



Department of Planning,  
Lands and Heritage



## Content of ENGSHA (in full) Heritage Survey Reports and Provision to the Department of Planning, Lands and Heritage

### Esperance Nyungar Indigenous Land Use Agreement

On the 14<sup>th</sup> March 2014, the Federal Court made a Determination of non-exclusive Native Title in respect of the Esperance Nyungar claim encompassing the Shires of Esperance and Ravensthorpe.

On the same day, the Esperance Nyungar Indigenous Land Use Agreement (ENILUA), and the Esperance Nyungar Government Standard Heritage Agreement (ENGSHA), were each executed between the Esperance Nyungar Native Title Group, the State of Western Australia and each of the Government Parties. The ENGSHA area (agreement area) covers approximately 29,000 square kilometres in the area surrounding Esperance.

Since 14 April 2014, WA Government Departments and Agencies are bound to follow the ENGSHA when seeking to undertake on-ground activities in the Esperance Nyungar native title determination area. A formal review of the ENGSHA resulted in a Variation Agreement which came into effect on 5 October 2020. The Variation Agreement amends particular terms of the ENGSHA. All who were bound by the ENGSHA continue to be bound by the ENGSHA as varied by the Variation Agreement from 5 October 2020.

The ENGSHA provides a uniform and efficient approach to Aboriginal Heritage Surveys over the agreement area, in compliance with the *Aboriginal Heritage Act 1972*. The ENGSHA provides all Parties with a clear, timetabled framework about their various Aboriginal heritage obligations. The ENGSHA also delivers a process for improving the quality of data on the WA Government's Aboriginal Heritage Inquiry System (AHIS), which in turn enhances protection of Aboriginal heritage through the identification of sites that are important to the Esperance Nyungar people.

#### Contents of the Aboriginal Heritage Survey Report and Survey Type

There are a number of different types of Surveys such as Site Identification, Site Avoidance, and Works Program Clearance. Surveys can also be either Ethnographic, Archaeological or both, depending on the circumstances and attributes of the site being surveyed.

The Aboriginal Heritage Service Provider will, in consultation with the Survey Team, prepare a Survey Report in accordance with the ENGSHA guidelines (*clause 12* and Schedule 6 of the ENGSHA):

- Where the Survey being conducted is a Site Avoidance Survey the information set out in clause 12.4 and Part 2 of ENGSHA Schedule 6;
- Where the Survey is a Site Identification Survey (as defined at clause 1.1) the information set out in *Part 3* of ENGSHA Schedule 6 (including recommendations on the type of site and how it should be protected);

- Describe which aspects (if any) of the Activity Program described in the Activity Notice, if carried out, would be likely to result in a breach of the *Aboriginal Heritage Act 1972* (AHA); and
- Records sufficient information to enable the Proponent to plan and, subject to the law and the ENGSHA.

The Survey Report will record sufficient information to enable the Government Proponent to:

- Plan and, subject to the law, undertake the things that are the subject of the Activity Notice; and
- Lodge an Aboriginal Heritage Act Section 16 or Section 18 Application supported by all necessary information, where the Parties have been made aware of the proposed application in accordance with *clause 16*.

#### **Aboriginal Heritage Information to be provided**

Under *clause 12.6* of the ENGSHA, it is the responsibility of the Parties to ensure the completed Heritage Survey Report and other information is provided to the Department of Planning, Lands and Heritage (DPLH).

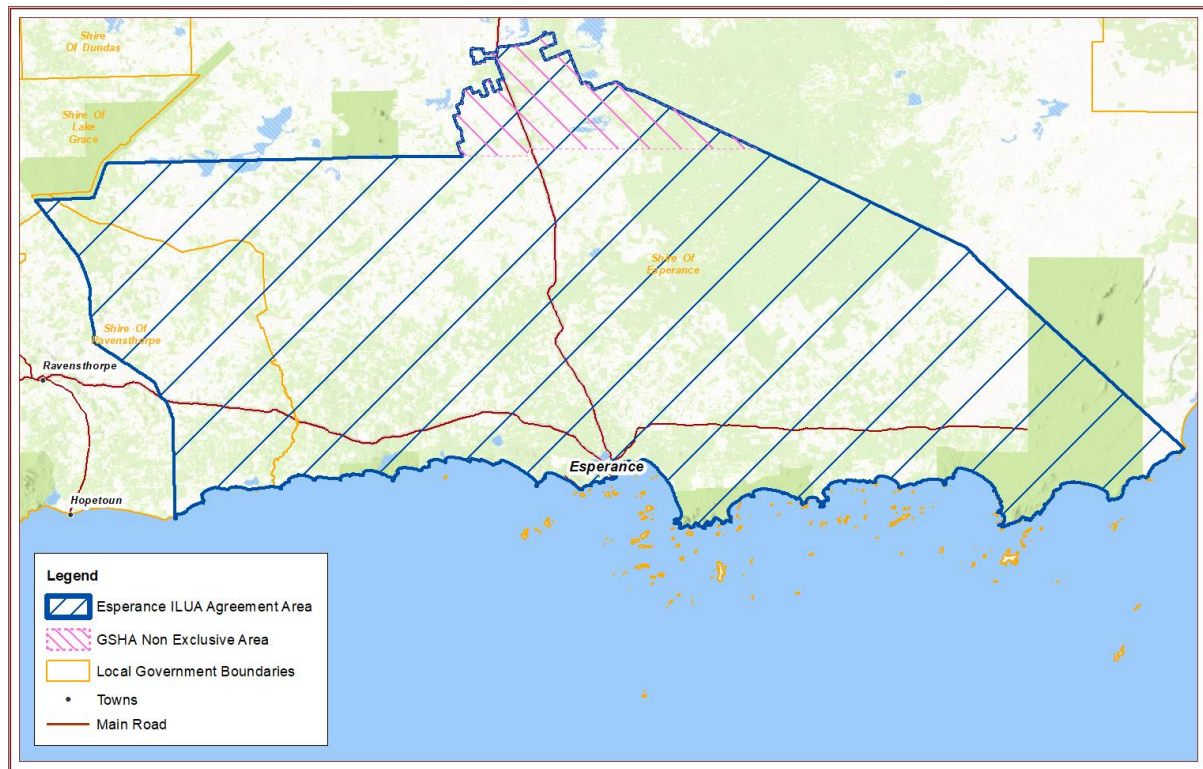
Within 15 business days of the completion of the Survey Report, the PBC must provide the following information to DPLH and the Aboriginal Heritage Act Registrar:

- A copy of the Survey Report to DPLH; and
- If the Aboriginal Sites have been identified during the Site Identification Survey that have not previously been recorded, or additional information has been received about a previously recorded site, a Heritage Information Submission Form with respect to each site.

The State shall ensure that DPLH maintains the confidentiality to all Survey Reports, as referred to in *clause 12.6*, which are in the DPLH's possession, in accordance with the provisions of *clause 21*.

**For more information:** Insert Esperance Inbox

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**Map of the Esperance Nyungar Indigenous Land Use Agreement Area.**