broader outcomes, more quickly than a court-based native title settlement.

23. What are the 7 main reasons for supporting a negotiated outcome?

A good settlement has the potential to deliver:

- 1. Recognition of traditional ownership;**
- 2. A valuable land base;**
- 3. A better heritage regime;**
- 4. Joint management of protected areas;**
- 5. Rights of access to land for traditional purposes;**
- 6. A community development package addressing Noongar health, education, & welfare priorities;**
- 7. An ongoing revenue stream that supports these outcomes in a sustainable way for all future generations of Noongars.**

24. How long will the negotiations take to complete?

The negotiations are expected to take at least until the end of 2012 before being ready for implementation in early 2013.

25. Who will benefit from a successful negotiation?

All Noongars will benefit. Unlike many other native title agreements, this agreement is based on the principle of equity and collective benefit for all Noongars.

26. What happens if the negotiations fail?

If the negotiations fail to deliver a good settlement, the parties would simply return to the Federal Court process, which may take anything between up to 20 years to complete. But there are no guarantees about the success or outcomes of the court process.

27. Who gets to make the final decision?

The members of each of the six claim groups will make the final decision on whether to accept or reject any offer of settlement. This will happen at claim group authorisation meetings in late 2012 to which all Noongars will be welcomed. Anything that happens before this is a preliminary step.