

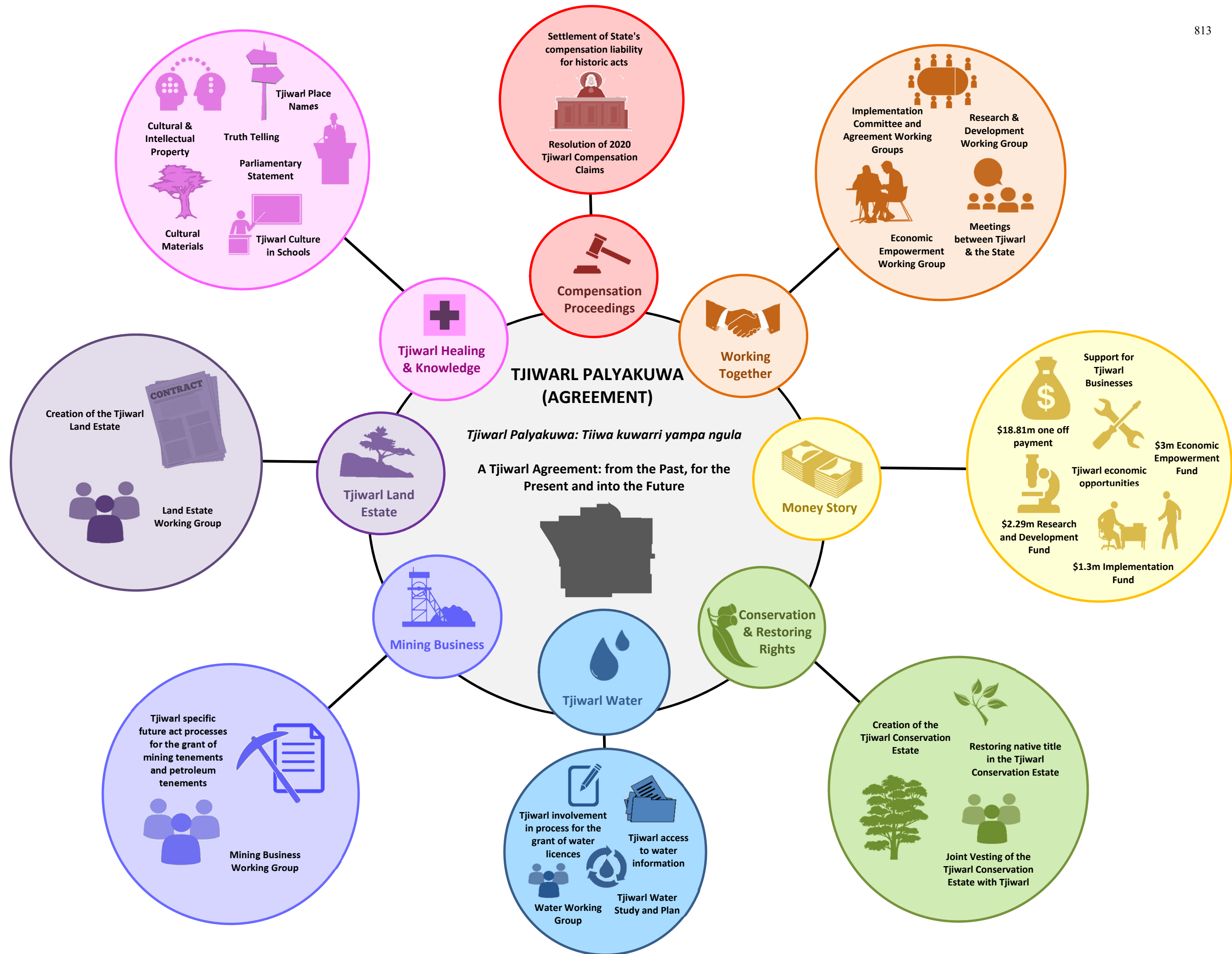
TJIWARL PALYAKUWA (AGREEMENT)

SCHEDULE 9

Agreement Summary

Summary Diagram and Fact Sheets

The following summary diagram and fact sheets are a simplification of the Tjiwarl Palyakuwa (Agreement). They are provided for ease of reference and illustration purposes only. If there is any inconsistency between the summary chart or fact sheets and the text of the Tjiwarl Palyakuwa (Agreement), the text of the Agreement prevails.





***Tjiwarl
Palyakuwa: Tiiwa
kuwarri yampa
ngula***

A Tjiwarl
Agreement: from
the Past, for the
Present and into
the Future

OVERVIEW

Tjiwarl Palyakuwa (Agreement)

What is in the Agreement?

The Tjiwarl Palykuwa (Agreement) is an indigenous land use agreement (ILUA) between the State and Tjiwarl AC (on behalf of the Tjiwarl people) that resolves the State's native title compensation liability in relation to Tjiwarl Country. The Agreement provides the Tjiwarl people with a package of benefits that compensates them for historic acts by the State that have impaired or extinguished their native title.

It is designed to support the cultural, social and economic aspirations of current and future generations of Tjiwarl people.

The package of benefits includes:

- Monetary compensation of \$25.475 million.
- Funding provided prior to registration for a socio-economic baseline study.
- The transfer of ownership of land parcels to Tjiwarl, including the grant of freehold without affecting native title and a process for any future grants of land.
- The creation and expansion of the Tjiwarl Conservation Estate, including the joint management and joint vesting of the Tjiwarl Conservation Estate with Tjiwarl AC.
- The recognition of exclusive native title rights under s.47C of the *Native Title Act 1993* (Cth) within the Tjiwarl Conservation Estate.
- The involvement of Tjiwarl in the ongoing management of water on Tjiwarl Country, including processes with respect to the grant of licences under the *Rights in Water and Irrigation Act 1914* (WA).
- Tjiwarl specific future act processes for the grant of certain mining and petroleum tenements and titles on Tjiwarl Country.
- Support for Tjiwarl businesses and economic opportunities for Tjiwarl people.
- Support for the recognition or protection of Tjiwarl people's language, culture and history, including with respect to place names, cultural materials and indigenous cultural and intellectual property.



COMPENSATION PROCEEDINGS Tjiwarl Palyakuwa (Agreement)

What is in the Agreement?

The Tjiwarl Palyakuwa (Agreement) resolves the State's native title compensation liability for historic acts and provides the Tjiwarl people with a package of benefits that compensates them for those historic acts that have impaired or extinguished their native title.

The Agreement will also resolve any claim made against the State in the three compensations claims that the Tjiwarl People made in 2020 in the Federal Court of Australia under the *Native Title Act 1993* (Cth).

Settlement of the State's Compensation Liability

The Agreement **will** resolve the State's compensation liability to the Tjiwarl People in relation to:

- all acts done in Tjiwarl Country up until 17 June 2020, whether or not those acts were included in the Tjiwarl compensation claims;
- certain acts that were done after 17 June 2020, limited to the renewal or extension of particular mining tenements; and
- all acts associated with the creation of the Tjiwarl Conservation Estate.

The Agreement **will not** resolve any liability that **holders of mining tenements** have in respect of acts the subject of the Tjiwarl compensation claims that are mining tenements granted on or after the commencement of section 125A of the *Mining Act 1978* (WA) on 11 January 1999 that were valid in accordance with Part 2, Division 3, Subdivision M of the Native Title Act.

Resolution of the Tjiwarl compensation claims

The Agreement provides that the Tjiwarl compensation claims (WAD 141/20, WAD 142/20 and WAD 269/20) will be amended to withdraw any claim against the State.

Settlement of the State's compensation liability for acts done before 17 June 2020 and only certain acts done after

No settlement of mining tenement holders' liabilities which arise under s.125A of the Mining Act 1978 (WA)

Amendment of the Tjiwarl compensation claims to withdraw any claim against the State



WORKING TOGETHER

Tjiwarl Palyakuwa (Agreement)

Implementation Committee

Working Groups

Research and Development

Economic Empowerment

Mining Business

Water

Land Estate

Other Meetings

Minister for Aboriginal Affairs

Native Title Deputies Group

Aboriginal Affairs Coordinating Committee

What is in the Agreement?

The State and the Tjiwarl people have worked together to negotiate the Tjiwarl Palyakuwa (Agreement) and will continue to work together to implement the Agreement through a number of specific working groups and other agreed forums.

Implementation Committee

The Implementation Committee, comprised of Tjiwarl and State government representation, will work collaboratively to oversee, facilitate and implement the Agreement. Its aim is to foster regular and open communication between the State and Tjiwarl people about the Agreement and its operation.

Working Groups

In addition to the Implementation Committee, the Agreement provides for a number of specific working groups to oversee parts of the Agreement. These include the:

- Research and Development Working Group;
- Economic Empowerment Working Group;
- Mining Business Working Group;
- Water Working Group; and
- Land Estate Working Group.

Other meetings

To further encourage an ongoing relationship between the State and Tjiwarl people the Agreement provides for:

- an Annual Meeting between Minister for Aboriginal Affairs and Tjiwarl Aboriginal Corporation for at least the first three years of the Agreement;
- meetings between Tjiwarl AC and the State Native Title Deputies Group; and
- a recommendation for an annual regional meeting of Aboriginal Affairs Coordinating Committee in the Goldfields, with Tjiwarl AC representatives invited to attend.



MONEY STORY

Tjiwarl Palyakuwa (Agreement)

\$25.475M

in monetary payments

\$18.81M

Cash Payment

\$2.29M

Research & Development Fund

\$3M

Economic Empowerment Fund

\$1.375M

Implementation Fund

Up to \$400,000

Socio-economic Baseline Study

Support for Tjiwarl Businesses & Economic Opportunities

What is in the Agreement?

The Tjiwarl Palyakuwa (Agreement) provides monetary payments totalling \$25.475 million, together with funding for a socio-economic baseline study.

The Agreement also provides support for Tjiwarl businesses and economic opportunities for Tjiwarl people.

Monetary Payments

- \$18.81 million one off cash payment.
- \$2.29 million (paid in two instalments) for a Research and Development Fund.
- \$3 million (paid in two instalments) for an Economic Empowerment Fund.
- \$1.375 million one off payment for an Implementation Fund.
- Up to \$400,000 paid prior to the registration of the Agreement to fund a socio-economic baseline study.

Support for Tjiwarl businesses and economic opportunities

The Agreement provides a number of measures to help support Tjiwarl businesses and provide economic opportunities for Tjiwarl people, including:

- State encouragement for equity ownership and the engagement of Tjiwarl businesses in projects on Tjiwarl country;
- State support for Tjiwarl businesses to identify and access local tendering or procurement opportunities and business capacity building programs; and
- a commitment by the State to maximise existing and new carbon opportunities for Tjiwarl people; and
- a commitment by the State to maximise commercial sandalwood opportunities for Tjiwarl people.



CONSERVATION & RESTORING RIGHTS Tjiwarl Palyakuwa (Agreement)

Tjiwarl
Conservation
Estate
Expanded
Wanjarri Nature
Reserve
New Yeelirrie
Lake Mason
Reserve

Joint Vesting &
Management
of the Tjiwarl
Conservation
Estate

\$19.5M
For joint
management

s.47C NTA
Recognition of
exclusive native
title within the
Tjiwarl
Conservation
Estate

What is in the Agreement?

The Tjiwarl Palyakuwa (Agreement) provides for the creation of the Tjiwarl Conservation Estate. The State will expend \$19.5 million over 10 years to jointly manage the Tjiwarl Conservation Estate with the Tjiwarl people.

The Agreement also provides for recognition of exclusive native title rights under s.47C of the *Native Title Act 1993 (Cth)* within the Tjiwarl Conservation Estate.

Tjiwarl Conservation Estate

The Agreement provides for the creation of the Tjiwarl Conservation Estate by the expansion of the existing Wanjarri Nature Reserve and the creation of a new Yeelirrie Lake Mason Reserve.

Tjiwarl people will have the opportunity to name (or rename) the reserves within the Tjiwarl Conservation Estate.

The Tjiwarl Conservation Estate will be jointly vested and jointly managed by the Conservation Commission and Tjiwarl AC. An agreed management plan will apply over the Tjiwarl Conservation Estate.

The State will expend \$19.5 million over 10 years to jointly manage the Tjiwarl Conservation Estate, of which no less than \$11.2 million will be spent for the benefit of Tjiwarl. This funding includes funding for field visits, heritage and cultural mapping, the expansion of a ranger base and the creation of opportunities for Tjiwarl people and Tjiwarl businesses.

Restoring Rights to Country

The Agreement provides for the application of s.47C of the *Native Title Act* to restore exclusive native title over the expanded Wanjarri Nature Reserve and recognise exclusive native title over those parts of Yeelirrie Lake Mason Reserve where non-exclusive native title presently exists.



WATER

Tjiwarl Palyakuwa (Agreement)

Tjiwarl Water Study & Tjiwarl Water Plan

To identify and help optimise the management of water resources in Tjiwarl County

Access to Water Information

Grant of Water Licences

Process for the grant of water licences in Tjiwarl Country

Water Working Group

What is in the Agreement?

The Tjiwarl Palyakuwa (Agreement) recognises the spiritual relationship of Tjiwarl people to water, the importance of access to water resources by Tjiwarl people and the need for Tjiwarl input into the management of water on Tjiwarl Country.

Tjiwarl Water Study and Plan

The State and Tjiwarl AC have agreed to undertake a Tjiwarl Water Study to identify the water resources located in Tjiwarl County and the cultural, environmental and economic values of those water resources. Following the Tjiwarl Water Study, a Tjiwarl Water Plan will be jointly developed to:

- identify the quality, quantity and location of water resources in Tjiwarl Country;
- identify any opportunities for water allocation to Tjiwarl People; and
- help to set environmental and cultural water outcomes and optimise the management of water in Tjiwarl Country.

Access to Water Information

The Agreement establishes a process for Tjiwarl AC to seek to access certain information relating to licenses and permits granted under the *Rights in Water and Irrigation Act 1914* (WA).

Process for the Grant of Water Licences

The Agreement establishes a Tjiwarl specific future act process for the grant of water licenses under the *Rights in Water and Irrigation Act* which provides Tjiwarl people with an opportunity for earlier engagement with licence applicants and involvement in the grant process.

Water Working Group

The Agreement establishes the Water Working Group, a joint body between Tjiwarl AC and the State, to oversee and implement the commitments and processes made with respect to water in Tjiwarl Country.



MINING BUSINESS

Tjiwarl Palyakuwa (Agreement)

Process for the grant of mining tenements and petroleum titles

Early notice of applications

Early engagement with proponents

Negotiation period prior to Native Title Act future act notifications

Avoidance of Native Title Act future act notifications where agreement reached

Tjiwarl Heritage Agreement conditions on title

Mining Business Working Group

What is in the Agreement?

The Tjiwarl Palyakuwa (Agreement) establishes of a process for the grant of tenements under the *Mining Act 1978 (WA)* and the *Petroleum and Geothermal Energy Resources Act 1967 (WA)* within Tjiwarl Country.

Process for the grant of tenements and titles

The Agreement establishes a Tjiwarl specific future act process for the grant of mining tenements and petroleum titles in Tjiwarl Country. The processes to be followed in relation to tenements and titles depend upon the type and location of the relevant tenement or title.

By way of overview, the process provides for:

- identification of areas within Tjiwarl Country where stronger processes will apply for the grant of exploration type tenements and titles;
- early engagement between proponents and Tjiwarl AC with a focus on agreement making, including a standard agreement for certain exploration type tenements and titles;
- increased State involvement in assisting Tjiwarl AC and Proponents; and
- valid grants of tenements and title to occur where an agreement is reached between Tjiwarl AC and the Proponent without needing to undertake a formal notification process under the *Native Title Act 1993 (Cth)*.

The Tjiwarl specific future act process will ensure proponents engage directly with Tjiwarl at the first step of their tenement or title applications.

Mining Business Working Group

The Agreement establishes the Mining Business Working Group, a body between Tjiwarl AC and the State, to oversee and implement the commitments and processes made with respect to the grant of tenements and titles in Tjiwarl Country.



Tjiwarl Land Estate

Handover of the First Stage Lands in freehold

Process to identify, select, approve and handover Second Stage Lands, Cultural Lands and Future Lands

Land Estate Working Group

TJIWARL LAND ESTATE

Tjiwarl Palyakuwa (Agreement)

What is in the Agreement?

The State has worked with the Tjiwarl people, and will continue to work with the Tjiwarl people to identify available land parcels in Tjiwarl Country that can be transferred to Tjiwarl AC (or another Tjiwarl landholding body or bodies) under the Tjiwarl Palyakuwa (Agreement).

Tjiwarl Land Estate

The Agreement provides for the creation of the Tjiwarl Land Estate through the transfer of lands to Tjiwarl AC or a Tjiwarl landholding body or bodies.

Following the commencement of the Agreement, the State will handover certain parcels of land in freehold to Tjiwarl. These lands are called First Stage Lands in the Agreement. The handover of the First Stage Lands and creation of freehold will not extinguish Tjiwarl people's underlying native title rights and interests.

The Agreement also provides processes for the ongoing identification, selection, approval and handover of other lands in Tjiwarl Country to Tjiwarl. These include:

- Second Stage Lands, which are lands that are unallocated Crown land (UCL) or unmanaged reserves (UMR) at the time the Agreement is made;
- Cultural Lands, which are lands that are not UCL or UMR at the time the Agreement is made but are of cultural, social, spiritual or historical importance to the Tjiwarl people; and
- Future Lands, which are lands that are:
 - not UCL or UMR at the time the Agreement is made but which later become UCL or UMR; or
 - are Second Stage Lands which did not get the required statutory or administrative approvals for handover as part of the Second Stage handover.

Land Estate Working Group

The Agreement establishes the Land Estate Working Group, a body between Tjiwarl and the State, to establish the Tjiwarl Land Estate.



TJIWARL HEALING & KNOWLEDGE

Tjiwarl Palyakuwa (Agreement)

Tjiwarl Place Names

Naming, renaming and erecting appropriate signage

Tjiwarl Culture in Schools

Tjiwarl Truth Telling

Cultural Materials

Identification and management of Tjiwarl cultural materials

Tjiwarl Cultural & Intellectual Property

Parliamentary Statement

What is in the Agreement?

In recognising the importance of Tjiwarl people's language, culture and history, the State has made a number of commitments in the Tjiwarl Palyakuwa (Agreement) for the advancement, protection or support of Tjiwarl language, culture and history.

Tjiwarl Place Names

The State and Tjiwarl AC will work together to name, or rename, places within Tjiwarl Country. The State will also support Tjiwarl AC to approach local governments to erect appropriate signage within Tjiwarl Country.

Tjiwarl Culture in Schools

The State and Tjiwarl AC will explore how information about Tjiwarl language, history and culture can be incorporated into regional schools as part of the State's commitment to developing culturally responsive schools.

Cultural Materials

The State and Tjiwarl AC will develop a process for the identification of Tjiwarl cultural materials within the WA Museum collections and develop an approach to the ongoing management of that material and explore options for return.

Cultural and Intellectual Property

The State and Tjiwarl AC will work together to maximise existing and new opportunities to recognise, protect, maintain, record and further Tjiwarl AC's aspirations with respect to its indigenous cultural and intellectual property.

Parliamentary Statement

The Minister for Aboriginal Affairs will deliver a statement in Parliament acknowledging the importance of the Agreement to the State, and its support for the Tjiwarl People.