



Department of  
the Premier and Cabinet



# SOUTH WEST NATIVE TITLE SETTLEMENT

## REGIONAL CORPORATION GUIDE

NOVEMBER 2023

## **Disclaimer**

The Regional Corporation Guide (Guide) provides an outline of the roles and responsibilities of the Noongar Regional Corporations within the Noongar Governance Structure of the South West Native Title Settlement (Settlement), and their relationship to other Settlement parties. While the Guide includes information about the roles and responsibilities of other Settlement parties, it does so from the perspective of the Regional Corporations rather than intending a comprehensive summary.

The Guide has been prepared for information purposes only – it does not constitute legal advice. Readers should refer to the source documents referenced in this report, including the relevant Indigenous Land Use Agreements, Noongar Boodja Trust Deed and Regulations, and Noongar Corporation Rule Books, for specific legal requirements.

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## Using this Guide

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# Part 1 – Introduction and Background

This Guide provides an overview of the Noongar Regional Corporations (**RCs**) established under the South West Native Title Settlement, and their involvement in the Noongar Governance Structure.

## Purpose of the RC Guide

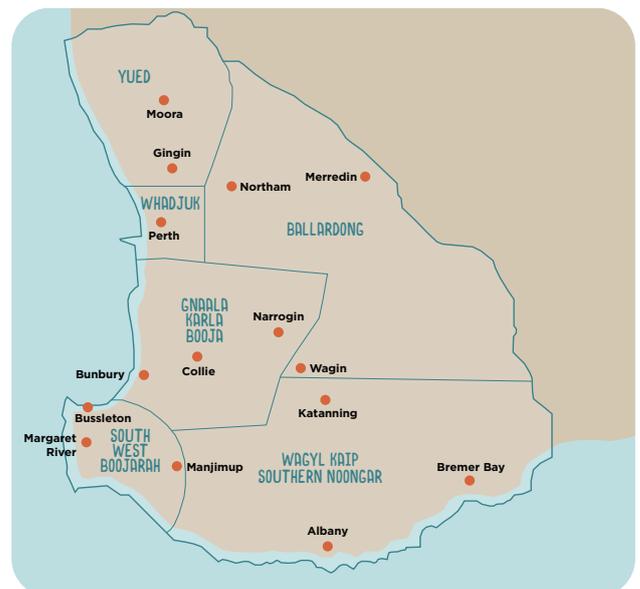
1. The RC Guide is intended to be a practical introductory resource, outlining the obligations and functions of the RCs under the Noongar Governance Structure (**NGS**), and the RCs' connection to the broader NGS. It is primarily intended to assist the RCs' leaders in identifying and understanding the RC key tasks and involvement in various elements under the NGS.
2. The RC Guide will be a useful tool for the RCs' Directors, CEO, staff and others involved in the Noongar Governance Structure.

## Background to the Settlement

3. The South West Native Title Settlement (**Settlement**) is the most comprehensive native title agreement negotiated in Australian history and covers approximately 200,000 square kilometres of the south-west region of Western Australia.
4. The Noongar Community has expressed their vision and aspirations for the Settlement for improved cultural, social and economic outcomes<sup>1</sup>.
5. The Settlement formally commenced on 25 February 2021 and is made up of six individual Indigenous Land Use Agreements (**ILUAs**) which relate to the following Noongar Native Title Agreement Groups (**Agreement Groups**):

- Ballardong People;
- Gnaala Karla Booja;
- South West Boojarah #2 (RC is named Karri Karrak);
- Wagyl Kaip Southern Noongar;
- Whadjuk People; and
- Yued.

Each of these Agreement Groups is represented by a RC.



1 See SWALSC [website](#)

6. Settlement negotiations between the State of Western Australia and the Noongar People commenced in 2010 and involved the following key milestones<sup>2</sup>:

DATE	EVENT
<b>Early 2015</b>	Authorisation Meetings were held for each Agreement Group, authorising the ILUAs and resolving to enter into the Settlement.
<b>8 June 2015</b>	The six ILUAs were executed (signed off by the parties) and the Noongar Standard Heritage Agreement provisions commenced.
<b>6 June 2016</b>	The following Acts were proclaimed: <ul style="list-style-type: none"> <li>• <i>Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016</i>; and</li> <li>• <i>Land Administration (South West Native Title Settlement) Act 2016</i>.</li> </ul>
<b>7 June 2016</b>	The Water By-laws were gazetted: <ul style="list-style-type: none"> <li>• <i>Country Areas Water Supply Amendment By-laws 2016</i>; and</li> <li>• <i>Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws 2016</i>.</li> </ul>
<b>17 October 2018</b>	The Registrar of the National Native Title Tribunal announced that all 6 ILUAs were registered.
<b>December 2018</b>	Applications for judicial review of the Registrar's decision were lodged in the Federal Court.
<b>May and November 2019</b>	Hearings were held to hear oral submissions on the grounds of review.
<b>December 2019</b>	The Full Bench of the Federal Court handed down its decision, rejecting the applications for judicial review.  Applications were then lodged with the High Court of Australia seeking special leave to appeal the decision of the Full Bench of the Federal Court.
<b>26 November 2020</b>	The High Court rejected the special leave applications. This decision cleared the way for the implementation of the Settlement ILUAs between the State of Western Australia and the Noongar People.
<b>27 January 2021</b>	The six ILUAs comprising the Settlement were conclusively registered.

<sup>2</sup> SWALSC website: <https://www.noongar.org.au/about-settlement-agreement>; see also [timeline](#) on WA Government website.

DATE	EVENT
<b>25 February 2021</b>	The Settlement formally commenced.
<b>29 March 2021</b>	The Noongar Boodja Trust was established, with Perpetual Trustee Company Limited as the initial Trustee.
<b>22 April 2021</b>	The Western Australian (WA) Government made the first of 12 annual payments into the Noongar Boodja Trust.
<b>14 July 2021</b>	The first land transfers to the Noongar Boodja Trust occurred, commencing a five year process to create the Noongar Land Estate.
<b>August – September 2021</b>	Each of the Agreement Groups held pre-incorporation Agreement Group meetings, appointed Initial Directors and endorsed the registration of their RC with ORIC, and endorsed SWALSC as the Central Services Corporation ( <b>CSC</b> ).
<b>September – November 2021</b>	The six RCs were registered with the Office of the Registrar of Indigenous Corporations ( <b>ORIC</b> ).
<b>13 June 2022</b>	The WA Government endorsed SWALSC as CSC.
<b>29 June 2022</b>	The Trustee for the Noongar Boodja Trust appointed SWALSC as CSC.
<b>June-July 2022</b>	General Meetings were held by the six RCs to confirm the Member Directors and Cultural Advice Committees.
<b>July 2022</b>	RC Member Directors commenced processes to appoint Expert Directors and recruit CEOs.
<b>October- November 2022</b>	The WA Government and the Trustee for the Noongar Boodja Trust respectively considered the endorsement, appointment and operational readiness of the RCs, to enable operational funding.
<b>November 2022</b>	All RCs formally appointed by the Trustee for the Noongar Boodja Trust, following endorsement by their Agreement Groups and the WA Government.
<b>December 2022</b>	Noongar RC Deeds of Novation were signed and commenced. RCs became parties to their respective ILUAs.

## Native Title

7. As a result of the Settlement and the registration of the six ILUAs, any native title rights and interests that may have existed in the Settlement Area were resolved on 13 April 2021. The underlying native title claims were then substantially finalised by the Court on 1 December 2021, with outstanding areas of the claims finalised in July 2022.
8. The Settlement arrangements now replace the *Commonwealth Native Title Act 1993* in the Settlement area. While Native Title Act future act processes no longer occur within the Settlement Area, legislative obligations relating to the protection of Aboriginal heritage continue to exist alongside the ILUA heritage provisions.

## Key Documents

9. The technical requirements for the RCs and the Noongar Governance Structure are documented across a range of documents as follows:
  - ILUAs (particularly the Settlement Terms at Schedule 10, and Annexures)
  - Each RC Rule Book
  - RC Principles (Annexure E of Schedule 10 of each ILUA)
  - The Noongar Boodja Trust Deed (including CSC Service Delivery at Schedule 2 and RC Core Functions at Schedule 3)
  - CSC Rule Book
  - CSC Principles (Annexure E of Schedule 10 of each ILUA)
10. These documents are detailed, having regard to the breadth and scope of the Settlement Package, and the long term significance of the NGS. Together they set out the governance requirements for the RCs, and the obligations of the RCs under the Settlement and within the NGS.
11. In summarising and explaining the key elements and provisions of the Settlement and the key documents, the RC Guide includes a number of cross references, to enable the reader to easily locate and explore the topic further in the source document.

## Supporting Documents

12. A range of other supporting information and documents have been prepared during the transition period, to communicate the various elements of the Settlement Package and the role of the RCs. Where appropriate, this Guide includes relevant cross references to supporting documents (see also Schedule 2: Resource Documents):
  - Noongar Boodja Trust 2021: [A Community Guide](#)
  - Transition Program: [Establishment of the Regional Corporations 2019](#)
  - Transition Program: [Central Services Corporation 2019](#)
  - Noongar Governance [Manual 2016](#)
  - SWALSC [website](#)
  - Department of the Premier and Cabinet [website](#)
  - Noongar Boodja Trustee [website](#)

# Part 2 – Noongar Recognition Act

*The Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016 (WA) (Noongar Recognition Act)* recognises the Noongar Peoples' important relationship with the Noongar lands, and their significant and unique contribution to the heritage, cultural identity, community and economy of WA.

## Overview of the Noongar Recognition Act

1. The Noongar Nation is one of the largest Aboriginal cultural blocs in Australia and covers the entire south-west corner of Western Australia.
2. The recognition of the Noongar People as the Traditional Owners of the south west region of Western Australia was a central component of the Settlement package.
3. The *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill* was introduced to the Western Australian Parliament on 14 October 2015 and the Noongar Recognition Act was proclaimed on 6 June 2016.
4. Under the Noongar Recognition Act, the Western Australian Parliament:
  1. acknowledges and recognises the Noongar People as the traditional owners of the Noongar lands; and
  2. recognises:
    - i) the living, cultural, spiritual, familial and social relationship that the Noongar People have with the Noongar lands; and
    - ii) the significant and unique contribution the Noongar People have made, are making, and will continue to make, to the heritage, cultural identity, community and economy of Western Australia.
5. The Noongar Recognition Act is historically significant for the State and is also the first statute in Western Australia to incorporate an Aboriginal language.

# Part 3 – Regional Corporation Overview

The RCs are a key component of the Noongar Governance Structure and represent the interests of and deliver services to the Noongar Community of that Region.

## Role of the Regional Corporation

1. The ILUAs prescribe that six RCs are to be established, one in each of the ILUA regions, and one Central Services Corporation to support the RCs.
2. The establishment of the RCs is the culmination of many years of hard work and dedication across the Noongar Community.
3. The RCs will need to understand their role amongst the broader NGS, and both the opportunities and limitations of their functions. The RCs' purpose, roles and responsibilities are guided by:
  - The RC Rule Book
  - The RC Principles
  - The Trust Deed
  - The ILUA and its Schedules
4. The RC Principles<sup>3</sup> are the key principles set out in the ILUAs that establish the minimum guidelines for the RCs' structure, Rule Book and operations of the RCs.
5. A high level summary of the RC's roles and responsibilities contained in each of the documents mentioned above is set out on the next pages.

## Rule Book – Objects

The RC is established to advance the wellbeing of Aboriginal people living within the Region, including by:

- **Directly assisting the Agreement Group to:**
  - Maintain, protect, promote and support their culture, customs, heritage, identity, lore, and language including through Elders knowledge, published historical research and oral histories
  - Manage and use the land and waters within the Region to which they have a Traditional Connection

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3 Schedule 10, Annexure E, Part B of the ILUA

- **Directly assisting and supporting the Agreement Group to manage their native title benefits arising under the ILUA including to:**
  - Exercise the rights and comply with the obligations of a RC under the ILUA and Trust Deed
  - Exercise the rights and comply with the obligations of the Agreement Group under the ILUA
- **Undertaking any other things or activities which are incidental or ancillary to the attainment of the above objects**
- **Only act in a manner that is for charitable purposes**

### **In pursuing the Objects the RC:**

- Must conduct itself in accordance with the RC's Cultural Advice Policy
- May work with the broader population of Noongar People across all Noongar Lands to achieve and advance the aspirations of the Noongar Settlement
- May benefit members of the Noongar People other than the Agreement Group provided such benefits are incidental to and consistent with the RC's Objects
- Must not pay or apply any of its funds or property in dividends, bonus or otherwise to any Member, except for the payment in good faith of reasonable and proper remuneration to any Member, Officer, servant, agent, consultant, contractor, or employees of the RC

**The RC must do such other things as are incidental or conducive to the delivery of the RC Core Functions outlined in the Schedule 3 of the Trust Deed.**

## **Trust Deed – RC Core Functions**

- Implement the ILUA for the Region
- Communicate information regarding the Settlement, ILUA and Trust to the RC and Agreement Group members
- Comply with all governance requirements
- Participate in the Noongar Corporations Committee
- Facilitate cultural decision making processes
- Be an advocate for the Agreement Group with key stakeholders
- Develop cultural and community programs
- Manage lands and develop land management programs for Noongar Land Estate
- Engage in co-operative and joint management of the conservation estate where appropriate
- Develop heritage programs and ensure proper implementation of the heritage provisions of the ILUA
- Provide support to the Agreement Group in identifying economic participation opportunities
- Work with the Trustee and the CSC to identify and progress property development opportunities across the Noongar Land Estate

## ILUA RC Principles

The RC Principles guide the RC's structure, Rule Book operations and address the following matters:

- Form of rule Book and objects
- Not-for-profit status
- Prohibited Commercial Activities
- Membership
- Board of Directors
- Noongar Capacity Development
- Relationship with the Trust
- Relationship with the RCs
- Cultural land access and decisions

## ILUA Activities

- Establish a **Cultural Advice Committee**
- Enter **Noongar Heritage Partnership Agreement (NHPA)** and establish **Noongar Heritage Partnership Steering Group (NHPSG)**
- RC Reps to join **Indigenous Land Use Agreement (ILUA) Review Committee**
- Establish **Community Development Reference Group (CDRG)**, engage **District Leadership Group (DLGs)**, give effect to **Community Development Framework (CDF)**
- Execute **Deed of Novation**
- Execute **Land Access Licence**
- Establish **Noongar Economic Partnership Steering Group (NEPSG)** and give effect to **Noongar Economic Participation Framework (NEPF)**
- Advise Trustee about **land** and **housing** matters
- Assist to establish **administration offices**
- RC Chair and CEO to join **Noongar Relationship Committee**
- Enter **Joint Management Agreement (JMA)** and establish **Joint Management Body (JMB)**
- Engage with Water Corporation on **training and employment opportunities**
- RC Chair and CEO to join **Noongar Corporations Committee**
- Enters **Noongar Standard Heritage Agreement (NSHAs)** and **Aboriginal Heritage Act (AHAs)**
- Enter **Cooperative Management Agreement (CMA)** and establish **Cooperative Management Committee (CMC)**

# Representative of Community

- 6. The RCs represent the interests of the Noongar Community of their respective ILUA Region and will be the key conduit for engagement between the Noongar Community and a range of relevant stakeholders, from government, non-government organisations and the private sector.
- 7. The RCs engagement and collaboration with organisations from the broader community will ideally improve social and economic outcomes for the wider Noongar community and provide for targeted service delivery and capacity building as identified by the RCs.



## Stakeholder Relationships

8. The RCs will need to communicate with and maintain relationships with various stakeholders which will include:
  - Members of the RC/Agreement Group
  - Trustee
  - CSC
  - Other RCs
  - NGS Committees
  - WA Government
  - Regulators (ORIC & ACNC)
  - ACCOs and other NGOs
  - Service providers

## Capacity Building

9. The RCs play an important role in progressing the Noongar Community towards successful self-governance and independence.<sup>4</sup>
10. In doing so, the RC must support and assist Noongar Persons and the Noongar Community within their respective Regions to develop capacity, including by:
  - identifying and engaging Noongar Persons that may be suitable for employment or committee positions in relation to the Trust; and
  - developing effective strategies that allow for and encourage capacity building, including promoting training, education and development within the Noongar Community, and good governance and administration of Noongar Community organisations<sup>5</sup>.

## Ceasing to be a Regional Corporation

11. Before a corporation is appointed as the RC, it must meet certain eligibility requirements in the Trust Deed.<sup>6</sup> If an RC ceases to meet one of the eligibility requirements, the Trustee must issue an Eligible Noongar Entity (ENE) Default Notice to the RC. The Trustee must provide assistance to the RC to rectify or remedy the matters in the ENE Default Notice. If the RC is unable to comply with the ENE Default Notice, the Trustee will issue an ENE Termination Notice and the RC's appointment is terminated.<sup>7</sup>

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4 Paragraph 8 of the RC Principles, Part B of Schedule 10, Annexure E of the ILUA

5 Clause 3.5 of the Trust Deed

6 Clause 4.5(a) of the Trust Deed. See also Part 5 of this Guide.

7 Clause 4.2(a) of the Trust Deed

12. If the RC's appointment has been terminated, the Trustee must (amongst other things) suspend all distributions to the RC and must seek to ensure that the RC's interests in Cultural Land revert back to the Trustee and seek to recover any unused Special Projects Funding.<sup>8</sup>
13. Where the RC has ceased to exist, there is a process in the Trust Deed for the Trustee to (amongst other things) assist the Agreement Group to establish a new RC, and for the Trustee to provide any necessary services of the RC for this purpose.<sup>9</sup>

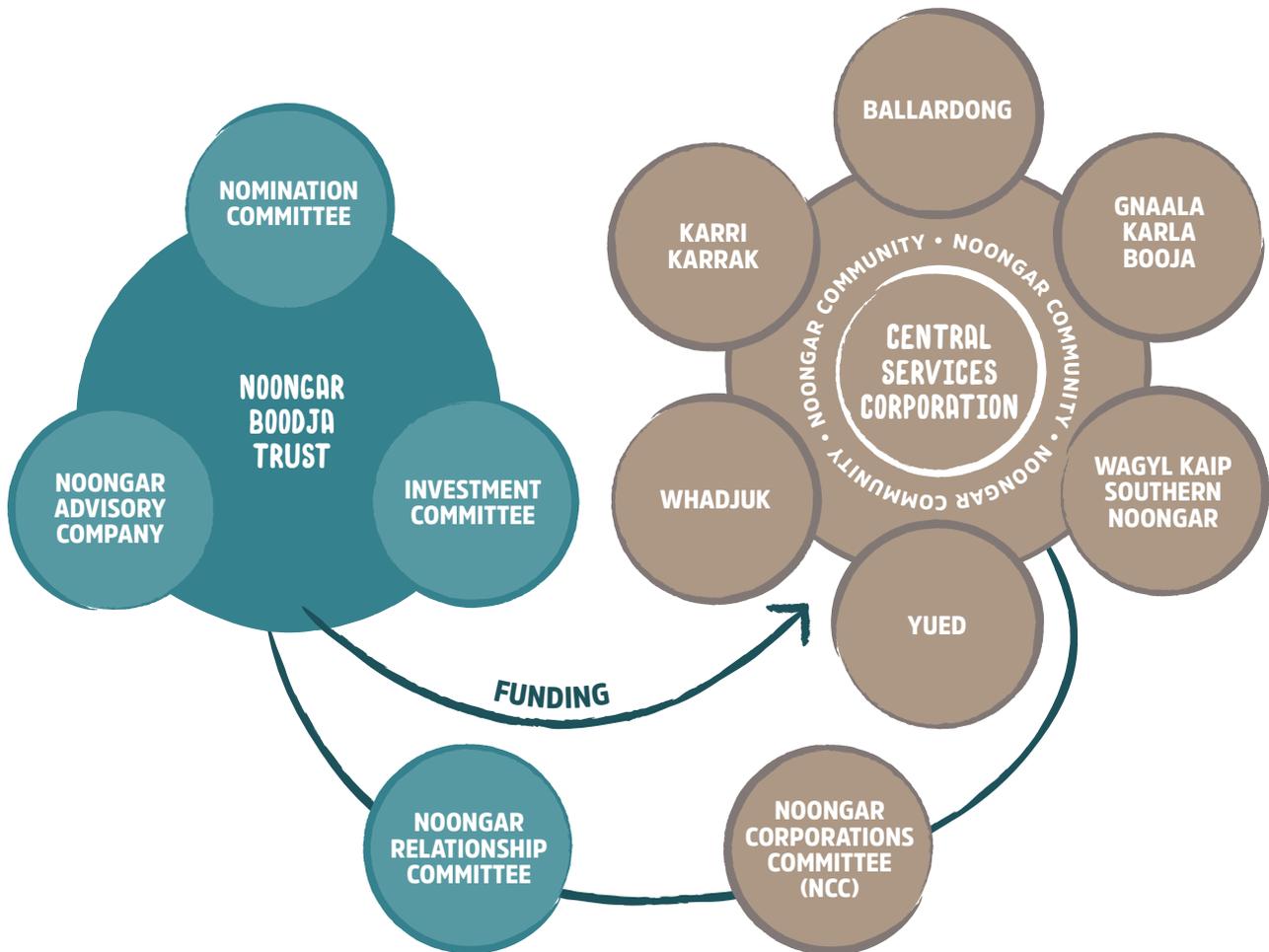
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8 Clause 4.4 of the Trust Deed

9 Clause 4.2(b) of the Trust Deed

# Part 4 – Diagrams

## South West Settlement – Noongar Governance Structure



# Agreement Group Areas



# Noongar Boodja Trust



# Part 5 – South West Settlement Package

The Settlement package provides the Noongar People with sustainable assets and options for developing Noongar interests, including opportunities for the WA Government to work in partnership with the Noongar People to improve economic, social and cultural outcomes.

## Overview of Settlement

1. The Settlement package comprises the following components. Many of these are described in further detail in this RC Guide.

SETTLEMENT COMPONENT	DESCRIPTION
<b>Noongar Recognition through an Act of Parliament</b>	<i>The Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016</i> (proclaimed on WA Day, 6 June 2016) recognises the Noongar people as the Traditional Owners of the south-west region of Western Australia.
<b>Noongar Boodja Trust</b>	Receives, holds and manages the financial and land related benefits and assets arising from the Settlement. The Trust has the potential to deliver enduring economic, social and cultural benefits to the Noongar People for generations to come.
<b>Noongar Regional Corporations</b>	Six Noongar RCs are established to represent the rights and interests of each of the six Agreement Groups.
<b>Central Services Corporation</b>	A Central Services Corporation is appointed to support and connect the six Noongar Regional Corporations.
<b>Noongar Land Estate</b>	Up to 320,000 hectares of Crown land will be transferred to the Trust for development and cultural purposes.
<b>Co-operative and Joint Management</b>	The Department of Biodiversity Conservation and Attractions and the six Noongar RCs will enter into Co-operative and Joint Management Agreement arrangements for the care and protection of the South West Conservation Estate.

SETTLEMENT COMPONENT	DESCRIPTION
<p><b>Land Access</b></p>	<p>Land Access licences will be provided to the six Noongar RCs to give Noongar people lawful access to certain unallocated Crown land and unmanaged reserve land for defined customary activities.</p> <p>Separate to the licence, amended water by-laws also enable Noongar people to undertake some land based Aboriginal customary activities in public drinking water source areas within the Settlement Area.</p>
<p><b>Community Development Framework</b></p>	<p>A commitment between the WA Government and the Noongar people to a set of principles and priorities aimed at improving the Noongar community development opportunities. The Framework will provide greater scope for direct communication and collaboration between the WA Government and Noongar people.</p>
<p><b>Capital Works Program</b></p>	<p>Includes land and funding for the establishment of a Noongar Cultural Centre in the metropolitan area and office accommodation for the Noongar Corporations.</p>
<p><b>Noongar Land Fund</b></p>	<p>The fund will receive \$46,850,000 over 10 years to support land, joint management and heritage objectives. The fund will facilitate partnerships between the WA Government's key land agencies and the six Noongar RCs.</p>
<p><b>Economic Participation Framework</b></p>	<p>Framework to support partnership in the building of Noongar business capacity, interests and participation in the wider economy.</p>
<p><b>Noongar Standard Heritage Agreement</b></p>	<p>A uniform and efficient approach for conducting Aboriginal Heritage Surveys in the Settlement Area in compliance with the <i>Aboriginal Heritage Act 1972</i>. The NSHA came into effect on 8 June 2015.</p>
<p><b>Noongar Heritage Partnership Agreement</b></p>	<p>A framework for the Department of Planning, Lands and Heritage and the six Noongar RCs to work in partnership to improve the recording, protection and preservation of Aboriginal sites within the Settlement Area.</p>

SETTLEMENT COMPONENT	DESCRIPTION
<b>Noongar Housing Program</b>	Transfer, in freehold title, of 121 Housing properties to the Trust. Funds will be available for the maintenance and upgrade of these properties.

## Financial Benefits

2. The Trust will receive the following financial payments as part of the Settlement:
  - \$50 million plus indexation, annually for 12 years for investment in the Noongar Future Fund of the Trust
  - \$10 million plus indexation, annually for 12 years in the Trust’s Operations Fund for the operation of the RCs
  - \$5.3 million for the development of a Noongar Cultural Centre
  - \$6.5 million over two years to establish the CSC and RC offices
  - Up to \$10 million for maintenance and upgrades to Housing Properties
3. The first annual Future Fund and Operations Fund payments into the Trust were made on 22 April 2021; the second on 26 April 2022 and the third on 27 April 2023.
4. An additional \$46,850,000 will be distributed to the six RCs over 10 years to support land, joint management and heritage objectives in partnership with the WA Government’s key land agencies.

# Part 6 – Regional Corporation Appointment

All RCs were appointed by the Trustee for the Noongar Boodja Trust across October and November 2022, following endorsement by their Agreement Groups and the WA Government.

## Endorsement Process

1. Each of the RCs had to meet certain criteria and obtain various endorsements in order to satisfy the Trustee that their Corporation was eligible to act as a RC for their respective Agreement Group.
2. In order for the Trustee to start providing financial support to a RC, that entity must be established and formally appointed as an RC by the Trustee. Each RC must demonstrate to the Trustee that it has been established through a transparent and accountable process, in accordance with the requirements of the Transition Principles and other ILUA obligations and is otherwise ready to undertake its role and functions.
3. The RC endorsement process has seven key steps:<sup>10</sup>
  - **Step 1 – Establishing a Regional Corporation**  
A RC must:
    - be an Aboriginal Corporation established under the CATSI Act; and
    - satisfy the requirements set out in the Transition Principles and in the RC Principles.
  - **Step 2 – Agreement Group Endorsement**  
There must be an Agreement Group Endorsement of the RC. An Agreement Group Endorsement is an endorsement given in writing by an Agreement Group following a special procedure set out in the Trust Deed.
  - **Step 3 – Endorsement as Eligible Charity**  
There must be an endorsement by the Commissioner of Taxation (via the ACNC) that the entity is an Eligible Charity (or is capable of being endorsed as such). This means a fund, institution or other entity endorsed by the Commissioner of Taxation as income tax exempt under the *Income Tax Assessment Act 1997 (Cth)*.
  - **Step 4 – State Endorsement**  
The Trust Deed requires that the WA Government must provide written approval of the nomination of a corporation as an RC before the Trustee can be satisfied that it may be appointed as a RC. This is called State Endorsement.

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<sup>10</sup> Clauses 4.1 and 4.5 of the Trust Deed

- **Step 5 – Nomination of Regional Corporation**  
Once steps 1 - 4 are complete, the RC can nominate to the Trustee in writing for appointment as the RC for its Region.
- **Step 6 – Appointment of Regional Corporation**  
If satisfied that the RC is eligible in accordance with the requirements of the Trust Deed, the Trustee must appoint it as the RC for the Region by a written Appointment Notice. As part of this assessment, the Trustee will consider the RC's operational readiness to undertake its role and functions.
- **Step 7 – Application for Financial Support made to the Trustee**  
A RC may make an application and is eligible to receive funding support from the Trust in accordance with the rules of the Trust and in such amounts and on such conditions as the Trustee may determine. Applications must be made in accordance with the Funding Guidelines.

## Agreement Group ILUA Rights and Obligations

4. Each Agreement Group has a range of rights and obligations under its respective ILUA. Once an RC has been appointed by the Trustee, the RC will take on those rights and obligations on behalf of the Agreement Group, through a formal novation process. This involves the RC entering into a Deed of Novation.<sup>11</sup> Each RC signed a Noongar RC Deed of Novation on 6 December 2022, and the Deeds of Novation commenced on 9 December 2022. In effect, each RC became a party to its respective ILUA on 9 December 2022.

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11 Clause 8.2 of the ILUA

# Part 7 – Regional Corporation Core Functions

Each RC must undertake the RC Core Functions for the benefit of the Agreement Group of their Region.

## Outline of Core Functions

1. In furthering the RC's purposes, the RC must deliver the RC Core Functions.<sup>12</sup> The RC Core Functions are explained in the Trust Deed.
2. The RC Core Functions are functions and services that are critical for the RC to provide in order to meet the ambitions of the Settlement, ILUA and Trust Deed. The principles that apply to the delivery of the RC Core Functions are set out in Schedule 3 to the Trust Deed.
3. The initial RC Core Functions include the following. There is a process under the Trust Deed to modify the RC Core Functions<sup>13</sup> which will involve the Trustee and the RC working together.
  - Implement the ILUA for their Region
  - Communicate information regarding the Settlement, ILUA and Trust to the RC and Agreement Group
  - Comply with governance requirements (CATSI Act and Rule Book)
  - Facilitate cultural decision making processes to ensure the right people speak for Country
  - Be an advocate for the Agreement Group with key stakeholders
  - Participate in the Noongar Corporations Committee (and Noongar Relationship Committee through the Noongar Corporations Committee)
  - Provide support to the Agreement Group in identifying economic participation opportunities
  - Develop cultural and community programs
  - Manage lands and develop land management programs for the Noongar Land Estate
  - Engage in co-operative and joint management of the conservation estate and other lands
  - Develop heritage programs and ensure proper implementation of the ILUA heritage provisions
  - Work with the Trustee and CSC to identify and progress property development opportunities across the Noongar Land Estate

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12 Rule 3(c) of the Rule Book and Schedule 3 of the Trust Deed

13 S3.4 of Schedule 3 of the Trust Deed

4. The RC will have discretion when determining the most appropriate and effective manner of providing the RC Core Functions,<sup>14</sup> and must do so with care, skill and diligence in a professional manner.<sup>15</sup> The RC must prepare an annual plan for how the RC will deliver the RC Core Functions.<sup>16</sup>

## Link to Funding

5. Each year the Trustee will make a Distribution of Operations Funding to the RC's "ENE Operations Account" to enable the RC to deliver the RC Core Functions. Prior to making a Distribution, the Trustee must be satisfied that the RC is able to offer and deliver the RC Core Functions in accordance with Schedule 3 of the Trust Deed.<sup>17</sup> This will form part of the RC's budget and application process.
6. The Trustee is not required to fund the RC's costs of delivering the RC Core Functions over and above the Annual ENE Allocation determined by the Trustee<sup>18</sup> and the approved Operations Funding.<sup>19</sup> This is to ensure that the available Operations Funding is used to support all Noongar Corporations during the period.
7. Following receipt of the RC's audited annual report or Special Purpose Report (if any), the Trustee will assess the RC's delivery of the RC Core Functions. This will include the Trustee consulting with other stakeholders. The Trustee may determine that it is necessary to increase the RC's Operations Funding for a forthcoming Financial Year, impose Payment Conditions on any future Distributions or modify the RC Core Functions.<sup>20</sup>

## Start Up Period

8. The CSC will provide the RCs with a high level of support and services through the provision of the CSC Regional Services (at no cost to the RC) during the Start-Up Period. The Start-Up Period is the first five years after the Trust is established; that is, until 29 March 2026.
9. During the Start-Up Period, the RC :
  - will receive Operations Funding to deliver the RC Core Functions; and
  - will not receive Operations Funding to source the CSC Regional Services from other service providers (as they are provided by the CSC at no cost).

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14 S3.1(d) of Schedule 3 to the Trust Deed

15 S3.1(f) of Schedule 3 to the Trust Deed

16 Clause 20.6 of the Rule Book

17 Clause 4.6 of the Trust Deed

18 Clause 18.3 of the Trust Deed

19 S3.1(e) of Schedule 3 to the Trust Deed

20 S3.3 and S3.4 of Schedule 3 to the Trust Deed

10. In providing the CSC Regional Services, the CSC must aim to grow the capacity of the RCs to provide or source CSC Regional Services for themselves after the Start-Up Period.<sup>22</sup>
11. After the Start-Up Period, the RC:<sup>21</sup>
  - will receive Operations Funding for the delivery of the RC Core Functions; and
  - may apply to the Trustee for Operations Funding for the costs of obtaining the CSC Regional Services from the CSC or a third party service provider.

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21 Page 4, Transition Program: Central Services Corporation 2016

22 Clause 2.2(b) of the Trust Deed

# Part 8 – Cultural Advice and Corporate Cultural Decisions

The RC will adopt a Cultural Advice Policy which will guide the RC's processes for making cultural decisions. The RC will appoint a Cultural Advice Committee to be involved in making cultural decisions.

## Cultural Advice Policies

1. The RC must make a variety of decisions about lands and waters to meet its ILUA obligations. Those decisions that will affect the Cultural Interests of the Agreement Group are termed '**Corporate Cultural Decisions**'.
2. Under the ILUA and Rule Book, the RC must adopt a Cultural Advice Policy<sup>23</sup> setting out the process for the RC to make Corporate Cultural Decisions in the Region<sup>24</sup>, including how the RC determines who has a traditional connection and cultural authority within the Noongar Community of the Region.
3. The Cultural Advice Policy must:<sup>25</sup>
  - Be consistent with the Rule Book and RC Principles
  - Establish a process for identifying people with Cultural Authority in relation to Corporate Cultural Decisions
  - Require the RC to provide assistance to people with Cultural Authority to provide Cultural Advice
  - Be endorsed by a resolution of the Members of the RC in a general meeting
4. The RC must try to resolve all Corporate Cultural Decisions within 90 days of the Corporate Cultural Decision first arising.<sup>26</sup>
5. The Board of the RC can only make decisions in relation to Cultural Interests after having received cultural advice following the process set out in the Cultural Advice Policy.<sup>27</sup>

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23 Paragraph 2(b) of Annexure Y (Transition Principles) of the ILUA

24 Paragraph 12 of Part B (Regional Corporation Principles) of Annexure E to Schedule 10 of the ILUA

25 Rule 15.2(a) of the Rule Book

26 Rule 15.2(b) of the Rule Book

27 Rule 15.1 of the Rule Book

6. The Cultural Advice Policy must be regularly updated by the Board with participation from the Agreement Group.
7. Similarly, the CSC Principles require the CSC to adopt a Cultural Consultation Policy that outlines a process for how the CSC will consult with Noongar People who have traditional connection and cultural authority within the Noongar Community regarding cultural matters. The CSC must develop a Cultural Consultation Policy with the NCC.

## Cultural Advice Committees

8. The RC initial Cultural Advice Policies provide that the RCs will seek and gain Cultural Advice from research and evidence (obtained by SWALSC) and a Cultural Advice Committee (**CAC**).<sup>28</sup>
9. The CAC is a regional Committee established under Appendix 7 to each initial Cultural Advice Policy and is empowered to provide Cultural Advice to the RC when it is required to make a Corporate Cultural Decision.
10. Under the initial RC Cultural Advice Policies the CAC will comprise:
  - a minimum of three and a maximum of six Noongar women; and
  - a minimum of three and a maximum of six Noongar men.
11. CAC members will be appointed through an election by the RC's members at a general meeting.
12. CAC members must be recognised, acknowledged and respected by the Noongar Community for the purpose of giving Cultural Advice. It is intended that CAC members:
  - Are keepers of tradition, custom, lore and culture
  - Work with integrity, honesty and are trusted
  - Have historical, cultural and/or traditional connection and knowledge of the RC's land base
  - Have extensive knowledge and understanding of their country, area, families, stories
  - Have a history of sharing cultural knowledge, information and customs

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28 Paragraph 7 of the initial RC Cultural Advice Policies

13. The RC will seek Cultural Advice from the CAC on the following matters<sup>29</sup> as required under the RC Rule Book and the Trust Deed:

**Land**

- The cultural values of land
- How cultural land and waters could be used and managed
- Making decisions for cultural land (e.g. converting to Development Land)

**Housing**

- Making a Decision to Proceed in relation to Housing Land

**Heritage**

- Who should perform the role of “Aboriginal Consultant” under an Aboriginal Heritage Agreement
- Who should undertake heritage surveys

**Ceremonial Engagement**

- Requests for Noongar ceremonial engagement in events such as conferences, functions or meetings (‘welcome to country’, artistic performances and songs)

14. The Cultural Advice Policy for a RC may include additional matters that a RC Board may wish to seek advice from the CAC on.

15. The RC may establish a Protocol for obtaining Cultural Advice to clearly set out how information and advice will flow between the CAC and the RC Board.

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29 Note that a “Decision to Proceed” is defined in Schedule 1 of this Guide. In summary, a “Decision to Proceed” is a commercial decision by the RC to deal with land through a range of potential actions.

# Part 9 – Noongar Boodja Trust

The Noongar Boodja Trust holds the majority of the assets delivered under the Settlement Package. The Trustee must manage the assets of the Trust in a responsible and productive manner and in accordance with the terms of the Trust Deed solely for the benefit of the RCs and CSC.

## Purpose and role of the Trust and Trustee

1. The Trust is one element of the Noongar Governance Structure which holds, maintains and grows the money, property and benefits received under the Settlement Package for the RCs and CSC and the Noongar Community.
2. The Trustee's role is principally around asset management and development, and administering the distribution process – in a responsible and productive manner; strictly in accordance with the terms of the Trust Deed; and solely for the benefit of the beneficiaries (being only the CSC and the six Noongar RCs).
3. Under the Trust Deed, the Trust must be managed by an independent licensed trustee company for the first 12 years (being the State Contribution Period). After the first 12 years, it is anticipated that the Noongar Advisory Company (NAC) will transition its role to become the Dedicated Trustee.



**Year 1** – Noongar Advisory Company and Trustee will develop a 12-year plan for building the capacity of the Noongar Advisory Company to become the Noongar Trustee in 12 years. ("Noongar Advisory Transition to Trustee Plan")



**Years 2-5** – The Trustee works on the delivery of Trust outcomes to support the RCs, Noongar Advisory Company works closely with the trustee in its decision making. Trustee assists Noongar Advisory Company with its capacity building.



**Years 6-9** – The trustee delegates to Noongar Advisory Company an agreed selection of trust management functions and works with Noongar Advisory Company delivery.



**Years 10-12** – The Trustee delegates to Noongar Advisory Company almost all of the trust management functions. The Trustee operates in the background to provide feedback and guidance as required by Noongar Advisory Company.



**Future** – Noongar Advisory Company becomes the Noongar Trustee and operates on its own.

 Perpetual  NAC

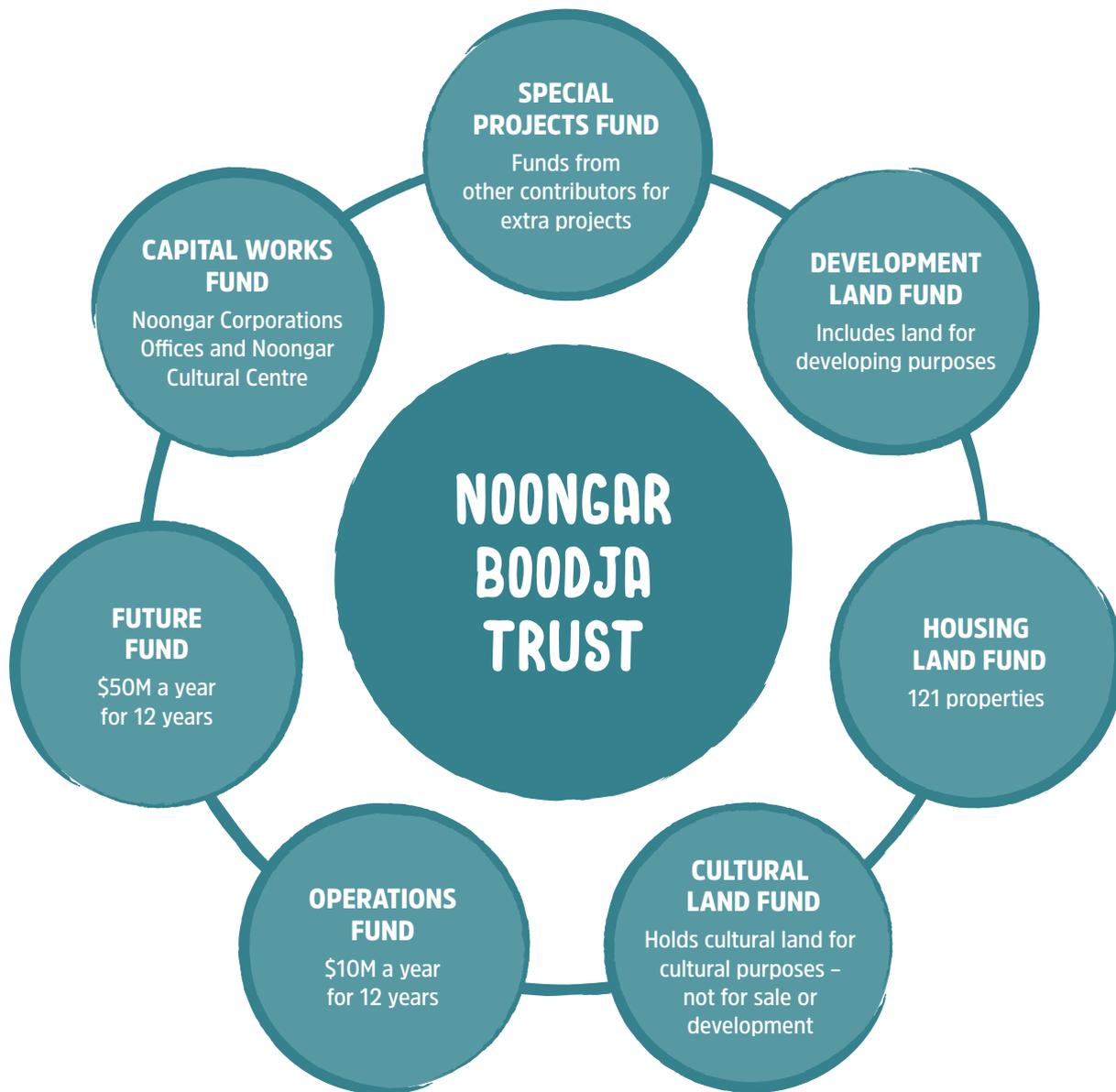
4. The Trustee has a close relationship with the Noongar Corporations and through regular and structured engagement, the Trustee will facilitate and assist the Noongar Corporations with operations and governance.
5. The Noongar Relationships Committee (NRC) provides the Trustee with a direct connection with the Noongar Corporations (through the Noongar Corporations Committee (NCC), who are members of the NRC) and provides a source of knowledge and expertise in relation to the Noongar Community.
6. The Trustee will need to work collaboratively and cooperatively with all of the other entities within the NGS and relevant stakeholders.

## Key functions of the Trustee

7. In furthering the Trust Purpose, the Trustee must:
  - Support the RCs and CSC with their role and functions
  - Support the CSC to establish and maintain the NCC
  - Hold and manage the Cultural Land, Development Land and Housing Land
  - Hold, manage and invest the Noongar Future Fund, Operations Fund and Special Projects Fund
  - Manage and maintain the NAC, NRC, Investment Committee and Nominations Committee to support the operations of the Trust

# Summary of the Trust Funds

8. Under the Trust Deed, the Trustee has established the following sub funds which form part of the Trust Fund:



# Part 10 – Noongar Future Fund

The Noongar Future Fund is established under the Trust Deed and aims to ensure the Trust can generate sustainable income to support the operations and projects of the CSC and RCs in the future.

## Purpose of the Noongar Future Fund

1. The purpose of the Noongar Future Fund is to grow the capital to achieve, and then maintain, a sustainable capital value (**Future Fund Capital Base**) in order that the income of the Noongar Future Fund may be applied towards the purposes of the Noongar Boodja Trust into the long-term future.
2. The Future Fund can only be invested in accordance with the Default Investment Policy at Schedule 11 of the NBT Deed until such time as the Trust's Investment Policy is updated in accordance with the NBT Deed.<sup>30</sup>

## Requirements during the State Contribution Period

3. The Settlement package includes the payment of \$50,000,000 per annum (**Future Fund Payment**) into the Noongar Future Fund for the first 12 years of the Noongar Boodja Trust's operation (**State Contribution Period**).<sup>31</sup>
4. The initial Future Fund Payment was made on 21 April 2021. The subsequent Future Fund Payments will be indexed and made within 60 days after the anniversary of the Future Fund Payment for the preceding year.
5. The second and third Future Fund payments were made on 26 April 2022 and 27 April 2023 in accordance with these terms.
6. During the State Contribution Period the Trustee must accumulate and hold in the Noongar Future Fund:
  - All of the Future Fund Payments from the State
  - Any other money, property or benefits the Trustee determines to hold in the Future Fund
  - All income (including any realised capital gains) of the Future Fund

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30 Clauses 7.6 and 19.4 of the Trust Deed

31 Adjusted in accordance with the CPI Calculation, but never so as to reduce in any year the amount of the Future Fund Payment in comparison with the equivalent amount that was paid in the preceding year (clause 5.1(d) of Schedule 10 Settlement Terms to the ILUA)

7. The Trustee may only distribute income or capital of the Noongar Future Fund during the State Contribution Period in some circumstances:
  - For payment of the Trustee's remuneration or reasonable costs and expenses relating to the Future Fund
  - The Trustee determines that it is in the best interests of the Trust having regard to the Trust Purpose and having obtained the consent of the Noongar Advisory Company, Noongar Relationship Committee, Investment Committee and the State

## Future Fund Capital Base

8. The Future Fund Capital Base for the first Financial Year commencing after the end of the State Contribution Period is 90% of the total value of the Future Fund as at the end of the State Contribution Period. The Trustee must adjust the Future Fund Capital Base over time according to a prescribed formula, to keep up with inflation.
9. To make other changes to the Future Fund Capital Base, the Trustee must:

### **Consult**

Consult with the following:

- Noongar Relationship Committee
- Investment Committee
- Noongar Advisory Company

### **Consent**

- Obtain the consent of the State

### **Update**

Provide details of the Modified Future Fund Capital Base to the following:

- Noongar Relationship Committee
- Investment Committee
- State
- Noongar Advisory Company

## After the State Contribution Period

10. After the State Contribution Period has ended, the Trustee is able to distribute a fixed percentage of the value of the Future Fund, that exceeds the Future Fund Capital Base that Financial Year, to the Operations Fund or Special Projects Fund to further Noongar cultural, social and economic programs.<sup>32</sup>
11. The Trustee is not permitted to distribute the Future Fund Capital Base after the State Contribution Period unless:
  - the Trustee determines that it is in the best interests of the trust having regard to the Trust Purpose; and
  - the Trustee has obtained the consent of the Noongar Advisory Company, Noongar Relationship Committee, Investment Committee and the State.

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<sup>32</sup> Clause 7.3 of the Trust Deed

# Part 11 – Regional Corporation Funding

Regional Corporations can apply for funding from the Operations Fund and Special Projects Fund of the Trust. They must prepare budgets and plans as part of this process.

## Introduction to Funding Process

1. The Trust Fund is intended to benefit both current and future generations of the Noongar Community through the successful operations of the RCs. In recognition of this, the RCs will apply each year for distributions of funding from the Trust to enable them to offer and deliver the Core Functions, pursue their constitutional objectives and comply with their ILUA and Trust obligations (**Funding Application**).
2. The RC must have regard to the RC Funding Guidelines developed by the Trustee, a copy of which is included at **Annexure 1**.
3. As part of this process, the RC must prepare its own budget setting out the expenditure reasonably required to operate in the forthcoming Financial Year which aligns with its annual and strategic plans.
4. The CSC can assist the RC to prepare its budget and Funding Application as part of the CSC Regional Services.<sup>33</sup>
5. The Trustee will consult with NAC about the Application and then assess the RC's budget and Funding Application.
6. As part of the Trustee's assessment of a RC's Funding Application, the Trustee will review the RC's performance in meeting its budget, annual plan and strategic plan for the previous Financial Year.

## Operations Fund

7. The Operations Fund is held and managed by the Trustee for the purpose of providing core funding to the Noongar Corporations to ensure they are adequately resourced to pursue their constitutional objects and achieve their goals set out in annual plans over the long term.<sup>34</sup>

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33 S2.4(a)(iv) of Schedule 2 to the Trust Deed

34 Clause 8.1 of the Trust Deed

8. The Operations Fund can only be used for Operations Funding.<sup>35</sup>

### **Operations Funding**

- Funding available for operational and administrative expenditure of the Noongar Corporations
- Expenditure reasonably budgeted for the CSC to provide CSC Core Services and CSC Regional Services
- Expenditure reasonably budgeted for the RCs to provide the RC Core Functions

## **Special Projects Fund**

9. The Special Projects Fund is established for the purpose of holding assets which a third party wishes to contribute to the Trust for a special project to be undertaken by a Noongar Corporation (**Contribution**).<sup>36</sup>
10. A Contribution to the Special Projects Fund will be held on the terms of the Trust Deed and must be applied in support of the Trust Purpose, but is held separate to the funds and assets received under the Settlement. The Trustee must have regard to a contributor's request or recommendation when managing and distributing the Contribution.
11. The Special Projects Fund can only be used by Noongar Corporations to undertake special projects.<sup>37</sup>

### **Special Projects Funding**

- Projects that a Noongar Corporation or the Trustee has determined fall outside the usual operations or activities of the Noongar Corporation
- A project for which specific Special Project Guidelines have been determined

## **Funding Sources**

12. Following consultation with the Investment Committee and the NAC and having regard to the Budget Principles<sup>38</sup> in the Trust Deed, the Trustee will determine.<sup>39</sup>

### **Trust's Annual Budget**

Comprising:

- Annual Operations Budget
- Annual Special Projects Budget
- Trustee Expense Budget

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35 Clause 8.2 of the Trust Deed

36 Clause 9 of the Trust Deed

37 Clause 9.2(a) of the Trust Deed

38 Clause 18.3 of the Trust Deed

39 Clause 18.2 of the Trust Deed

## Annual ENE Allocation

Being the maximum share of the Annual Operations Budget that is available for distribution to the CSC and RC for Operations Funding.

13. Within the Trust Fund there will be a management account for each Noongar Corporation known as the ENE Operations Account. The Annual ENE Allocation for a Noongar Corporation is held in the relevant ENE Operations Account.<sup>40</sup> The Trustee can make distributions to the Noongar Corporation from the ENE Operations Account.

If there are funds remaining in the relevant ENE Operations Account at the end of the financial year, they will accumulate in that ENE Operations Account.<sup>41</sup>

## Funding Applications

14. RCs can make applications to the Trustee for distributions from the Operations Fund and Special Projects Fund.
15. The Trustee has developed funding guidelines for RCs to apply for operations funding and special projects funding, and a template funding agreement. The Trustee must review all Funding Applications in accordance with the Funding Guidelines and in consultation with the NAC.<sup>42</sup>
16. When considering distributions to the RCs, the Trustee must ensure, amongst other things, that core functions associated with sound governance are adequately funded within each RC.

## Application for Operations Funding

17. Regional Corporations can apply for a distribution for Operations Funding from their respective ENE Operations Account in accordance with the Funding Guidelines and the Trust Deed, and will need to provide, amongst other things, their budget and plan for the forthcoming Financial Year<sup>43</sup> (**OF Funding Application**).
18. RCs must attempt to submit the OF Funding Application for the forthcoming Financial Year to the Trustee on or before 31 March of the previous Financial Year.<sup>44</sup>
19. Once the Trustee has approved a OF Funding Application, the Trustee will:

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40 Clause 8.3 of the Trust Deed

41 Clause 8.3(c) of the Trust Deed

42 Clause 17.4 and Schedule 1 of the Trust Deed

43 S1.1.2 of Schedule 1 of the Trust Deed

44 Schedule 1 of the Trust Deed

- deduct the amount approved for Operations Funding from the relevant ENE Operations Account; and
- hold the amount in trust in an ENE Distribution Account in the name of the relevant RC subject to any Payment Conditions and directions from the RC.<sup>45</sup>

20. Distributions for Operations Funding must be paid annually in quarterly instalments.<sup>46</sup>

## Application for Special Projects Funding

21. RCs can also make a Funding Application from the Special Projects Fund at any time which must include the information set out in the Funding Guidelines and in the Trust Deed<sup>47</sup> (**SP Funding Application**). The Funding Guidelines explain the factors the Trustee will consider in assessing SP Funding Applications.

22. The Trustee may require a RC to undertake a Special Project in accordance with Special Project Guidelines.<sup>48</sup>

## Reporting and Acquittal

23. RCs that receive a distribution from the Operations Fund or Special Projects Fund are required to:<sup>49</sup>

- Keep financial accounts and records relating to the use of the distribution
- Provide all information, records and documents as may be reasonably requested by the Trustee from time to time
- Report to the Trustee within 12 months of receipt of the distribution
- Upon request, provide the Trustee with an auditor's certificate stating the amount of the distribution spent, or committed to be spent, for the purpose of the distribution

24. The adequacy of the reporting will be relevant when the Trustee considers future funding applications from the RC.

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45 Clauses 17.5 and 17.6 of the Trust Deed

46 Clause 8.4(b) of the Trust Deed

47 Clause 9.2(c) and S1.1.3 of Schedule 1 of the Trust Deed

48 Clauses 9.1(d) and 9.2(d) of the Trust Deed

49 S1.3 of Schedule 1 to the Trust Deed

# Part 12 – Central Services Corporation

The CSC provides services for the benefit of the Noongar Community. These include supporting and assisting the Regional Corporations to grow and develop, to deliver outcomes to the Noongar Community.

## Purpose of the CSC

1. The CSC is established to support the RCs by providing centralised financial, administrative, and corporate services and assisting them to build capacity in the Regions.<sup>50</sup>
2. The CSC also provides core services which are Noongar wide activities that will support the broader Noongar community and their aspirations.
3. Whilst the Trust will provide funding to the RCs, it will not provide operational support to the RCs, this is the CSC's role.
4. The CSC is also responsible under its Rule Book for establishing and maintaining the NCC and must facilitate its activities.

## Structure of the CSC

5. The CSC must:
  - Be an Aboriginal Corporation
  - Be an Eligible Charity
  - Satisfy the CSC Principles
  - Receive Agreement Group Endorsement
  - Be endorsed by the WA Government
  - Not be suffering an Insolvency Event
6. The CSC is registered under the CATSI Act and is governed by a Board comprising:<sup>51</sup>
  - up to six Noongar Directors (one from each Agreement Group); and
  - as far as possible, two Expert Directors at all times.
7. Membership of the CSC is open to all adult Noongar People who have a traditional connection to Noongar land, are a descendant of the Noongar People and identify as and are accepted as a member of the Noongar People.<sup>52</sup>

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50 Clause 2.3 of the Trust Deed

51 Rule 9.1 of the SWALSC Rule Book

52 Rule 6.2.2 of the SWALSC Rule Book

# CSC Endorsement and Appointment Process

8. The following process was completed in 2022. It enabled SWALSC to be endorsed, and appointed as the CSC:

## Step 1

A CSC must be an Aboriginal Corporation established under the CATSI Act and satisfy the requirements set out in the Transition Principles and in the CSC Principles

## Step 2

Receive written Agreement Group Endorsement by a majority of the Agreement Groups

## Step 3

Be endorsed as an Eligible Charity by the ACNC

## Step 4

Receive written approval of the WA Government's approval of the corporation's nomination as the CSC (State Endorsement)

## Step 5

Nominate in writing to the Trustee for appointment as the CSC

## Step 6

If the Corporation is deemed to be eligible for appointment under the Trust Deed, Trustee to appoint the CSC by written Appointment Notice

## Step 7

CSC may now make applications to the Trustee for distributions under the Trust Deed

# SWALSC Obligations as CSC

9. SWALSC was the Native Title Representative Body (**NTRB**) for the Noongar people from 2001 to 2016 and continued performing NTRB functions as a Native Title Service Provider (**NTSP**) from 2016 to 2022. In this role SWALSC was responsible for working with the Noongar people to progress resolution of their native title claims, and helping to advance and strengthen Noongar culture, language, heritage and society.
10. SWALSC was appointed by the Trustee as the CSC on 29 June 2022 in accordance with the provisions of the Trust Deed.
11. The role of the CSC is different to that of SWALSC as NTRB/NTSP, and as SWALSC transitioned to become the CSC, it ceased native title representative functions. As CSC it instead undertakes the services set out in Part 13.
12. SWALSC is a party to the ILUAs and has a number of rights and obligations under the ILUAs. If an entity other than SWALSC is subsequently appointed as the CSC, SWALSC must novate its rights and obligations under the ILUAs to the CSC in accordance with the process set out in the ILUAs<sup>53</sup> and enter into a CSC Deed of Novation.<sup>54</sup>

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53 Clause 5.10 of the ILUA

54 Schedule 3 to the ILUA

## Ceasing to be the CSC

13. An organisation will cease to be the CSC upon the following events:
  1. it ceases to meet one or more of the eligibility requirements<sup>55</sup> and, fails to rectify or remedy the matters contained in an ENE Default Notice issued by the Trustee,<sup>56</sup> or
  2. the CSC ceases to exist,<sup>57</sup>and the Trustee has issued an ENE Termination Notice.<sup>58</sup>
14. The Trustee must provide assistance to the CSC (or an administrator appointed under the CATSI Act to the CSC) to enable the CSC to comply with an ENE Default Notice.
15. Between the time when the CSC has ceased to exist and the appointment of a new CSC, the Trustee will (either directly or through another entity) assist the RCs and provide such services of the CSC and funding reasonably necessary to advance the operations of the Trust.<sup>59</sup>

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55 Clause 5.4 of the Trust Deed

56 Clause 5.2(a) of the Trust Deed

57 Clause 5.2(b)

58 Clause 5.3 of the Trust Deed

59 Clause 5.2(b) of the Trust Deed

# Part 13 – Central Services Corporation Services

The CSC's services to the Noongar Community include core services, services to the RCs and optional additional services. The Trust provides funding to the CSC to deliver these services.

## Core Services

1. The CSC Core Services are Noongar wide activities that support the broader Noongar Community and include:<sup>60</sup>
  - Supporting and assisting the RCs to comply with the ILUAs
  - Establish and maintain the Noongar Corporations Committee, including providing secretariat support
  - Communicating information on the Settlement, ILUAs and Trust to the RCs and the Noongar Community
  - Be an advocate for the Noongar Community with key stakeholders
  - Develop and implement engagement strategies for the RCs to liaise and work with all levels of Government on matters regarding the Noongar Community, the Settlement, ILUAs or the Trust
  - Conduct research into Noongar Traditional Laws and Customs, history, culture, language, genealogy and further develop cultural resources to service the needs of the RCs
  - Develop and manage cultural and community programs, providing delivery support and evaluation services and develop partnerships with service delivery providers
  - Provide support to the RCs in identifying economic development opportunities, by way of advice and linkage with public and private service providers
  - If engaged to do so, maintain the Land Register on behalf of the Trustee and make it accessible at all times to the Trustee and the RCs
  - If engaged to do so, manage activities associated with the Housing Land Fund
2. The CSC Core Services are provided at no cost to the RCs and Noongar Community.

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60 S2.4 of Schedule 2 to the Trust Deed

## Regional Services

3. The CSC Regional Services are provided directly to the RCs for their respective ILUA Agreement Area (and includes the Common Platform). These services are for the purpose of:
  - ensuring “back office” consistency across the RCs;
  - creating cost effective outcomes; and
  - facilitating the RCs to become operationally independent.
4. The CSC Regional Services to the RCs include:<sup>61</sup>
  - Maintaining the ENE Common Platform
  - Company secretarial support
  - Legal and strategic advice
  - Assisting with preparing budgets, funding applications and reports
  - Identifying and sourcing external funding sources
  - Advice and assistance with Cultural Land
5. During the Start-Up Period, the Trustee must fund the CSC to provide the CSC Regional Services and they will be provided to the RCs at no cost during this time.
6. The RCs are not obligated to use the CSC Regional Services, however:
  - during the Start-Up Period, the Trustee will not provide an RC with a distribution to meet the cost of obtaining a CSC Regional Service from a third party; and
  - after the Start-Up Period, an RC may apply for Operations Funding to meet the RC's costs of obtaining services that were previously provided as part of the CSC Regional Services.

## Optional Services

7. The CSC Optional Services are additional services which the CSC may offer outside of the CSC Regional Services which may include:<sup>62</sup>
  - services the CSC develops a capacity to deliver and offers to the RC; and
  - services an RC requests the CSC to deliver.
8. The CSC may charge the RCs a fee for the CSC Optional Services but on a cost recovery basis only.
9. While the Trustee will not fund the CSC to deliver the CSC Optional Services, in the event a RC wishes to engage the CSC to deliver a CSC Operational Service, the RC can apply for Operations Funding to meet the operations cost of the RC, including the costs of the CSC Optional Service.

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61 S2.4 of Schedule 2 to the Trust Deed

62 S2.5 of Schedule 2 to the Trust Deed

## Operations Funding

10. In order for the CSC to qualify for a Distribution of Operations Funding from the Trust, the Trustee must be satisfied that the CSC is in a position to deliver the CSC Core Services and CSC Regional Services in accordance with Schedule 2 of the Trust Deed.<sup>63</sup>
11. The Trustee must not provide the CSC with a Distribution of Operations Funding for the provision of CSC Optional Services to the RCs. However a RC may apply to the Trustee for funding to pay the CSC for an Optional Service.<sup>64</sup>

## Common Platform

12. The ENE Common Platform is a set of centralised key administrative functions or services developed by the CSC for the RCs to access and use.<sup>65</sup>

### ENE Common Platform Components

- Policies and procedures for general office administration
  - Job description forms and enterprise bargaining agreements
  - Accounting systems, including accounts processing, payroll and financial reporting
  - IT systems, including file management and communications
  - Membership database systems
  - Policies and procedures for conducting elections for director positions
  - Arrangements with third party service providers to provide the following at a group rate as amongst the Noongar Corporations:
    - financial, auditing and tax services
    - IT and communications services and equipment
    - vehicle leasing contracts
    - insurance policies, including through one or more group insurance policies amongst the ENEs
    - office equipment
13. The ENE Common Platform will be offered as part of the CSC Regional Services during the Start-Up Period.
  14. The RCs can opt-in to use the ENE Common Platform to:
    - Increase efficiency
    - Reduce costs
    - Share knowledge
    - Develop capacity

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63 Clause 5.5 of the Trust Deed

64 Clause S2.5 of Schedule 2 to the Trust Deed

65 S2.1 and S2.4 of Schedule 2 to the Trust Deed

15. After the Start-Up Period, the Trustee will fund the RCs to source the services previously provided by the ENE Common Platform for themselves (but the RCs may choose to continue using the CSC for these services).

## Start-Up Period

16. The Start-Up Period is the period of time commencing on the date of the Trust Deed (29 March 2021) and expiring on the date that is five years from the date of the Trust Deed (29 March 2026).
17. During the Start-Up Period, the CSC will provide vital support and assistance to the RCs to enable them to build capacity and become self-sufficient.

# Part 14 – RC Planning and Reporting Processes

The RC must prepare a number of reports and plans each year to comply with its obligations under the CATSI Act, ACNC Act, the RC Principles, the Rule Book and the Trust Deed.

## Summary of RC Reporting Processes

1. The RC Principles in the ILUAs provide that the governance documents for the RC must reflect the RC's obligations to prepare and provide reports, plans and budgets to the Trustee of the Trust.<sup>66</sup> This is in recognition of the Trust as the primary source of the RC's operational funding.
2. Each year, the RC must prepare the following reports:

REPORT	RECIPIENT	REFERENCES
<p><b>ORIC General Report<sup>67</sup></b></p> <p>The General Report will include:</p> <ul style="list-style-type: none"> <li>• the names and addresses of members and directors</li> <li>• the name and address of the RC's contact person/secretary</li> <li>• the RC's document access address/registered office</li> <li>• the RC's total income for the Financial Year</li> <li>• the value of the RC's assets at the end of the Financial Year</li> <li>• the number of employees</li> </ul>	<p>ORIC</p> <p>Trustee</p> <p>Members at AGM</p>	<p>Rule 19.1</p>
<p><b>Financial Report<sup>68</sup></b></p> <p>The Financial Report will include:</p> <ul style="list-style-type: none"> <li>• financial statements for the Financial Year and associated notes</li> <li>• a directors' declaration</li> </ul>	<p>ORIC</p> <p>Trustee</p>	<p>Rule 19.2</p>

66 Trust Deed Schedule 2, item S2.1(a); RC Principles, Part B - Annexure E of the ILUA

67 Rule 19.1 of the Rule Book

68 Rule 19.2 of the Rule Book

REPORT	RECIPIENT	REFERENCES
<p><b>Directors' Report</b><sup>69</sup></p> <p>The Directors' Report will include:</p> <ul style="list-style-type: none"> <li>• a detailed overview of the RC's business performance during the Financial Year</li> <li>• the factors underlying the RC's results and financial position</li> </ul>	<p>ORIC</p> <p>Trustee</p>	<p>Rule 19.3</p>
<p><b>Auditor's Annual Report</b><sup>70</sup></p> <p>The Auditor's Annual Report will set out the RC's compliance with the Trust Funding Guidelines and Payment Conditions for any funding provided by the Trust in the previous Financial Year</p>	<p>Trustee</p>	<p>Rule 20.4</p>
<p><b>Special Purpose Report</b></p> <p>If requested by the Trustee, the RC must prepare a Special Purpose Report which will include:</p> <ul style="list-style-type: none"> <li>• the RC's activities for the previous Financial Year</li> <li>• details of the services the RC has provided to the Noongar Community in the Region in the previous Financial Year</li> <li>• information as to how the funds the RC received from the Trust were used to advance the objects of the RC and the Trust Purpose</li> <li>• details of all Special Projects undertaken by the RC and their status</li> <li>• a statement regarding the RC's expenditure as against the RC's budget and, if the expenditure exceeded the budget, a report on the steps that will be taken to reduce the RC's expenditure</li> <li>• a copy of the RC's financial statements</li> </ul>	<p>Trustee</p>	<p>Rule 20.5</p> <p>Clause 4.7 of Trust Deed</p>
<p><b>Annual Plan</b> setting out how the RC will deliver the RC Core Functions<sup>72</sup></p>	<p>Trustee</p>	<p>Rule 20.6</p>

69 Rule 19.3 of the Rule Book

70 Rule 20.4 of the Rule Book

71 Rule 20.5 of the Rule Book and clause 4.7 of the Trust Deed

72 Rule 20.6 of the Rule Book. Note the annual plan must also be included in the RC's funding applications to the Trustee (S1.1.2(c) of Schedule 1 to the Trust Deed)

REPORT	RECIPIENT	REFERENCES
<b>Strategic Plan</b> <sup>73</sup>	Trustee	S1.1.2(d) of the Trust Deed
<b>Noongar Land Fund Expenditure Report</b> <sup>74</sup> Within 20 Business Days of the end of each Financial Year the RC must provide the State with a detailed report on the RC's expenditure of the funding the RC received from the Noongar Land Fund in relation to the Joint Management Committee (with further details to be developed and set out in the Noongar Land Fund Guide)	State	Clause 9(g) of Schedule 10 to the ILUA

3. More information about reporting requirements is in [Part 11](#) of this RC Guide. The CSC can assist the RCs with preparing reports as part of the CSC Regional Services, as set out in [Part 13](#) of this Guide.
4. The RC's Rule Book also requires the RC to prepare reports in accordance with Division 60 of the ACNC Act.<sup>75</sup> However, the ACNC and ORIC work together to reduce the number of times an Aboriginal corporation must report to regulators and have agreed that the reports lodged with ORIC will satisfy the RC's reporting obligations to the ACNC.
5. The RC must also provide the Trustee with notice of, and communications relating to, the RC's General Meetings.<sup>76</sup>

73 S1.1.2(d) of Schedule 1 to the Trust Deed

74 Clause 9(g)(i) of Schedule 10 to the ILUA

75 Rule 19.4 of the Rule Book

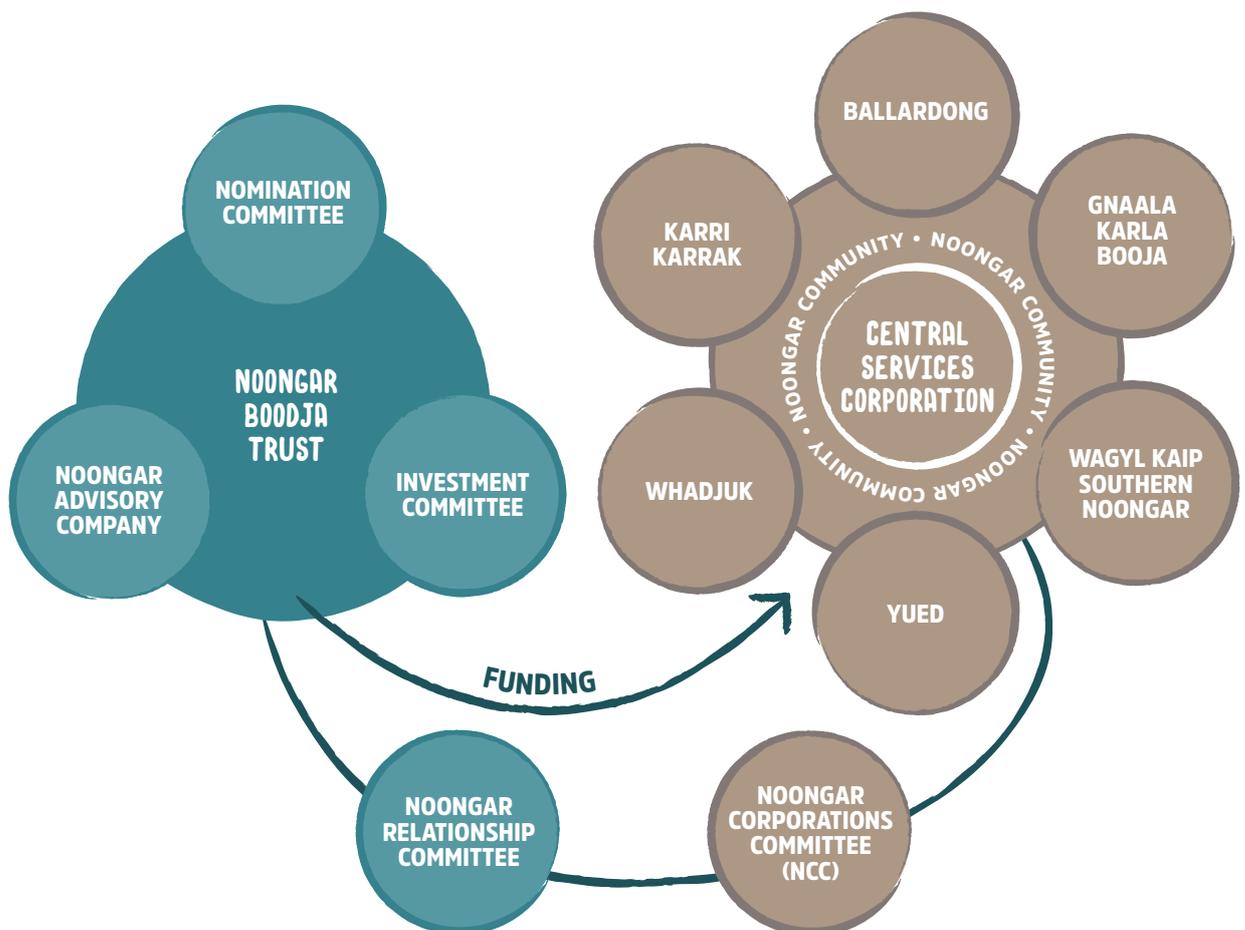
76 Rule 20.2 of the Rule Book

# Part 15 – Noongar Governance Structure Committees and Decision Making

A number of committees must be established and maintained as part of the NGS. The committees provide a forum for consultation and decision-making in relation to the NGS. The RCs primarily engage with the NGS through the NCC and NRC.

## Purpose of the Noongar Governance Structure

1. The NGS is the corporate structure that has been designed to deliver the outcomes of the Settlement and comprises the Trust, the RCs, the CSC and a number of committees.
2. There are a number of committees established under the NGS which provide support to the RCs and facilitate communication, consultation and decision-making between the different components of the NGS.



# How the Noongar Governance Structure relates to the Regional Corporation

3. The RC is an integral part of the NGS.
4. As a beneficiary of the Trust, the RC will receive financial and organisational support to enable it to focus on the country, culture and community of the respective Agreement Group.
5. The RC will have representatives on the NRC and NCC which form part of the NGS. These committees are a key mechanism for the Trustee and the CSC to consult with the RCs and obtain their guidance and input.

# Part 16 – Noongar Corporations Committee

The NCC is the primary source for consultation and communication between the RCs and the CSC. The NCC is established by the CSC under its Rule Book.

## Purpose of the Noongar Corporations Committee

1. The NCC was established and held its first meeting on 6 December 2022.
2. The NCC provides a forum for all the Noongar Corporations to come together to discuss matters of mutual interest, such as ILUA implementation, CSC service delivery and matters relating to the Noongar Boodja Trust.
3. The Trustee is required to consult with the NCC on certain Trust matters.

## Structure of the Noongar Corporations Committee

4. The NCC is established and maintained by the CSC under its Rule Book.<sup>77</sup>
5. The NCC comprises the Chair and CEO of each Noongar Corporation. Each RC must provide its representatives to sit on the NCC and cover their expenses for attending.

The Trustee does not participate in the NCC. All members of the NCC will also be members of the NRC, where Trust matters are discussed with the Trustee.



77 Rule 15 and Schedule 2 of SWALSC's Rule Book

# Functions of the Noongar Corporations Committee

6. The NCC's functions and role are as follows:<sup>78</sup>

## Functions

- Undertake specific functions contained in the Trust Deed
- Consider matters relating to the Trust
- Consider matters of ILUA implementation
- Programme and policy prioritisation and development
- Develop partnerships between Noongar Corporations
- Provide a support network for operational policy and programme matters
- Share knowledge on matters impacting the Noongar Corporations to improve effectiveness and efficiency
- Consider:
  - efficiency and adequacy of services provided by the CSC to RCs
  - funding sources to support the Noongar Corporations
  - opportunities to share costs and resources
  - how to minimise operational costs of Noongar Corporations
- Jointly with the CSC develop and maintain a CSC Cultural Consultation Policy (CSC Principles cl. 11 and CSC Rule Book)
- Appoint the Noongar Appointor (Trust Deed cl. 13.3)
- Notify the Appointors if a notifiable event has occurred in relation to Trustee appointment or removal (Trust Deed cl. 13.5)
- Initiate the transition to a dedicated Trustee (Trust Deed cl. 13.2)
- Agree any amendments to the Land Base Strategy with the State and Trustee (ILUA Schedule 10, cl 8.2)
- Receive progress reports from the Noongar Heritage Partnership Steering Groups (ILUA Annexure V, cl. 6.1).

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<sup>78</sup> NCC Functions (first column) are as specified in the CSC Rule Book Schedule 2; or the Trust Deed, CSC Principles (ILUA Annexure E, Part A) and ILUA (relevant clauses noted). The Trustee consultation roles (second column) are as specified in the Trust Deed.

## Trustee Consultation

The Trustee is required to consult with the NCC on the following matters:

- the manner in which the Trustee will consult with the Noongar Community (cl 3.3)
- nomination of a Dedicated Trustee (cl 3.2.4)
- the Investment Policy (cl 19.5)
- nomination of two people to the Investment Committee (cl 20.2)
- the Trust's Strategic Plan (cl 21.2)
- changes to the Trust Deed (cl 27)
- winding up or terminating the Trust (cl 28.3)
- notification by the Trustee in relation to any personal interests and managing of conflicts (cl. 22.5)

7. The CSC is responsible for facilitating NCC meetings and providing administrative support.

## Regional Corporation's Relationship with the Noongar Corporations Committee

8. Each RC will be represented on the NCC through its Chair and CEO. This gives the RC the opportunity to be part of the discussions of mutual interest to the Noongar Corporations and a forum for the Noongar Corporations to collaborate.

# Part 17 – Noongar Relationship Committee

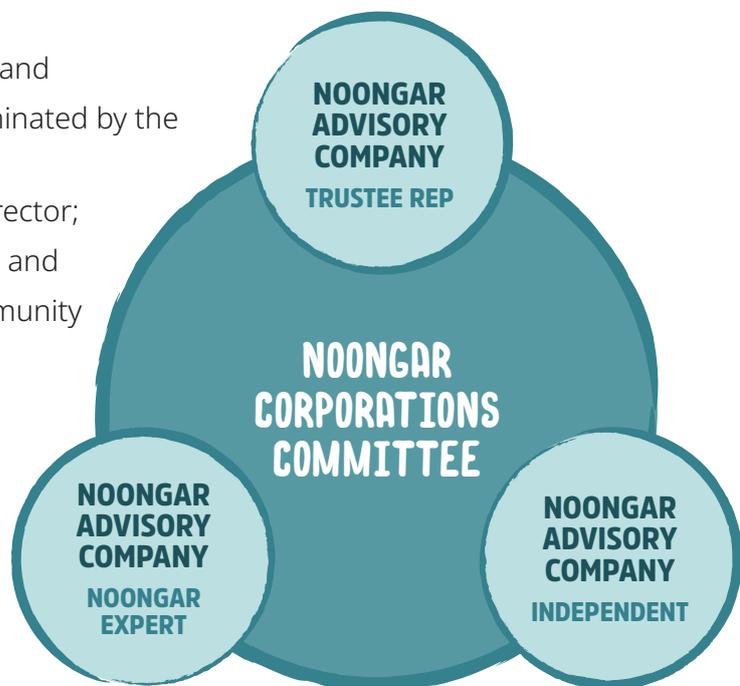
The NRC provides a streamlined process for the Trustee and the NAC to have direct, regular and meaningful engagement with the Noongar Corporations. The NRC comprises representatives of the Trustee, NAC, CSC and each RC.

## Purpose of the Noongar Relationship Committee

1. The NRC was established and held its first meeting on 9 March 2023.
2. The NRC is established by the Trustee<sup>79</sup> as the main connection between the Noongar Corporations, the Trustee and the NAC to engage in relation to the Trust.
3. The NRC reviews the:
  - Trustee's obligations to the Noongar Corporations under the Trust Deed
  - CSC's services to the RCs

## Structure of the Noongar Relationship Committee

4. The Trustee is responsible for establishing and maintaining the NRC<sup>80</sup> which must comprise of up to 17 people consisting of:
  1. all of the members of the NCC; and
  2. Three directors of the NAC nominated by the NAC consisting of:
    - One Trustee nominated director;
    - One Independent director; and
    - One Expert Noongar Community director.



79 Chapter 15 of the Trust Deed

80 NCC Functions (first column) are as specified in the CSC Rule Book Schedule 2; or the Trust Deed, CSC Principles (ILUA Annexure E, Part A) and ILUA (relevant clauses noted). The Trustee consultation roles (second column) are as specified in the Trust Deed.

# Functions of the Noongar Relationship Committee

5. The NRC's functions are split into two categories. These are specified in the Trust Deed:<sup>81</sup>

## General

- Forum for review of CSC Regional Services and Optional Services
- Forum for the CSC to review and implement a service agreement with the RC
- Monitor Noongar Corporations' compliance with the service agreement
- Support general administrative and operational matters between the Trustee and Noongar Corporations
- Consult with the Trustee or NAC
- Reviewing and making recommendations on the Trustee's compliance obligations under the Trust Deed
- Provide guidance to the Trustee on Traditional Laws and Customs relevant to the Noongar Community
- Other general functions the Trustee may consider appropriate

## Specific

Make recommendations to, consult with or provide consent to the Trustee on:

- Developing, approving and updating Code of Conduct and Policies and Procedures Manual (cl 3.2(c))
- Accessing income or capital of the Future Fund (cl 7.2(b))
- Modifying the Future Fund Capital Base (cl 4(c))
- Distributing the Future Fund Capital Base (cl 7.5)
- Considering the allocation of net proceeds from Property Development Activities (cl 11.5)
- Consulting with the NAC on matters relating to the Noongar Corporations (cl 15.2(a)(v))
- Appointing representatives to the Nominations Committee (cl 16.3(a))
- Preparing the Trustee Expense Budget (cl 23.3)
- Strategic review of the Trust (cl 26)
- Modifying the Trust Deed (cl 27(b))
- Modifications to Schedule 9 (First Trustee's Remuneration) Regulations (S9.2)
- Reviewing Schedule 9 (S9.7)
- Engaging a Remuneration Auditor (S9.8)
- Reviewing Routine and Conditional Tasks to determine if reclassification is required (S9 Regulations, Item 4.2 and Appendix A and B)
- Changes to Trustee KPIs (S9 Regulations Item 9)

6. The Trustee is responsible for facilitating NRC meetings and providing administrative support.

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81 The General functions (first column) are listed at Clause 15.2 of the Trust Deed. Specific functions (second column) are referenced in other parts of the Trust Deed, as indicated, including Schedule 9 of the Trust Deed, and in the Schedule 9 Regulations.

## Regional Corporation's Relationship with the Noongar Relationship Committee

7. Each RC will be represented on the NRC through its representatives on the NCC (being the RC's Chair and CEO). This gives the RC the opportunity to be part of the discussions regarding the general administrative and operational matters of the Noongar Corporations, the services provided to them and the operations of the Trust.
8. If the Trustee has issued an ENE Termination Notice<sup>82</sup> to remove a corporation as the RC for the Region, the representatives of the relevant RC are automatically removed as members of the NRC.

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82 Clause 4.4 of the Trust Deed

# Part 18 – Noongar Advisory Company

The NAC is the subsidiary company of the Trust, established by the Trustee to manage and support the Trustee's relationship with the Noongar Community and Noongar Corporations. The NAC makes recommendations to the Trustee to fulfil the Trust Purpose. The NAC is intended to transition to become the Dedicated Trustee of the Trust.

## Purpose of the Noongar Advisory Company

1. The NAC was formally established on 8 December 2021 as a public company limited by guarantee registered under the Corporations Act 2001 (Cth).
2. The NAC works closely with the Trustee to help manage the Trust. The NAC is a critical component in linking the Trustee and the Noongar Corporations.
3. The NAC is central to building Noongar corporate capacity within the NGS. The NAC ensures that the NGS can hold and maintain background knowledge, goodwill and potentially intellectual property independent of the Trustee.
4. It is anticipated that the NAC will transition to become the Dedicated Trustee of the Trust over 12 years.

## Structure of the Noongar Advisory Company

5. The NAC is established as a wholly owned subsidiary of the Trust in the form of a public company limited by guarantee.<sup>83</sup> It must be a not-for-profit company.
6. The Board of the NAC comprises six directors appointed by the company member (the Trustee):
  - Two directors representing the Noongar Community recommended by the Nominations Committee;
  - Two Independent directors recommended by the Nominations Committee;
  - One State nominee; and
  - One Trust nominee.
7. The template Constitution of the NAC is contained within the Trust Deed.<sup>84</sup>

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83 Chapter 14 of the Trust Deed

84 Schedule 13 of the Trust Deed

# Functions of the Noongar Advisory Company

8. The NAC has the following functions under the Trust Deed:

## General

- Assist the Trustee to manage relationships with, and to liaise with, the Noongar Community, Noongar Corporations and the NCC
- Foster mutual respect and cooperation between the Trustee, the Noongar Community and the Noongar Corporations
- Make recommendations to the Trustee on the fulfilment of the Trust Purpose and terms of the Trust Deed

## Specific

Make recommendations to, consult with or provide consent to the Trustee on the following matters:

- considering a Noongar Corporation's performance
- accepting contributions into the Trust Fund
- accessing the income or capital of the Future Fund (cl 7.2(b))
- modifying the Future Fund Capital Base (cl 7.4(c))
- distributing capital of the Future Fund (cl 7.5)
- appointing and removing the Trustee (cl 13.4(b))
- determining the selection process for a replacement trustee (cl 13.4(e))
- consulting with the NRC on matters relating to the Noongar Corporations (cl 15.2(a)(v))
- appointing representatives to the NRC (cl 15.3(a)), Nominations Committee and Investment Committee
- determining the Annual Budget and Annual ENE Allocation (cl 18.2(a))
- reviewing and modifying the Investment Policy (cl 19.5)
- formulating and reviewing the Strategic Plan (cl 21.2 and 21.3)
- preparing the Trustee Expense Budget (cl 23.3)
- undertaking a strategic review of the Trust (cl 26)
- establishing any Eligible Noongar Entity, Noongar Boodja Development Corporation or other entity to further the Trust Purpose
- modifying the Trust Deed (cl 27(b))
- winding up or terminating the Trust and applying assets of the Trust Fund upon winding up (cl 28.3)

## Land

Make recommendations to or consult with the Trustee regarding:

- matters relating to, connected with or arising out of a specific Region, the RC, Agreement Group or Noongar Boodja Traditional Lands of that Region
- holding land in the Cultural Land Fund (cl 10.3(c))
- identifying the Region and RC to which Cultural Land relates (cl 10.2(b))
- reclassifying Cultural Land as Development Land (cl 10.4(a))

- establishing a Noongar Boodja Development Corporation to undertake Property Development Activities (cl 11.4(b))
- considering the allocation of Net Proceeds from Property Development Activities on Development Land (cl 11.5)

## Funding

Make recommendations to or consult with the Trustee regarding:

- distributions to Noongar Corporations from the Operations Fund in exceptional circumstances (cl 8.4(b))
- applications for distributions from Noongar Corporations (cl 17.4)
- placing conditions for the release of distributions to Noongar Corporations (cl 17.5)
- modifying Funding Guidelines (cl 17.11)

## Transition to Dedicated Trustee

9. The NAC's role and focus will evolve over time until it can become the Dedicated Trustee. The Trustee will assist the NAC to build the necessary capacity to become the Dedicated Trustee which will include the Trustee gradually delegating Trustee functions and activities to the NAC to help it prepare for its future role.



**Year 1** – Noongar Advisory Company and Trustee will develop a 12-year plan for building the capacity of the Noongar Advisory Company to become the Noongar Trustee in 12 years. (“Noongar Advisory Transition to Trustee Plan”)



**Years 2-5** – The Trustee works on the delivery of Trust outcomes to support the RCs, Noongar Advisory Company works closely with the trustee in its decision making. Trustee assists Noongar Advisory Company with its capacity building.



**Years 6-9** – The trustee delegates to Noongar Advisory Company an agreed selection of trust management functions and works with Noongar Advisory Company delivery.



**Years 10-12** – The Trustee delegates to Noongar Advisory Company almost all of the trust management functions. The Trustee operates in the background to provide feedback and guidance as required by Noongar Advisory Company.



**Future** – Noongar Advisory Company becomes the Noongar Trustee and operates on its own.

 Perpetual  NAC

10. Once the NAC has become the Dedicated Trustee, the functions of the NAC under the Trust Deed will be assumed by the Dedicated Trustee.<sup>85</sup>

85 Clause 14.3 of the Trust Deed

## Regional Corporation's Relationship with the Noongar Advisory Company

11. The NAC will engage with the NRC on matters relating to the Noongar Corporations. Representatives of the NAC will work together with RC representatives through NRC meetings and discussions.
12. The NAC will also make recommendations to and consult with the Trustee in relation to:
  - the RC's application for distributions from the Operations Fund;
  - identifying the Region and RC to which Cultural Land relates; and
  - matters relating to, connected with or arising out of a specific Region, the RC, Agreement Group or Noongar Boodja Traditional Lands of that Region.

# Part 19 – Noongar Nominations Committee

The Nominations Committee manages the selection process for board and committee positions within the NGS.

## Purpose of the Noongar Nominations Committee

1. The purpose of the Nominations Committee is to facilitate and streamline the process for selecting and securing candidates for board and committee positions within the Trust and Noongar Corporations.<sup>86</sup>
2. The Nominations Committee has an important role in confirming the eligibility of candidates for board and committee positions.

## Initial Nominations Committee

3. Recognising that the composition requirements for the Nominations Committee under Chapter 16 of the Trust Deed could not be met immediately upon establishment of the Trust (as certain representative bodies were not yet created), the Trustee, with the consent of SWALSC, appointed members to the initial Nominations Committee.
4. The initial Nominations Committee was established on 19 April 2021 following the commencement of the Trust<sup>87</sup> for a one year term.
5. The initial Nominations Committee was an independent body whose primary purpose was assessing, certifying the eligibility of and recommending candidates for appointment as the first Member Directors of the RC Boards, and first Members of the NAC and Investment Committee.
6. The initial Nominations Committee ceased on 19 April 2022, and the Nominations Committee (proper) commenced on 19 August 2022.

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<sup>86</sup> Clause 16.9 of the Trust Deed

<sup>87</sup> Clause 16.9 of the Trust Deed

# Structure of the Noongar Nominations Committee

7. The Trustee appoints the Nominations Committee which must comprise six people:
  - One Trustee nominee, who is the chair of the Nominations Committee;
  - One NRC nominee (who must not be a current director or employee of a Noongar Corporation);<sup>88</sup>
  - Two Noongar Community representatives that have experience with directorships and boards; and
  - Two Independent people that have experience with directorships and boards.
8. Members of the Nominations Committee cannot be a director or member of any other Trust committees, corporations or Noongar Corporations within the NGS.



88 Note that the Trustee made the initial appointment of this person to the Nominations Committee (proper), given the Noongar Relationship Committee had not yet been established. The Trustee sought orders of the Supreme Court of Western Australia to empower the Trustee to do this, to enable the Nominations Committee to be formed and commence its work. Master Sanderson of the Supreme Court made orders on 15 June 2022 in Supreme Court Act CIV 1544/2022, directing that the Trustee is empowered to itself nominate and appoint the person referred to in clause 16.3(a)(ii) of the Trust Deed to the Nominations Committee, if, at the time of such nomination and appointment, there is no Noongar Relationship Committee.

9. Candidates are preferred for appointment if they have experience working with Indigenous communities or experience with recruiting boards or committees.
10. The Trust Deed includes rules about the eligibility criteria for Nominations Committee members, and the process for appointing them. The Trustee must work with the NAC to select and appoint Nominations Committee members.

## Functions of the Noongar Nominations Committee

11. The functions of the Nominations Committee are:<sup>89</sup>

### Functions

- Calling for nominations for appointment to the relevant boards and committees
  - Specifying the form in which applications must be made
  - Considering applications for appointment and interviewing candidates and referees
  - Making inquiries and investigations to confirm the eligibility of candidates
  - Making recommendations only to the Trustee or other relevant entity for appointments (including casual vacancies)
  - Acting as soon as possible upon receiving instructions from the Trustee
  - Creating a transparent and fair process for applicants to apply for positions
12. The Nominations Committee will also have a role in the appointment process for Noongar Corporation directors.

## Regional Corporation's Relationship with the Noongar Nominations Committee

13. For RC directors elected by the members (**Member Directors**), those persons seeking election will first need to go through a screening process managed by the Nominations Committee – to ensure that they are eligible for election.<sup>90</sup> The Nominations Committee does not make recommendations on preferred candidates.
14. In the case of RC Expert Directors, the Nominations Committee will look at similar eligibility criteria to that of Member Directors, as well as the specific expert skills of candidates. The Member Directors appoint Expert Directors to the RC Board, after reviewing the recommendations from the Nominations Committee.<sup>91</sup>

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89 Clause 16.2 of the Trust Deed

90 Rules 8.2.1 and 8.5.1 of the RC Rule Book

91 Rule 8.5.2 of the RC Rule Book

# Part 20 – Noongar Investment Committee

The Noongar Investment Committee is established under the Trust Deed to guide and assist the Trustee with its investment functions.

## Purpose of the Noongar Investment Committee

1. The Investment Committee is a committee established by the Trustee under chapter 20 of the Trust Deed.
2. The purpose of the Investment Committee is to advise the Trustee in relation to the investment and growth of the assets of the Trust, to help ensure that sound investment decisions are made.
3. The Trust Fund must be invested in accordance with the investment principles<sup>92</sup> in the Trust Deed, and an investment policy.<sup>93</sup>
4. The Investment Committee was included in the NGS to ensure that the Trustee has access to high quality advice regarding investment, as well as to provide an independent committee to review investment proposals.
5. It is important to note that the Investment Committee is an advisory group only, designed to provide additional rigour in the Trustee's investment decisions. It operates in a consultative capacity only. The Investment Committee provides advice, assistance and recommendations, rather than making binding decisions about investments. The Trustee makes the ultimate decisions about investments.

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92 Clause 19.3 of the Trust Deed

93 Clause 19.4 of the Trust Deed

# Structure of the Noongar Investment Committee

6. The Trust Deed sets out the selection process<sup>94</sup> and the qualification criteria<sup>95</sup> for the Investment Committee.
7. A person must be able to demonstrate the following qualifications in order to be eligible for appointment to the Investment Committee:
  - Financial literacy
  - Leadership experience
  - Absence of conflicting commitments
  - Has not been disqualified from managing corporations or companies
  - Has not been convicted in a criminal proceeding or named a subject of a pending criminal proceeding (excluding traffic violations and other minor offences);
  - Has not been found in a civil proceeding to have violated any federal or state securities or commodities law
  - Is not subject to any Court or regulatory order or decree limiting his or her business activity, including in connection with the purchase or sale of any security or commodity
  - Is not a director, officer or committee member of a RC or the CSC
8. The Trustee appoints the Investment Committee which must comprise of:<sup>96</sup>

- One representative from the Trustee, who shall be the Investment Committee Chair
- Two persons having at least five years investment or property development expertise or experience and nominated by the NCC on recommendation of the Nominations Committee
- Four independent persons nominated by the Trustee on recommendation of the Nominations Committee comprising:
  - Two persons that have at least five years property expertise or experience
  - Two persons that have at least five years investment expertise



94 Clause 20.4 of the Trust Deed

95 Clause 20.3 of the Trust Deed

96 Clause 20.2 of the Trust Deed

# Functions of the Noongar Investment Committee

9. The functions of the Investment Committee are:<sup>97</sup>
- Review proposals from investment managers and provide recommendations and feedback to the Trustee
  - Review the draft Investment Policy as prepared by the Trustee and provide recommendations and feedback to the Trustee
  - Assist the Trustee to review the performance of the investments made by the Trustee against the agreed investment performance benchmarks identified in the Investment Policy
  - Review the Trustee's compliance with its investment obligations under the Trust Deed, and provide recommendations to the Trustee as to how those obligations may be met
  - Provide unbiased investment advice and recommendations to the Trustee
  - Provide guidance to the Trustee on Property Development Activities and Housing Land Development Activities
10. Under the Trust Deed, the Trustee has obligations to consult with or obtain the consent of the Investment Committee on the following matters:

## **Consent**

- Distributing the income or capital of the Noongar Future Fund during the State Contribution Period
- Distributing the Future Fund Capital Base

## **Consult**

- Modifying the Future Fund Capital Base
- Development Land and Housing Land activities
- The Annual Budget and Annual ENE Allocation each Financial Year
- The Strategic Plan
- Winding up the Trust

# Regional Corporation's Relationship with the Noongar Investment Committee

11. Whilst the RC does not have a role in the Investment Committee, it will have a particular interest in the Investment Committee's recommendations, as they relate to Trust matters of importance to the RC. This will likely include Development Land and Housing Land activities.

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97 Clause 20.1 of the Trust Deed

# Part 21 – Partnership Arrangements with the WA Government

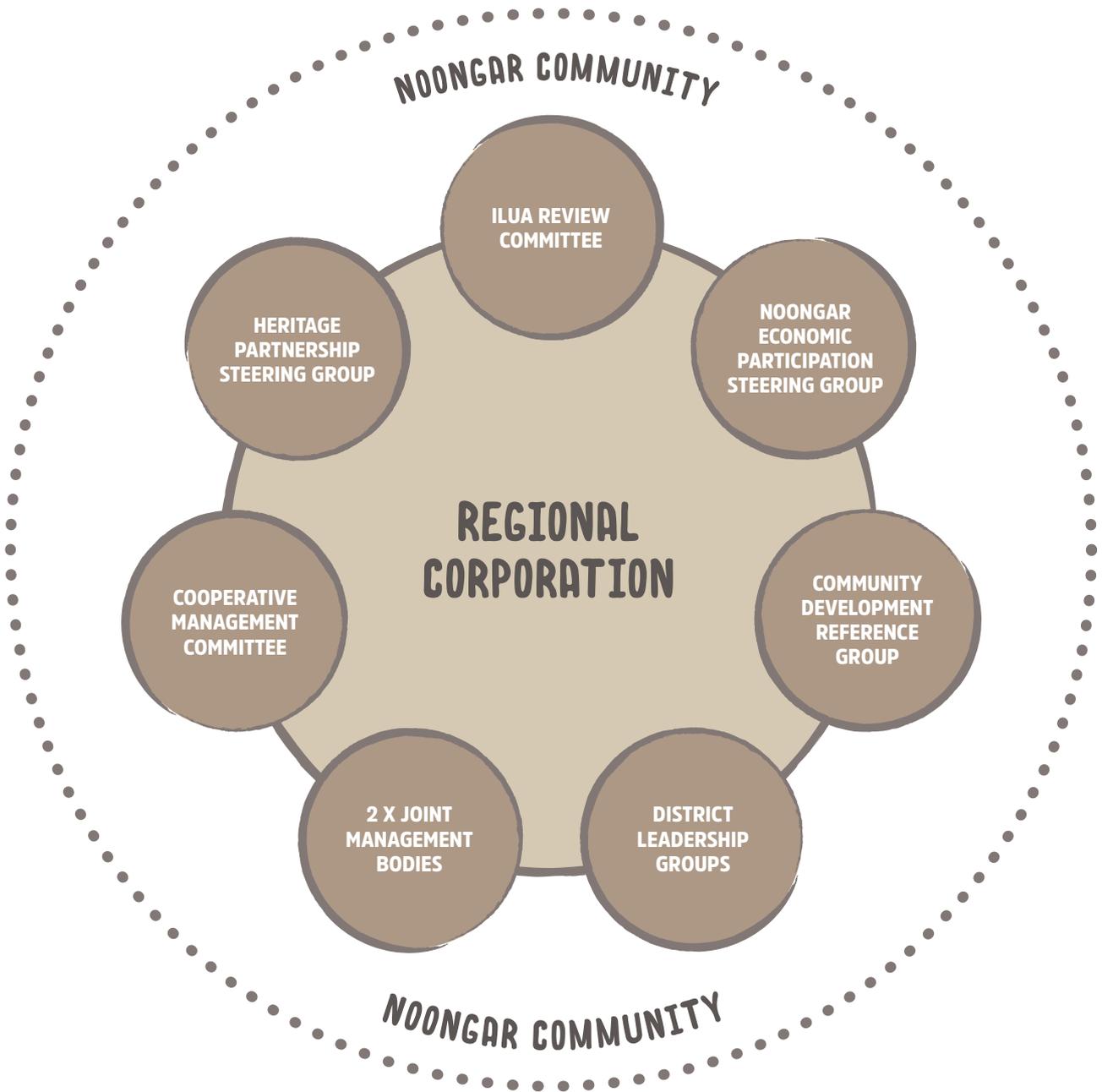
WA Government agencies are key partners for the Regional Corporations and will work in collaboration with the Noongar Corporations in implementing the Settlement.

## Role of the WA Government

1. The Department of the Premier and Cabinet (DPC) is the lead government agency responsible for the coordination and support needed for the long-term implementation of the Settlement. This includes coordination of all WA Government ILUA obligations. Other WA Government agencies have responsibilities to lead particular ILUA commitments on behalf of the WA Government.
2. The 'State' as a whole is also a party to the ILUAs, meaning that all WA Government agencies are bound in relation to specific ILUA commitments, for example, requirements in relation to use of the Noongar Standard Heritage Agreement.
3. The unprecedented scale of investment in the Settlement requires the WA Government to ensure the vision and objectives of the Settlement are met.
4. Under the Settlement, WA Government agencies are committed to meeting their ILUA obligations in a manner that builds strong partnerships based on respect and understanding between the WA Government and the Noongar community.

## Partnership Arrangements between the Regional Corporations and Government

5. The Settlement establishes a partnership governance structure that consists of high-level steering groups and committees comprising WA Government and Noongar Corporation representatives, to jointly progress Settlement commitments.
6. Some of the groups and committees include all six RC's and the CSC, while others are specific to a RC's particular area.
7. From time to time working groups and committees are established by agreement between the parties to progress particular Settlement implementation priorities.



COMMITTEE/GROUP	MEMBERS	FUNCTION
<b>ILUA Review Committee</b>	<ul style="list-style-type: none"> <li>• Six WA Government reps;</li> <li>• Two reps nominated by each RC;</li> <li>• Two reps nominated by the CSC;</li> <li>• One rep of the Trustee</li> </ul>	Review the implementation of the Settlement
<b>Noongar Economic Participation Steering Group</b>	<ul style="list-style-type: none"> <li>• Eight WA Government reps;</li> <li>• One rep of each RC and CSC</li> </ul>	Identify opportunities for greater Noongar participation in economic development
<b>Community Development Reference Group</b>	<ul style="list-style-type: none"> <li>• WA Government members of the Aboriginal Affairs Coordinating Committee (AACC);</li> <li>• One rep of each RC and CSC;</li> <li>• Other reps from Commonwealth, Local Governments, community services sector and NGO reps</li> </ul>	Oversee the implementation of the Community Development Framework
<b>District Leadership Group/s</b>	<ul style="list-style-type: none"> <li>• WA Government reps;</li> <li>• RC rep/s</li> </ul>	Oversee regional implementation of the Community Development Framework
<b>Two x Joint Management Bodies</b>	<ul style="list-style-type: none"> <li>• Up to six WA Government reps;</li> <li>• Up to six RC reps</li> </ul>	Partnerships to jointly manage specific areas of Conservation Estate (two per ILUA area by Year 10)
<b>Cooperative Management Committee</b>	<ul style="list-style-type: none"> <li>• Two-six WA Government reps;</li> <li>• Six RC reps</li> </ul>	Partnerships to manage the Conservation Estate
<b>Heritage Partnership Steering Group</b>	<p>Equal numbers of:</p> <ul style="list-style-type: none"> <li>• WA Government reps;</li> <li>• RC reps</li> </ul>	Partnerships to ensure management, protection and preservation of Aboriginal Heritage Sites

8. Please refer to the following sections of this Guide for further information on these groups and committees:
- [Part 22](#) – for the ILUA Review Committee;
  - [Part 25](#) – for the Heritage Partnership Steering Group;
  - [Part 26](#) – for the Cooperative Management Committees and Joint Management Bodies;
  - [Part 28](#) – for the Community Development Reference Group and District Leadership Groups; and
  - [Part 29](#) – for the Noongar Economic Participation Steering Group.

# Part 22 – ILUA Review Committee

The Review Committee is established under the ILUA for the purpose of reviewing the implementation of the ILUA.

## Purpose of the Review Committee

1. In order to support the Settlement in achieving its objectives, the ILUAs establish an ILUA Review Committee to review the implementation of the Settlement, and to identify and recommend variations as required.
2. The ILUA Review Committee must meet on or about the third anniversary of the Trust Effective Date (that is, around 29 March 2024) and every five years thereafter to review the implementation of the ILUAs.<sup>98</sup>

## Structure of the Review Committee

3. The Review Committee will comprise:<sup>99</sup>
  - Six representatives nominated by the WA Government;
  - Two representatives nominated by each RC;
  - Two representatives nominated by the CSC; and
  - One representative of the Trustee.

COMMITTEE/GROUP	MEMBERS	FUNCTION
<b>ILUA Review Committee</b>	<ul style="list-style-type: none"><li>• Six WA Government reps;</li><li>• Two reps nominated by each RC;</li><li>• Two reps nominated by the CSC;</li><li>• One rep of the Trustee</li></ul>	Review the implementation of the Settlement

98 Paragraph 19.3 of Schedule 10 to the ILUA

99 Paragraph 19.2(a) of Schedule 10 of the ILUA

## Functions of the Review Committee

4. The ILUA Review Committee will consider:<sup>100</sup>
  1. recommendations made by the ILUA Review Committee in previous years, including recommendations concerning proposed amendments to the ILUAs;
  2. changes to the law that directly or indirectly affect the ILUAs;
  3. submissions made by the RCs and CSC, the WA Government, a Government Party or the Trustee concerning proposed variations of the ILUAs; and
  4. variations of the ILUAs necessitated by changes in political or economic circumstances.
5. Recommendations and decisions of the ILUA Review Committee are not binding on the parties under the ILUAs.<sup>101</sup>

## Regional Corporation's Relationship with the Review Committee

6. Two representatives will be nominated from each RC. This gives the RC the opportunity to be part of regular discussions regarding various matters arising under the ILUAs to promote effective implementation and, where appropriate, their variation.
7. The RC can also make a submission to the ILUA Review Committee on a proposed variation to the ILUA.
8. The ILUA (and the Settlement Terms contained in Schedule 10 to the ILUA) can only be varied by written agreement of the RC, except where a different process is expressly provided for to amend particular ILUA provisions.<sup>102</sup>

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100 Paragraph 19.3 of Schedule 10 to the ILUA

101 Paragraph 19.4 of Schedule 10 to the ILUA

102 Paragraph 19.5 of Schedule 10 to the ILUA

# Part 23 – Noongar Land Estate

The Noongar Land Estate is the land allocated to the Noongar Community under the Settlement and held in the Trust. One of the RC's core functions is managing and caring for Cultural Land and developing land management programs for the Noongar Land Estate.

## Introduction to the Noongar Land Estate

1. The Noongar Land Estate (**NLE**) is established under clause 8 of Schedule 10 to the ILUAs, in recognition that land is intrinsically linked to the spiritual, social and economic wellbeing of the Noongar Community. The NLE comprises up to a maximum of 320,000 hectares of land that will be held in the Trust for development and cultural purposes. This will comprise up to 300,000 hectares of land allocated as reserve or leasehold, and up to 20,000 hectares allocated as freehold land.
2. The Noongar Land Base Strategy,<sup>103</sup> coordinated by the Department of Planning, Lands and Heritage, sets out what and how land will be allocated to the NBT as part of the NLE.
3. The lands to be allocated include unallocated Crown Land or unmanaged reserves, Aboriginal Lands Trust properties, and lands held by WA government agencies that are identified as eligible by the State for allocation.
4. The Noongar Land Base Strategy sets out annual targets for the WA Government and the NBT in relation to the identification, selection, acceptance and allocation of land to the NBT, which both parties must work towards during first five years of the NBT.
5. Once the land has been allocated to the Trust, the Trustee must assign the land to a sub-fund, noting that different rules apply to different sub-funds. The land in the NLE will be held in two sub funds of the Trust – the Cultural Land Fund and the Development Land Fund. There is also the opportunity for NLE lands to be held in the Trust's Housing Fund, to contribute to Noongar housing outcomes (see Part 31). The Trustee must determine which Fund land should be placed into, based on its cultural or development value.
6. The ILUAs do not require an equal amount of land to be held in each Region. The actual amount of land in each Region will depend on the availability of suitable land in each region, and the selection and assessment processes for the land. The Trustee will consider the equitable distribution of the land across the Regions when undertaking the selection process.

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103 The Noongar Land Base Strategy is set out in Annexure J to Schedule 10 of the ILUA

## Cultural Land

7. The Cultural Land Fund will hold land transferred to the Trust, that is considered spiritually and culturally significant by the Noongar community.
8. The Trustee acknowledges that the members of the Noongar Community remain the spiritual and cultural custodians of the Cultural Land and continue to practise their values, languages, beliefs and knowledge in relation to the Cultural Land. Cultural Land must be managed in a manner that has regard to the spiritual and cultural connection of the Agreement Group and their Traditional Laws and Customs.<sup>104</sup>
9. Cultural Land cannot be sold or commercially developed unless an extensive consultation process has been undertaken between the RC, the Trustee and the NAC, and the relevant Agreement Group has provided its endorsement . The Cultural Land would then be reclassified as Development Land.
10. Leases or licences can be issued by the Trustee over Cultural Land to either the RC, or a third party (after consultation with the RC, provided the purpose is consistent with Cultural Land purposes.

## Regional Corporation's Role in Cultural Land

11. At the request of an ENE, the Trustee may accept any estate, right or interest in land or Management Order as Cultural Land in the Cultural Land Fund in consultation with and on the recommendation of the relevant RC/s.<sup>106</sup>
12. The Trustee will then hold and manage Cultural Land in consultation with the RC.
13. The RC can request the Trustee to grant the RC an interest in Cultural Land (by way of lease, licence etc.) and the Trustee must do so:<sup>107</sup>
  - provided that it is lawful to do so, and the Trustee considers the RC can afford to maintain the interest in the Cultural Land; and
  - on the condition that the RC cannot dispose of the interest (by sale, transfer etc.) or encumber it (by mortgage, charge etc.).
14. Where the RC is granted an interest in Cultural Land, the RC will become responsible for managing, maintaining and interest in, and access to the Cultural Land, and must develop policies and procedures for doing so, having regard to:<sup>108</sup>
  - Protection, preservation and use of the Cultural Land as a place of cultural significance
  - The rules in the Trust Deed for protecting Cultural Land (called the Title Protection Criteria)
  - Terms and conditions (if any) imposed by the Trustee on the grant of an interest in accordance with the Trust Deed

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104 Clause 10 of the Trust Deed

105 Clause 10.4 of the Trust Deed

106 Clause 10.2 of Trust Deed

107 Clause 10.3 of the Trust Deed

108 Rule 15.4 of the RC Rule Book, and Item 11 of Part B of Annexure E of Schedule 10 of the ILUAs

15. The RC can apply to the Trust for Operations Funding to enable it to undertake the management role as part of the RC's core functions.<sup>109</sup> Depending on the volume of land to be held by the RC, additional sources of funding may be required to meet the outgoings and costs of maintaining the interest in the Cultural Land. The Trustee will review the activities of the RC as part of the assessment and reporting mechanisms.<sup>110</sup>
16. Where the RC does not request the Trustee grant the RC an interest in particular Cultural Lands in the Cultural Land Fund, then the Trustee will consult with the RC to manage the land and make decisions with regards to its use.<sup>111</sup> This may include the grant of an interest to a third party consistent with Cultural Land purposes. Any leases or licences of Cultural Land cannot be transferred or mortgaged.
17. Cultural Land may be converted to Development Land. However, this requires an extensive consultation process with the RC and other stakeholders, and the Agreement Group must endorse the conversion of the Cultural Land.<sup>112</sup>

## Development Land

18. The Development Land Fund will hold land transferred to the Trust, that is to be used for development purposes as part of the Settlement and will include land that has been determined appropriate for property development, commercial exploitation, sale or passive property investment activities (e.g. leasing).<sup>113</sup>
19. Property Development Activities are intended to generate commercial returns for the Trust, so that the Trust can reach the Future Fund target sooner. In the long term this will enable Future Fund income to be accessed for a wider range of projects and purposes.
20. Net profits from Property Development Activities must be allocated in accordance with clause 11.5 of the Trust Deed. Sometimes this may involve sharing some proceeds with the Noongar Corporations.
21. The Trustee must hold, manage, invest and exploit the Development Land as follows:<sup>114</sup>
  - In consultation with the Investment Committee
  - Exercising investment powers in accordance with the Investment Policy
  - Ensuring Property Development Activities are undertaken by Noongar Boodja Development Corporations
22. The Trustee may in consultation with the NAC establish one or more special purpose Noongar Boodja Development Corporations to undertake Property Development Activities.<sup>115</sup> This is to ensure that development activity is undertaken separately from the Trust and the Trust is protected from risk.

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109 Clause 8.2 of the Trust Deed

110 Item S3.3 of Schedule 3 of the Trust Deed

111 Clause 10.3 of the Trust Deed

112 Clause 10.4 of the Trust Deed

113 Clause 11.1 of the Trust Deed

114 Clause 11.2 of the Trust Deed

115 Clause 11.4 of the Trust Deed

# Regional Corporation Role in Development Land

23. The Trust Deed acknowledges that Development Land is important to the Noongar Community. One of the RC's core functions is to work with the Trustee and the CSC to identify and progress property development opportunities across the Noongar Land Estate within the relevant Region.<sup>116</sup>
24. The Trustee must always consult with an RC before making a decision to undertake commercial activities on Development Land within the relevant Region.<sup>117</sup> This includes decisions such as selling, leasing, mortgaging and significant building work.
25. At least once each Financial Year, the Trustee must consult with the RC in relation to all Development Land within the relevant Region.<sup>118</sup>

## Priority Land Meeting

26. The Priority Land Meeting (**PLM**) is an agreed component of the Noongar Land Base Strategy.
27. Priority Land is land that has been deemed ineligible for inclusion into the Noongar Land Estate but has been identified as being of significance to the Noongar community.
28. The ILUAs provide that PLMs will be held quarterly to provide an opportunity to discuss ways of accommodating the Noongar community's request that those parcels of Priority Land that are significant to the Noongar community are included in the Noongar Land Estate.
29. Members of the PLM will comprise of representatives from each of the following organisations:
  - Department of the Premier and Cabinet (as Chair);
  - Department of Planning, Lands and Heritage; and
  - Trustee.
30. The RCs are not members of the PLM, however the Trustee may consult with the RCs in relation to particular land parcels that are being considered at PLM, to inform and support the Trustee's participation in the PLM process and ensure PLM outcomes support relevant RC objectives wherever possible.

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116 S3.2 of Schedule 3 to the Trust Deed

117 Clause 11.3(b) of the Trust Deed

118 Clause 11.3 of the Trust Deed

# Part 24 – Noongar Land Fund

The Noongar Land Fund has been established to support the land, joint management and heritage objectives of the Settlement.

## Purpose of the Noongar Land Fund

1. The purpose of the Noongar Land Fund is to support the land, joint management and heritage objectives of the Settlement through the development of effective partnerships between the RCs and the State’s key land agencies and other State departments.
2. Activities the Noongar Land Fund could potentially be utilised to facilitate:<sup>119</sup>
  - Transfer of land from the Crown to the NLE
  - Site inspections for parcels of land to be transferred into the NLE
  - Land surveys for the creation of certificates of title to allow transfers to occur
  - Remediation of land parcels
  - Assistance for joint management partnerships between DBCA and the RCs
  - Development of Noongar land management capacity
  - Land management programs in partnership with DPIRD on the NLE
  - Priority program for the identification and protection of highly significant or “at risk” heritage sites
  - Other activities relevant to conservation, heritage and land management
3. The types of activities that are pursued will depend upon the availability of funds within the Noongar Land Fund.
4. The State’s key land agencies include:
  - Department of Planning, Lands and Heritage (DPLH)
  - Department of Biodiversity, Conservation and Attractions (DBCA)
  - Department of Primary Industries and Regional Development (DPIRD)
  - Other State departments(collectively known as the **State Parties**).

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119 ILUA Schedule 10, cl 9(d)

## State Role in the Noongar Land Fund

5. Under the terms of the Settlement, the State must establish the Noongar Land Fund within 60 business days after the Trust Effective Date. The State will contribute up to a maximum of \$46,850,000 to the Noongar Land Fund over a 10 year period.
6. Access to funding from the Noongar Land Fund will be determined and administered by the State in accordance with Guidelines to be published by the State.
7. The State may outsource certain administrative and decision making functions relating to the Noongar Land Fund to an external party. Notwithstanding this, the State has the final decision-making authority in order to progress the land and partnership objectives of the Noongar Land Fund.
8. The State will also have the discretion to shift resources between the Noongar Land Fund's budget lines to reflect priorities if some budget lines are not fully utilised any one year.
9. External administration costs will be paid out of Noongar Land Fund.

## Regional Corporation Role in the Noongar Land Fund

10. The RC will identify the priorities important to the Region that fall within the scope of the Noongar Land Fund and that cannot be funded through the RC operational budget.
11. The RC will work in partnership with the relevant State Parties to discuss the RC's priorities to achieve the best possible outcomes for the Region and develop a budget proposal in accordance with Funding Guidelines, to access funding from the Noongar Land Fund.
12. The RC will work with the relevant State Parties to submit a budget proposal for consideration by the State.
13. The ILUAs specify that a sum of \$83,000<sup>120</sup> will be paid to the RC each year from the Noongar Land Fund for activities specifically to assist joint management partnerships (Joint Management Partnership Funding); namely, to:
  - Facilitate joint management arrangements in relation to the Conservation Estate within the Region
  - Cover the RC's costs in participating in the joint management governance arrangements
  - Fund joint management projects agreed by the Co-operative Management Committee and Joint Management Committee

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120 Adjusted annually in accordance with the CPI calculation

14. The dedicated Joint Management Funding received by the RC from the Noongar Land Fund is subject to the following payment conditions, whereby the RC must:
- Invoice the State for money to be paid from the NLF on a pro-rata basis for the remaining part of the Financial Year
  - Within 20 Business Days of the end of each Financial Year, the RC must report on the expenditure of the moneys it has received from the NLF
  - Keep all money received from the NLF Fund separate from all other funding
  - Roll over any unspent funds received from the NLF in a Financial Year into the same budget line item in the next Financial year

The dedicated Joint Management Funding received by the RC from the Noongar Land Fund must only be used:

- i) to support the RC's costs of its representatives participating in the Co-operative Management Committee or Joint Management Committee meetings; or
  - ii) for joint management projects that have written approval of either the Co-operative Management Committee or a Joint Management Committee for any part of the Conservation Estate for the Region, **(Payment Conditions)**.
15. If the RC fails to comply with the Payment Conditions, the State may suspend future Joint Management Partnership Funding payments to the RC until the Payment Conditions are fully met.
16. Once a payment suspension has been lifted, the RC will only be eligible to be paid on a pro-rata basis for the remaining part of the relevant Financial Year.
17. Any money that is not paid to the RC in such circumstances will be rolled back into the Noongar Land Fund and the State may allocate those funds for other purposes.

# Part 25 – Noongar Heritage

The RC has an important role in the protection and management of Noongar heritage.

## Noongar Heritage under the Settlement

1. A key element of the Settlement is the Noongar People's connection to the land and the desire to improve access and protect places of cultural significance.
2. One of the purposes of the RCs is to protect, promote and support heritage.<sup>121</sup> The RC's Core Functions include development of heritage programs and ensuring proper implementation of the heritage provisions of the ILUA.<sup>122</sup>
3. Noongar heritage is protected through the ILUA's Noongar Standard Heritage Agreement and Noongar Heritage Partnership Agreement.

## The Noongar Standard Heritage Agreement and Aboriginal Heritage Agreements

4. Since the ILUAs were signed on 8 June 2015, the WA Government, including government agencies and proponents must enter into a Noongar Standard Heritage Agreement (**NSHA**) with the SWALSC on behalf of the Agreement Group or RC when conducting Aboriginal Heritage Surveys in the Agreement Area to ensure that the activities are carried out in a manner that protects Aboriginal Sites and Aboriginal Objects to the greatest extent possible.<sup>123</sup>
5. The NSHA provides all parties with a clear, timetabled framework about their various Aboriginal heritage obligations. The NSHA also delivers a process for improving the quality of data on the Aboriginal Cultural Heritage Inquiry System (**ACHIS**), which in turn enhances protection of Aboriginal heritage through identification of sites that are important to Noongar people.
6. SWALSC on behalf of the Agreement Group or RC must use its best endeavours to execute and provide a copy of the executed NSHA or Aboriginal Heritage Agreement (as the case may be) to the Government Party (or a Proponent) within 20 Business Days of receiving the NSHA or Aboriginal Heritage Agreement executed by a Government Party or Proponent.<sup>124</sup>

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121 Rule 3(a)(i) of the Rule Book

122 S3.2(a)(x) of Schedule 3 to the Trust Deed

123 Clause 18.1(c) and (d) of Schedule 10 and Annexure C to the ILUA

124 Clause 18.1(f) of Schedule 10 to the ILUA

7. Where the Minister for Mines and Petroleum grants to a Proponent a Mining Tenement, a Petroleum and Geothermal Energy Resources (PGER) Tenement or an Access Authority, the Minister must impose certain tenure conditions upon the grant.<sup>125</sup> The condition requires the Proponent to enter into an Aboriginal Heritage Agreement or Noongar Standard Heritage Agreement with SWALSC on behalf of the Agreement Group or RC.
8. From June 2015 until 9 December 2022 when the RC Deeds of Novation commenced, SWALSC entered into, and retained responsibilities under, NSHAs on behalf of the Agreement Group. From 9 December 2022, the RC became responsible for entering into new NSHAs on behalf of the Agreement Group, but continued to delegate this responsibility to SWALSC at that time.
9. The operation of existing NSHAs and the NSHA template are being considered in light of changes to WA's Aboriginal Heritage legislation.<sup>126</sup> Any amendments to existing NSHAs will need to be agreed between the relevant NSHA parties. The NSHA template can be changed over time by agreement between the WA Government and the RC.<sup>127</sup>

## The Noongar Heritage Partnership Agreement

10. The Noongar Heritage Partnership Agreement (**NHPA**), to be signed by the Minister for Aboriginal Affairs and the RC, provides a framework for the WA Government, led by the Department for Planning, Lands and Heritage, and the RC, to work in partnership to protect Noongar Aboriginal Heritage. The NHPA includes a framework for identifying, recording, protecting and preserving Aboriginal sites within the ILUA Area taking into account Noongar Heritage Values.<sup>128</sup>
11. The objectives of the NHPA are to improve Aboriginal site preservation and management, data on the Aboriginal Heritage Inquiry System, and the exchange of information about Aboriginal sites between the WA Government and Noongar Community.
12. Under the NHPA the RC must:
  - Provide advice to the Department of Planning, Lands and Heritage on cultural heritage matters within the ILUA Area
  - Prepare, amend and implement local and regional heritage management plans within the ILUA Area
  - Variously make recommendations, provide advice or make submissions to the Aboriginal Cultural Heritage (ACH) Committee, proponents or the Department of Planning, Lands and Heritage as required under the relevant Aboriginal heritage legislation.

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125 Clause 18.1(e) of Schedule 10 to the ILUAs

126 See <https://www.wa.gov.au/organisation/departments-of-planning-lands-and-heritage/aboriginal-heritage-laws>

127 Clause 18.1(h) of Schedule 10 to the ILUAs

128 Clause 1 of the Noongar Heritage Partnership Agreement in Annexure V of Schedule 10 to the ILUA

- Provide advice and work with the Department of Planning, Lands and Heritage in the preparation of policies, programs and other heritage management documents for the ILUA Area
  - Provide advice and work with the Department of Planning, Lands and Heritage on the development of Aboriginal heritage training and employment initiatives within the ILUA Area
  - Ensure Aboriginal heritage survey activity is conducted in a manner consistent with the NSHA
  - Seek funding, either jointly or separately to support the facilitation of heritage training and management arrangements in the ILUA Area
13. Within 40 Business Days after the RC's appointment by the Trustee, the RC must enter into a NHPA with the Minister for Aboriginal Affairs unless this timeframe is extended by mutual written agreement. The terms of the NHPA may be varied by agreement between the RC and the Minister for Aboriginal Affairs.<sup>129</sup>

## The Noongar Heritage Partnership Steering Group

14. A Noongar Heritage Partnership Steering Group (**Steering Group**) is established under the NHPA to oversee and undertake implementation of the NHPA.<sup>130</sup>
15. The Steering Group will comprise an equal number of representatives from the RC and Government and must meet at least two times per year and provide progress reports to the NCC by the Department or RC (as required).
16. The RC will nominate representatives to sit on the Steering Group and will determine the process for selecting those representatives.
17. The Steering Group will be responsible for:
- Overseeing implementation of the NHPA, its principles and commitments and engaging in discussion to facilitate the NHPA
  - Providing advice to the WA Government and the RC on matters relating directly to implementation of the NHPA
  - Developing processes and protocols for engagement and consultation between Government, the RC and the Noongar Community, including developing local and regional heritage management plans
  - Providing advice to the ACH Committee on the maintenance and protection of Aboriginal Cultural Heritage within the Settlement Area and the ILUA Area
  - Providing advice to the ACH Committee on the protection of Noongar Aboriginal Cultural Heritage within the Settlement Area

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<sup>129</sup> Clause 18.2(a) of Schedule 10 and clause 9 of Annexure V of Schedule 10 to the ILUA

<sup>130</sup> Clause 6 of the Noongar Heritage Partnership Agreement in Annexure V of Schedule 10 to the ILUA

# Part 26 – Co-operative and Joint Management of Conservation Estate

The Conservation and Land Management Executive Body and each RC will enter into Co-operative and Joint Management Agreements for the care and protection of the Conservation Estate.

## Purpose of Co-operative and Joint Management Arrangements

1. The South West Conservation Estate is all of the lands and waters within the Settlement Area managed by the Department of Biodiversity Conservation and Attractions (**DBCA**) (formerly known as the Department of Parks and Wildlife). It includes State forests, national parks, nature reserves conservation parks, marine parks and other areas set aside for conservation.
2. The Noongar People are the traditional owners of, and have cultural responsibilities in relation to, the Conservation Estate, while the DBCA has a statutory responsibility to manage the Conservation Estate.
3. The Co-operative and Joint Management Agreements will be entered into to:
  - acknowledge the continuing cultural, spiritual and social connections of the Noongar People to the Settlement Area, and their unique traditional knowledge and expertise in the future management of the Conservation Estate; and
  - recognise each RC and DBCA's mutual rights and obligations in relation to the Conservation Estate.
4. Engaging in the co-operative and joint management of the Conservation Estate is one of the RC's Core Functions.<sup>131</sup>

## Structures

5. The Settlement Terms of the ILUA provide a two stage process for co-operative and joint management.

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131 S3.2(a)(ix) of Schedule 3 to the Trust Deed

## Stage 1 – Co-operative Management Agreement

6. A Co-operative Management Agreement (**CMA**) will be entered into between the RC and the DBCA<sup>132</sup> under which a Co-operative Management Committee will be established.
7. The Co-operative Management Committee's role in relation to the Conservation Estate lands within the Agreement Area is to:<sup>133</sup>

- Provide advice on, oversee and participate in identifying lands to jointly manage.
- Make recommendations on the priorities for the development and review of Management Plans.
- Provide advice on, and participate in, the preparation and amendment of all Management Plans including (if appropriate) to provide for joint management and the establishment of a Joint Management Body.
- Provide advice on, and participate in, the preparation of policies, programs and other management documents.
- Provide advice on the value of the Agreement Area land and waters to the culture and heritage of Noongar People, including participating in the development of policies and processes that describe how the Department and the RC will work together to determine, conserve, protect and rehabilitate this value.
- Provide advice on the conduct of customary activities under the CALM Act and Regulations and oversee the development of local area arrangements and agreements to cooperatively manage customary activities.
- Provide advice on, and participate in, the development of Aboriginal employment initiatives including the establishment of Noongar/DBCA co-operative employment strategies.
- Provide advice on and develop policies, frameworks and strategies to facilitate opportunities for Noongar economic development in relation to Conservation Estate lands.
- Monitor Departmental regional planning, contracting, licensing and budget processes to facilitate Noongar participation in employment and economic development opportunities on Conservation Estate lands.
- Make decisions about the allocation of monies that have been provided from the Noongar Land Fund<sup>134</sup> to facilitate the joint management arrangements and activities. These funds will be sourced from the Noongar Land Fund established under the ILUAs and administered by the Department of the Premier and Cabinet for a range of land purposes including joint management, and are explained further in [Part 24](#) of this Guide.

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132 Clause 11 of Schedule 10 and Annexure M to the ILUA

133 Clause 3.1(a) of Annexure M to the ILUA

134 Note, Annexure M of the ILUA refers to the 'Land Partnership Fund', this is now referred to as the Noongar Land Fund

8. The Co-operative Management Committee does not undertake the day-to-day management of any part of the Conservation Estate.<sup>135</sup>
9. If a Joint Management Body is put in place for an area of Conservation Estate, the Co-operative Management Committee will have no further role in Management Plans unless requested to do so by the Joint Management Body.<sup>136</sup>

## Stage 2 – Joint Management Agreement

10. A Joint Management Agreement (**JMA**) will be entered into between the RC and DBCA once the Co-operative Management Committee identifies a specific area of the Conservation Estate to be jointly managed through a Joint Management Body and the Minister approves a Management Plan.
11. A Joint Management Body is established under a JMA by the RC and DBCA and its role will be to manage the specific park or reserve in accordance with the Management Plan and the conditions of the JMA.
12. The role of the Joint Management Body is to:<sup>137</sup>

- Make management decisions on the use, management and development of the park/reserve including on the value of the land and waters to the culture and heritage of the Noongar People or the methods to determine this and the way to conserve, protect and rehabilitate it.
- Provide advice on the use, management and development of the park/reserve.
- Participate in the preparation of policies, programs and other management instruments for the management of the park/reserve.
- Strategically monitor the management of the park/reserve including the implementation of the Management Plan, other related policies, programs and management instruments and park/reserve related expenditure and revenue.
- Participate in all phases of the preparation of any new management plan or amendment to the existing management plan.
- Provide advice to WA Government agencies that are responsible for the implementation of specific actions under the Management Plan.
- Work co-operatively with the RC and DBCA to obtain additional funding for the joint management of the park/reserve through State and Federal funding programs and other third parties.

13. The Joint Management Body does not undertake the day-to-day management of the park/reserve.<sup>138</sup>

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135 Clause 3.1(c) of the Annexure M to the ILUA

136 Clause 3.1(b) of Annexure M to the ILUA

137 Clause 3.1(a) of Annexure N to the ILUA

138 Clause 3.1(b) of Annexure N to the ILUA

## Regional Corporation to enter into Co-operative and Joint Management Agreements

14. Within 40 Business Days of the RC's appointment by the Trustee, the RC will enter into a CMA with DBCA, unless the timeframe is extended by mutual agreement.<sup>139</sup>
15. It is a requirement of the Settlement Terms that the RC enter into:<sup>140</sup>
  - at least one JMA within five years of the Trust Effective Date; and
  - at least one further JMA in relation to another part of the Conservation Estate within 10 years of the Trust Effective Date.
16. The Trustee will pay the RC \$83,000 per annum (plus CPI adjustment) out of the Noongar Land Fund to cover the RC's costs in participation in the joint management governance arrangements and to provide for the funding of joint management projects agreed to by the Co-operative Management Committee and Joint Management Body.<sup>141</sup>

## Establishing the Co-operative Management Committees

17. The RC must nominate the following Representative Members to the Co-operative Management Committee for a three year term:<sup>142</sup>
  - Six people (One of which should be employed in the RC or CSC land unit (if possible))
  - Six people to be Alternate Members
18. DBCA must nominate between two and six Representative Members and between two and six Alternate Members to the Co-operative Management Committee who are staff of the department.
19. The first chairperson of the CMC shall be one of the Representative Members nominated by the RC.

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139 Clause 11 of Schedule 10 and Annexure M to the ILUA

140 Clause 12 of Schedule 10 to the ILUA

141 Clause 9(g) of Schedule 10 to the ILUA

142 Clauses 4.1(a)(i) and (c) of Annexure M to the ILUA

143 Clause 4.1(a)(i) of Annexure N to the ILUA

## Establishing the Joint Management Bodies

20. The RC must nominate the following Representative Members to the Joint Management Body for a three year term:<sup>143</sup>
  - up to six people
  - up to six people to be Alternate Members
21. DBCA must also nominate up to six Representative Members and up to six Alternate Members to the Joint Management Body who are staff of the department.
22. The first chairperson of the Joint Management Body shall be one of the Representative Members nominated by the RC.
23. The JMA sets out the rules and processes for the governance of the Joint Management Body.

# Part 27 – Land Access Licences and Public Drinking Water Source Areas

The Agreement Group will be provided lawful access to State owned land and Public Drinking Water Source Areas for customary activities.

## Purpose of Land Access Arrangements under ILUAs

1. Under the ILUAs, the WA Government acknowledges the ongoing spiritual, cultural and social connection of Noongar People to the Noongar lands and the importance of accessing those lands and undertaking customary activities to maintain that connection. Further to the Settlement Terms, the RCs will be granted a licence to allow the Agreement Group to access and undertake customary activities on certain Unallocated Crown Land and Unmanaged Reserves (the **Licence Area**). This arrangement will be formalised in a Noongar RCs Land Access Licence (**Licence**).<sup>144</sup>
2. Under the Licence, the Agreement Group will be able to carry out the following activities on the Licence Area for customary purposes:
  - Visiting and caring for sites and country and camping
  - Gathering, preparing and consuming bush tucker
  - Gathering and preparing and using traditional medicine
  - Conducting ceremonies and cultural activities
  - Teaching and learning on country
  - Lighting camp fires or ceremonial fires
  - Having meetings on country

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<sup>144</sup> Annexure O of the ILUA

## Finalising the Land Access Licence

3. The Licence will be prepared in the following manner:<sup>145</sup>
  - Within 60 Business Days of RC appointment
    - Department of Planning, Lands and Heritage will prepare and submit the Licence to the RC for execution
  - Within 40 Business Days of receipt from DPLH
    - The RC must execute and return the Licence to the Department of Planning, Lands and Heritage
  - Upon receipt of the Licence from the RC
    - Department of Planning, Lands and Heritage will arrange the Minister of Lands to execute the Licence, have it stamped (if required) and provide the RC with a fully executed copy

## Regional Corporation to Manage Land Access

4. Under the terms of the Licence, the RC will be responsible for management of the land access which will include:<sup>146</sup>
  - holding information sessions for the Agreement Group members;
  - making a copy of the Licence available to the Agreement Group members;
  - using best endeavours to ensure that the Agreement Group members and the RC's agents comply with the terms of the Licence; and
  - providing a copy of any Access Agreement to the Minister for Lands before the Agreement Group members undertake the customary use in the Access Area.
5. The Licence extends to the RC's members, persons who are eligible to become members and their children.<sup>147</sup>
6. The RC has a range of other obligations under the Licence including to obtain public liability insurance.<sup>148</sup>

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145 Clause 13.1(b) of Schedule 10 of the ILUA. The time frame for the RC and the Minister for Lands to enter into the Noongar Regional Corporations Land Access Licence can be extended by mutual agreement.

146 Clauses 4.6, 4.7, 4.8 and 4.9 of Annexure O of the ILUA

147 Clause 1.1 (definition of Licensee's Members) of Annexure O of the ILUA

148 Clause 6 of Annexure O of the ILUA

# Regional Corporation role in Public Drinking Water Source Areas

7. The Metropolitan Water Supply, Sewerage and Drainage Amendment By-laws 2016 and Country Area Water Supply Amendment By-laws 2016 were gazetted on 7 June 2016 and enable Noongar People to legally carry out customary activities within Public Drinking Water Sources Areas (**PDWSAs**) in the Settlement Area.
8. PDWSAs are water reserves and catchment areas specified under the relevant legislation.
9. The By-laws define customary activities as:<sup>149</sup>
  - preparing or consuming food customarily eaten by Aboriginal people; or
  - preparing or using medicine customarily used by Aboriginal persons; or
  - engaging in artistic, ceremonial or other cultural activities customarily engaged in by Aboriginal persons; or
  - engaging in activities incidental to a purpose stated above.
10. The Department of Water and Environmental Regulation and the Water Corporation have ongoing lead roles for working in partnership with the RCs to consider Noongar customary activities in PDWSAs, including safe access to these areas.
11. The RC will also work with the Water Corporation to identify suitable people for the Water Corporation's training, traineeship and employment options (one position for each ILUA area).<sup>150</sup>

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149 See the *Country Areas Water Supply Amendment By-laws 2016* and *Metropolitan Water Supply, Sewerage and Drainage Amendment By-Laws 2016*

150 Clause 13.6 of Schedule 10 of the ILUA, the training, traineeships and employment options are in lieu of the Water Corporation's National Water Industry Traineeship Program (which has now ceased)

# Part 28 – Community Development Framework

The Community Development Framework is a commitment between the Noongar People and the WA Government to a set of principles, priorities and governance arrangements aimed at improving Noongar community development.

## Purpose of the Community Development Framework

1. The Community Development Framework (**CDF**) provides the WA Government with greater scope for direct communication and collaboration with the Noongar People through the RCs.<sup>151</sup>
2. Key objectives of the CDF are:<sup>152</sup>
  - Improved and sustainable social and economic outcomes for the Noongar Community
  - Strengthening of Noongar culture, language, traditional knowledge, values and identity in continuation with a greater understanding and celebration of Noongar culture and society throughout Western Australia
  - Increased capacity for WA Government and other service providers to work more effectively, and partner with Noongar People in the design and delivery of human and community services
  - Strengthened economic independence, leadership and governance across the Noongar Community
3. The Principles underpinning the CDF are:<sup>153</sup>
  - **Recognition that Noongar culture** is fundamental in strengthening the future for the Noongar people and the wider South West community. Measures that strengthen connections to country and transmission of culture are fundamental to successful community development.
  - **A partnership approach** to planning and delivering community services by ensuring ongoing engagement, communication and consultation, mutual respect and learning between the Noongar community, Aboriginal corporations, Governments, and Non-Government Organisations (NGOs).

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151 Clause 17 of Schedule 10 and Annexure T of the ILUA

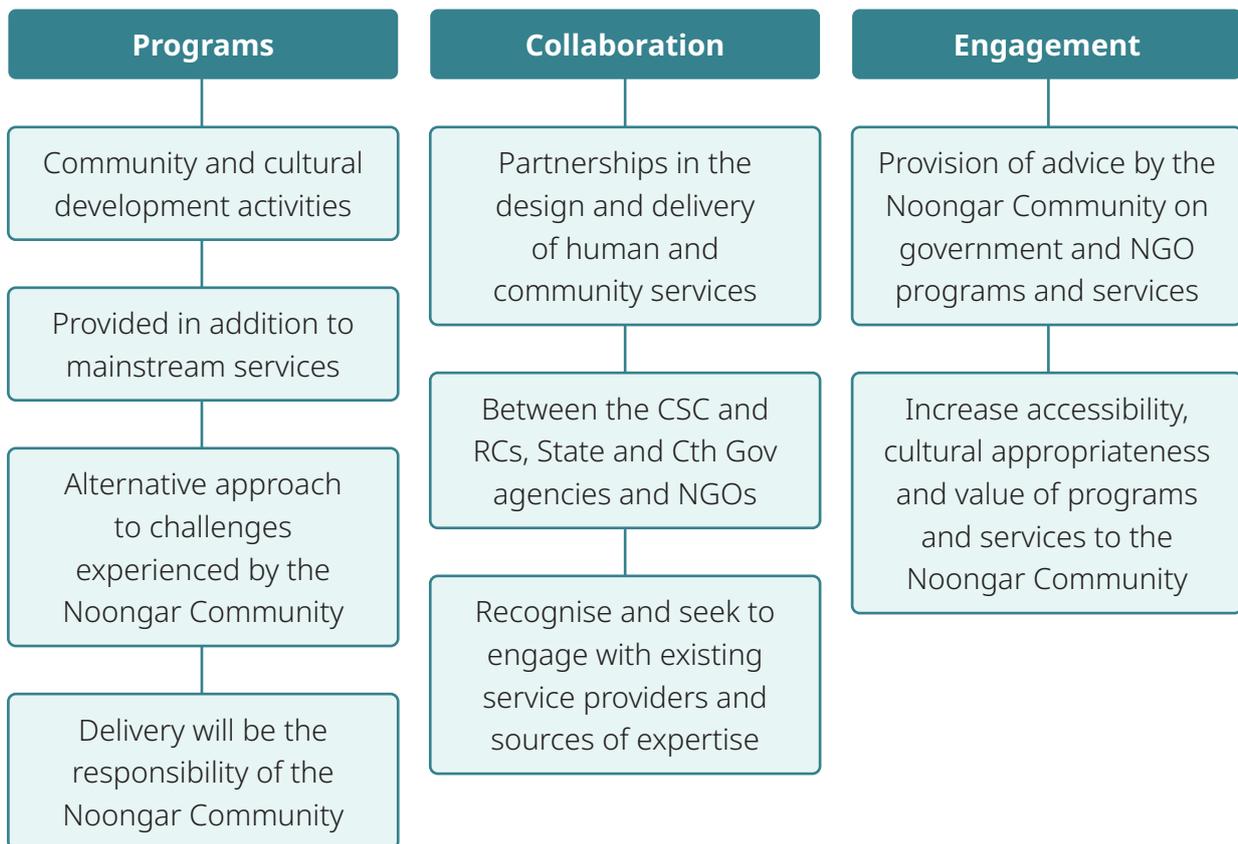
152 Clause 1 of Annexure T of the ILUA

153 Clause 2 of Annexure T of the ILUA

- **A demonstrated commitment to transparency, accountability** and appropriate **governance** structures.
  - **An enduring commitment to the sustainable delivery** of community services while building on existing strengths and being responsive to the priorities of both the Noongar community and Government
4. The CDF's initial priorities are as follows.<sup>154</sup> Region specific priorities may also be agreed.
- Noongar Culture
  - Capacity Building and Leadership
  - Housing
  - Youth
  - Health
  - Education

## Structures

5. There are three key partnership mechanisms to deliver outcomes under the CDF:<sup>155</sup>



<sup>154</sup> Clause 3 of Annexure T of the ILUA

<sup>155</sup> Clause 4 of Annexure T of the ILUA

6. Program examples might include:
  - Connection to Country
  - Intergenerational transmission of Traditional Knowledge and Values – Elders to Youth
  - Language Consolidation
  - Healing and Resilience
7. Collaboration and Engagement may be used to improve:
  - Outcomes for Noongar People
  - Coordination of services
  - Input and direction by Noongar People
  - Delivery of culturally appropriate services

## Regional Corporation to give effect to the Community Development Framework

8. The CDF will commence implementation following the appointment of the CSC and RCs by the Trustee.<sup>156</sup>
9. The CDF anticipates that RCs will have a key role and responsibility in helping the Noongar community to design CDF programs, and in delivering programs together with the CSC.<sup>157</sup> The RCs will also form part of collaborative partnerships and relationships amongst other stakeholders.

## Regional Corporation Nominee to the Community Development Reference Group

10. Implementation of the CDF will be overseen by the Community Development Reference Group (**Reference Group**) whose role is to provide advice and support in developing and implementing programs and forging and strengthening collaboration and engagement.<sup>158</sup>

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156 Clause 7 of Annexure T to the ILUA states that this CDF is effective “The date that the Settlement is signed”. However practically (and in accordance with the Settlement terms of the ILUAs) the parties will give effect to the CDF as soon as reasonably practicable following the conclusive registration of the six ILUAs and the subsequent appointment of the CSC and the RCs by the Noongar Boodja Trust.

157 Clause 4 of Annexure T of the ILUA

158 Clause 5 of Annexure T of the ILUA

11. The RC will nominate a representative to sit on the Reference Group which will comprise:
- statutory Government members of the Aboriginal Affairs Coordinating Committee,<sup>159</sup> namely:
    - i) Department of the Premier and Cabinet;
    - ii) Department of Treasury;
    - iii) Department of Health;
    - iv) Department of Education; and
    - v) Department of Communities;
  - the Chairperson, CEO or other representative from the CSC and each RC; and
  - representatives from NGOs delivering services to the Noongar Community.
12. The Reference Group will operate under terms of reference and a governance manual.

## Regional Corporation Nominee/s to engage regularly with District Leadership Groups

13. The RC will need to engage regularly with the existing District Leadership Groups<sup>160</sup> (comprising a range of WA Government service agencies and variously, other local, regional and Commonwealth government and non government organisation representatives). The District Leadership Groups will work with RCs to oversee implementation of the CDF at a regional level.

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159 Established under section 19 of the Aboriginal Affairs Planning Authority Act 1972 (WA) and defined in the Community Development Reference Group - Terms of Reference

160 Formerly known as Regional Human Services Managers Groups, which is the term used in the Community Development Framework.

# Part 29 – Noongar Economic Participation Framework

The Noongar Economic Participation Framework is intended to assist Noongar business capacity and interests towards improving the Noongar Community's participation in the wider economy of the South West region.

## Purpose of the Noongar Economic Participation Framework

1. The objectives of the Noongar Economic Participation Framework (**NEPF**) are to:<sup>161</sup>
  - Grow Noongar owned businesses and Noongar/non-Noongar joint ventures, and increase Noongar employment in Noongar businesses
  - Increase the knowledge and skills of the Noongar Community in the areas of WA Government procurement, tendering and contracting
  - Increase Noongar participation and representation in employment and the broader economy
  - Build on the existing strengths of the Noongar Community to foster the Noongar entrepreneurial culture
2. The principles underpinning the NEPF are:
  - Recognition that Noongar people and businesses are a valued part of the local and regional economy particularly in the South West
  - Channels of communication are open to ensure Noongar businesses and corporations are provided with information regarding Government contracting and tendering opportunities
  - A demonstrated commitment to transparency, accountability and appropriate governance structures.
3. The NEPF sets out a number of key deliverables, along with initial projects for the WA Government to progress in year one. Key deliverables include:<sup>162</sup>
  - intensive capacity building in the first year of RC operation and ongoing support regarding government tendering processes;
  - promoting early engagement between WA Government agencies and Noongar businesses;
  - increasing registration of Noongar businesses on Tenders WA; and

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161 Paragraph B of Annexure S of the ILUA

162 Clause E, Annexure S

- in year one, the WA Government will deliver workshops with each RC to provide information about WA Government procurement, create a portal with information for Aboriginal businesses, and promote the registration of Noongar businesses on the Aboriginal Business Directory of WA.
4. A Strategic Implementation Plan is also to be developed by the Steering Group which will provide a basis to review and evaluate the progress and impact of the Framework.
  5. Certain elements of the Framework have become outdated since the ILUAs were executed in 2015. The Steering Group will provide a forum where the RCs, CSC and the WA Government can work together to set new agendas and leverage opportunities beyond the original Framework. These can be reflected in the Strategic Implementation Plan, and if necessary, changes to the Framework itself, where agreed by Department of the Premier and Cabinet and the CSC in consultation with the RCs.

## Regional Corporation to give effect to the Economic Participation Framework

6. A Core Function of the RC is to provide support to the Agreement Group in identifying economic participation opportunities.<sup>163</sup> This will involve, amongst other things, the RC:
  - being part of the communication channels between government and the Noongar community regarding government contracting and tendering opportunities;<sup>164</sup> and
  - assisting Noongar people to build capacity and employment opportunities, such as in relation to land management, heritage, and community development.

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163 S3.2(a)(xi) of Schedule 3 to the Trust Deed)

164 See paragraph C of Annexure S of the ILUA

# Regional Corporation Nominee to the Noongar Economic Participation Steering Group

7. Implementation of the NEPF will be overseen by the Noongar Economic Participation Steering Group (**NEP Steering Group**) and will comprise:
  1. The seven CEOs of the CSC and the RC's (one of whom will act as co-Chair); and
  2. Senior Government Representatives from agencies<sup>165</sup> including:
    - i) Department of Primary Industries and Regional Development (co-Chair);
    - ii) Department of the Premier and Cabinet;
    - iii) Department of Finance;
    - iv) Department of Jobs, Tourism, Science and Innovation;
    - v) Department of Training and Workforce Development;
    - vi) DevelopmentWA;
    - vii) Department of Planning, Lands and Heritage;
    - viii) Department of Biodiversity, Conservation and Attractions;
    - ix) Small Business Development Corporation; and
    - x) one representative of the Regional Development Commissions within the Settlement area (Great Southern, South West, Peel, Wheatbelt and Goldfields-Esperance).
8. Membership of the NEP Steering Group will be reviewed from time to time to ensure Noongar and Government representation is maintained.
9. In its first year, the NEP Steering Group will meet quarterly and will be tasked to develop:
  - Terms of Reference
  - Three year Implementation & Communication Plan
  - Monitoring and Evaluation Tools

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<sup>165</sup> The NEPF at ILUA Annexure S included an indicative list of organisations that may comprise the membership of the Steering Group, and noted that membership would be “constantly reviewed to ensure relevant Government and Noongar representation is maintained”. Membership has been adjusted since the ILUAs were executed in 2015 to ensure that the current Government agencies best placed to support Noongar economic development are represented on the Steering Group, together with representatives of the Settlement’s seven Noongar Corporations. Other relevant organisations may be invited to participate in Working Groups established by the Steering Group. Membership of the Steering Group will continue to be reviewed from time to time to ensure representation remains relevant.

# Part 30 – Capital Works Fund – Office Space and Noongar Cultural Centre

The Capital Works Program provides funding and land for administration offices for each of the Noongar Corporations and a Noongar Cultural Centre.

## Capital Works Program Purpose and Processes

1. The Settlement Package includes a Capital Works Program, established under clause 15 of Schedule 10 of the ILUAs, that provides:
  - \$6,500,000 funding for administration offices for the Noongar Corporations<sup>166</sup> (Administrative Offices); and
  - \$5,300,000 funding and up to two hectares of land towards the development of a Noongar Cultural Centre in the Perth metropolitan area (Noongar Cultural Centre).
2. The Capital Works Program (Administrative Offices) is intended to provide administration offices for the Noongar Corporations. The Noongar Corporations may also require interim option/s for an administration office, which may be sourced outside of the Capital Works Program.
3. The Capital Works Program (Administration Offices) includes a number of specific processes and conditions that must be followed for the release of funding for the administration offices (**CW Funding**).
4. The Trustee must submit a business case to the State for approval to release CW Funding for the Noongar Corporation administration offices. The ILUAs provide that different amounts may be allocated to each of the Noongar Corporations' offices, which will enable factors such as regional differences in land/property values and access to office space resources to be taken into account.
5. Once approved by the State, the CW Funding will be paid into a separate sub fund of the Trust for the Capital Works Program assets.<sup>167</sup>
6. The Land Sub will hold the title to the properties acquired under the Capital Works Program (or be the lessee in the case of a lease) on bare trust for the Trust.
7. It is envisaged that once the Trustee converts the CW Funding capital from cash into real property assets, the Trustee will apply the assets for the benefit of the Noongar Corporations (e.g. by leasing or subleasing the administration offices to the Noongar Corporations).

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<sup>166</sup> Clause 15 of Schedule 10 to the ILUA

<sup>167</sup> The sub fund is to be established under clause 6.3 and 2.3(n) of the Trust Deed.

8. The Capital Works Program (Noongar Cultural Centre) allocation of \$5,300,000 includes up to \$300,000 for the development of a preliminary business case and the remainder toward the development of the Noongar Cultural Centre, conditional on external funding also being sourced for the construction costs and ongoing maintenance costs for the Noongar Cultural Centre.

## Regional Corporation Roles in the Capital Works Program

9. The Trustee will need to consult with each RC to develop the respective business case<sup>168</sup> to obtain the State's approval to release CW Funding for their administration office. This is likely to include RCs being involved in the property search component, including review of suitable properties and confirming the preferred property.
10. The RCs will also participate in consultation with the State, the Trustee and the CSC to agree on the proposal for the Noongar Cultural Centre, including how the project will be driven and managed and by who.

## Processes for Short-Term and Long-Term Decision Making

11. Decision making processes for the Capital Works Program are expected to address the following:

### **SHORT TERM**

- Establish a separate sub fund for the Capital Works Program assets (cl 6.3(a)(ii) of the Trust Deed)
- Establish a policy and rules on how to manage the Capital Works Program, CW funding and assets (cl 2.3(n) of the Trust Deed)
- Develop funding guidelines of the Trust for the Capital Works Program which comply with both the Trustee's obligations under the Trust Deed and the obligations to the State under the ILUA (cl 17.11 of Trust Deed)

### **LONG TERM**

Application of Capital Works Program assets for the benefit of Noongar Corporations may include:

- the Noongar Corporation makes an application to the Trustee for a distribution of a benefit of the asset (cl 17.1(a) of Trust Deed)
- the Trustee consults with the NAC in relation to the application and any other relevant party as required under clause 15 of Schedule 10 to the ILUA
- Noongar Corporations report to the Trustee on how they have made use of the asset and met any associated costs

# Part 31 – Noongar Housing Program

The Noongar Housing Program aims to achieve improved housing outcomes for the Noongar Community. The Trust will receive 121 properties in freehold title from the WA Government for housing, and funding to refurbish and upgrade the properties.

## Purpose of the Noongar Housing Program

1. The purpose of the Housing Program is for the Trust to hold and manage specified land in a way that aims to achieve improved housing outcomes for the Noongar Community.

## Managing the Noongar Housing Program

2. Under the Housing Program<sup>169</sup> the WA Housing Authority will:
  - transfer 121 Housing Properties to the Land Sub under a Property Transfer Deed; and
  - provide up to \$10,000,000 to the Trust for works toward the refurbishment, upgrade, repair or demolition of the Housing Properties under a Funding Agreement,(together the **Housing Land**) for the general purpose of improving housing outcomes for the Noongar Community.
3. Housing Properties may be:
  - used for community housing purposes; or
  - developed through a combination of refurbishment and redevelopment, sale, commercial exploitation, and/or leased at full market rent.
4. The Trustee will need to consult with the Investment Committee, NAC and relevant RC when considering how to utilise the Housing Land. The Trustee will also need to appoint a qualified housing management company as a service provider to manage housing stock.
5. The Trustee may engage the CSC to deliver any or all of the Housing Land Development Activities.

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169 Clause 14 of Schedule 10 and Annexures P and Q to the ILUA

# Regional Corporation Role in the Noongar Housing Program

6. The Trustee must consult with an RC before making key decisions<sup>170</sup> in relation to Housing Land in the RC's relevant region.<sup>171</sup>
7. There is an opportunity for the Trustee, in collaboration with the NRC, NAC and Investment Committee, to develop a Noongar Housing Strategy that could guide the Trustee's decision making in relation to the timing for transfer, use and management of the Housing Properties, in a clear and transparent manner. It could also set out:
  - a) how other ILUA commitments will be leveraged to advance Noongar housing outcomes, including the potential to use NLE lands for housing purposes;
  - b) Aboriginal Community Controlled Organisation (**ACCO**) capacity building; and
  - c) further Noongar economic opportunities through involvement in housing development and management activities where possible.

## Trust Fund Requirements

8. The Trustee has the following obligations in relation to the Housing Land under the Trust Deed:<sup>172</sup>

### **TRUSTEE'S OBLIGATIONS**

- Establish a sub fund of the Trust Fund called the Housing Land Fund
- Hold, manage, invest and develop Housing Land in a manner that aims to achieve improved housing outcomes for the Noongar Community
- Consult with the Investment Committee and NAC in relation to Housing Land
- Appoint suitably qualified housing management companies to manage the housing stock under a service contract
- Exercise the Trustee's investment powers (cl 19 of Schedule 5)
- Where appropriate, ensure Housing Land Development Activities are undertaken by one or more Noongar Boodja Development Corporations
- Allocate net proceeds of Housing Land Development Activities to the Housing Land Fund (cl 12)

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170 See the definition of "Decision to Proceed" in clause 1.1 of the Trust Deed

171 Clause 12.3 of the Trust Deed

172 Chapter 12 of the Trust Deed

# Schedule 1 – Definitions

<b>Aboriginal Corporation</b>	means corporation registered under the CATSI Act.
<b>ACNC</b>	means the Australian Charities and Not-for-profits Commission, the independent national regulator of charities.
<b>Agreement Group</b>	means the relevant “Native Title Agreement Group” associated with a Region as defined in the ILUA. Means Ballardong, Gnaala Karla Booja and Harris Family, South West Boojarah and Harris Family, Wagyl Kaip and Southern Noongar, Whadjuk, Yued being all of the people who have been identified as people who hold or may hold Native Title in relation to land and waters within that ILUA Area
<b>Agreement Group Endorsement</b>	means an endorsement given by the Agreement group in accordance with Schedule 6 of the Noongar Boodja Trust Deed
<b>Agreement Group Member</b>	means a Noongar Person who is the descendant of one or more persons listed in Schedule 2 of the relevant ILUA (the apical ancestors).
<b>AHA</b>	means Aboriginal Heritage Agreement.
<b>CATSI Act</b>	means the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (Cth). The RCs must be incorporated under this Act so as to be considered to be Aboriginal Corporations
<b>CDF</b>	means Community Development Framework.
<b>CDRG</b>	means Community Development Reference Group.
<b>CEO</b>	means Chief Executive Officer.
<b>CMA</b>	means Co-operative Management Agreement.
<b>CMC</b>	means Co-operative Management Committee.
<b>CSC</b>	means the Central Services Corporation.
<b>CSC Member</b>	means a Noongar Person that has applied to become a member of the CSC, and has been accepted as a member.
<b>CSC Principles</b>	means the Principles which must be provided for in the Rule Books of CSC which provide for sound governance arrangements, as set out in Annexure E to the Settlement Terms of the ILUA.

<b>CSC Rule Book</b>	means the comprehensive written document containing all of the internal governance rules (as that phrase is defined in section 63-1 of the CATSI Act) of the corporation and consistent with the CSC Principles, the ILUAs, the Trust Deed and the CATSI Act.
<b>Conclusively Registered</b>	means an ILUA that remains registered in the ILUA Register which is maintained by the National Native Title Tribunal.
<b>Cultural Advice Policy</b>	means the policy each RC is required under the RC Principles to have a process providing for Cultural Decisions to be made in accordance with the advice and recommendations of persons who have relevant traditional connection and cultural authority under Traditional laws and Customs.
<b>Cultural Consultation Policy</b>	means the policies and procedures developed by the Central Services Corporation to guide consultation processes with relevant Noongar People in relation to matters affecting Traditional Laws and Customs.
<b>Cultural Land</b>	means any estate, right, interest in land or Management Order held by the Land Sub and vested in the Trust from time to time and identified by the Trustee as Cultural Land.
<b>DLG</b>	means District Leadership Group.
<b>Eligible Charity</b>	means an entity endorsed by the Commissioner of Taxation as income tax exempt under Sub-division 50B of the Income Tax Assessment Act 1997.
<b>Eligible Noongar Entity</b>	means the CSC and the RCs as appointed by the Trustee in accordance with the Trust Deed.
<b>Expert Directors</b>	means a Director of the Corporation having recognised qualifications and demonstrated experience that is appropriate and relevant to the matter for which the expert is required.
<b>Future Fund Target</b>	means achieving a sustainable capital value in order that the income of the Noongar Future Fund may be applied towards the Trust Purpose, in perpetuity, including but not limited to the Operations Fund.
<b>ILUA</b>	means an Indigenous Land Use Agreement containing the details of the South West Native Title Settlement, entered into by the WA Government and each of the Agreement Groups.
<b>Initial Directors</b>	means the first Directors of the Corporation upon registration with ORIC. Persons who were Pre-Incorporation Directors become Initial Directors upon Incorporation by ORIC.

<b>JMA</b>	means Joint Management Agreement.
<b>JMB</b>	means Joint Management Body.
<b>Member Directors</b>	means a Member of the Corporation who is appointed as a Director.
<b>NEPF</b>	means Noongar Economic Participation Framework.
<b>NEPSG</b>	means Noongar Economic Participation Steering Group.
<b>NHPA</b>	means Noongar Heritage Partnership Agreement.
<b>NHPSG</b>	means Noongar Heritage Partnership Steering Group.
<b>Noongar Community</b>	the six Agreement Groups, collectively.
<b>Noongar Corporations Committee</b>	established as the primary source for consultation amongst the RCs and Central Services Corporation.
<b>NSHA</b>	means Noongar Standard Heritage Agreement.
<b>NTRB</b>	organisation recognised and funded by the Commonwealth government to perform a variety of functions under the Native Title Act.
<b>Pre-incorporation Directors</b>	the persons who are approved by the Agreement group at the Pre Incorporation meeting to become the Initial Directors once the Corporation is Incorporated under the CATSI Act by ORIC.
<b>ORIC</b>	means the Office of the Registrar of Indigenous Corporations that maintains the public registers of Aboriginal councils and incorporated Aboriginal associations.
<b>RC</b>	means a RC that is established by the relevant Agreement Group and appointed by the Trustee as the RC for that Region.
<b>RC Member</b>	means an Agreement Group member that has applied to become a member of a RC, and has been accepted as a member. A person can be a member of more than one RC.
<b>RC Principles</b>	means the Principles which must be provided for in the Rule Books of each RC. The Principles provide for sound governance arrangements, as set out in Annexure E to the Settlement Terms of the ILUA.
<b>RC Rule Book</b>	means a document that contains all of the internal governance rules (as that phrase is defined in section 63-1 of the CATSI Act) of the corporation and consistent with the RC Principles, the ILUAs, the Trust Deed and the CATSI Act.

<b>SWALSC</b>	means the South West Aboriginal Land and Sea Council being the Native Title Representative Body for the South West of Western Australia.
<b>South West Native Title Settlement</b>	means the full and final resolution of native title claims of the Noongar People in the South West of Western Australia, as described in each of the ILUAs.
<b>State Endorsement</b>	means the WA Governments' written approval for the nomination of a Corporation as a Regional Corporation.
<b>Traditional Laws and Customs</b>	means the body of traditions, laws, customs and beliefs of the Noongar Community.
<b>Transition Period</b>	means the period in each Region from the execution of the ILUA, through to the appointment by the Trustee of a Regional Corporation for that Region.
<b>Transition Principles</b>	means the Principles described in Annexure Y of the Settlement Terms to the ILUAs, which are designed to ensure that a transparent and accountable process is undertaken to identify Corporations that can nominate to become Regional Corporations, through maximum community participation in the development of the organisation, and in its membership.
<b>Transition Program</b>	means the document that outlines the process for establishing the Regional Corporations during the Transition Period, to assist the Noongar people to understand how and when they can participate in the development and establishment of the Regional Corporations.
<b>Trust</b>	means the Noongar Boodja Trust.
<b>Trust Deed</b>	means the Trust Deed that establishes the Trust.
<b>Trust Effective Date</b>	means the Noongar Boodja Trust commencement date - 29 March 2021.
<b>Trustee</b>	means the professional trustee company that will be the initial trustee of the trust. The Trustee of the Noongar Boodja Trust, as appointed under the Trust Deed.

# Schedule 2 – Resource Documents

1. [Indigenous Land Use Agreements](#)
2. RC Rule Books (see Noongar Corporation websites as listed below)
3. CSC Rule Book (see SWALSC website as listed below)
4. [RC Principles \(Annexure E of Schedule 10 of each ILUA\)](#)
5. [CSC Principles \(Annexure E of Schedule 10 of each ILUA\)](#)
6. [Transition Program: Establishment of the Regional Corporations 2019](#)
7. [Transition Program: Central Services Corporation 2019](#)
8. [Noongar Boodja Trust Deed and Regulations](#)
9. [Noongar Boodja Trust 2021, A Community Guide](#)
10. [Noongar Governance Manual 2016](#)
11. [SWALSC website](#)
12. [Ballardong Aboriginal Corporation](#) (Ballardong People ILUA) website
13. [Gnaala Karla Booja Aboriginal Corporation](#) (Gnaala Karla Booja ILUA website)
14. [Karri Karrak Aboriginal Corporation](#) (South West Boojarah #2 ILUA) website
15. [Wagyl Kaip Southern Noongar Aboriginal Corporation](#) (Wagyl Kaip and Southern Noongar ILUA) website
16. [Whadjuk Aboriginal Corporation](#) (Whadjuk People ILUA) website
17. [Yued Aboriginal Corporation](#) (Yued ILUA) website
18. [Department of the Premier and Cabinet website](#) – including separate links to all ILUAs, ILUA Annexures and Schedules, Fact Sheets and Maps

# **Annexure 1 – RC Funding Guidelines**

Noongar Boodja Trust

# REGIONAL CORPORATION FUNDING GUIDELINES

Operations Funding & Special Projects Funding Guidelines for  
the Regional Corporations (RCs)

August 2022



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# 1. INTRODUCTION

## 1.1 ABOUT THE OPERATIONS FUND

The Operations Fund will be held and managed by the Trustee for the purpose of providing funding to the Central Services Corporation (CSC) and the Regional Corporations (RCs) that are appointed by the Noongar Boodja Trust under the South West Native Title Agreement (the 'Eligible Noongar Entities' or ENEs) to ensure they are adequately resourced to pursue their constitutional objects and achieve the goals set out in their annual plans.

The Trustee will manage the Operations Fund so that it can provide funding to the ENEs in perpetuity, recognising that the Trust Fund is intended to benefit both current and future generations of the Noongar community.

The Trustee will review every application and determine whether to approve an application and if so, determine the nature and scope of the distribution having regard to these guidelines, the Noongar Boodja Trust (NBT) Deed, and the Trustee's consultation with the Noongar Advisory Company (NAC).

The Trustee will make distributions for operations funding annually and paid by instalments once every 3 months except in exceptional circumstances; and following consultation with the NAC.

## 1.2 ABOUT THE SPECIAL PROJECTS FUND

When the Trustee accepts a contribution from a contributor, the contribution will be held in the Special Projects Fund and managed in accordance with the NBT Deed.

The Trustee will have regard to the requests or recommendations of a contributor in relation to a contribution when administering the Special Projects Fund.

The Special Projects Fund may be distributed by the Trustee to fund special projects that either the Regional Corporation (RC) or the Trustee have determined are outside of the RC's usual operations or activities.

The RCs are encouraged to seek out funding bodies to assist with funding Special Projects.

## 1.3 ABOUT THESE FUNDING GUIDELINES

**Please note: these Operations Funding & Special Projects Funding Guidelines for the Regional Corporations:**

- should be read in conjunction with the NBT Deed; and

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- reproduce the Funding Guidelines at Schedule 1 of the NBT Deed and include relevant provisions from clause 1, clause 8, clause 9, clause 17, clause 18 of the NBT Deed presented in a more accessible way without substantive modification.

Terms not defined in these guidelines have the meaning defined in the NBT Deed.

## **2. FUNDING PRINCIPLES**

The funding principles the Trustee will apply when determining distributions for operational and special projects funding are:

- The principal source of distributions for the Regional Corporations is the Operations Fund of the NBT.
- The principal source of funding for the Special Projects Fund is contributions from contributors accepted by the Trustee into the Special Projects Fund.
- The Trustee will make distributions for operations and special projects funding from the NBT in a way that supports the CSC and the Regional Corporations (the ENEs) to benefit a broad cross-section of the Noongar community, without limiting the Trustee's discretion as to how the Trustee balances distributions between ENEs.
- The Trustee will seek to ensure that distributions of operations and special projects funding to the ENEs are just, fair and equitable. Ensuring that these distributions are just, fair and equitable as between ENEs does not necessarily require that the distributions are equal.
- The Trustee will only provide distributions to the ENEs in furtherance of the objects in the ENEs' rule books.
- It is a matter for each ENE to determine how it will pursue its objects; and the Trustee understands that each ENE will have different goals, plans, pathways and timelines that will not be compared or measured against other ENEs.

The Trustee will also have regard to achieving the long-term capacity and sustainability of the NBT to support the expected needs of the CSC and Regional Corporations when determining the Annual Operations Budget and the Annual Special Projects budget.

## **3. APPLICATION PROCESS FOR DISTRIBUTIONS OF OPERATIONAL FUNDING AND SPECIAL PROJECTS FUNDING TO THE REGIONAL CORPORATIONS**

### **3.1 TIMING OF REGIONAL CORPORATION APPLICATIONS FOR OPERATIONS FUNDING**



The Regional Corporations must attempt to apply to the Trustee for operations funding for the coming financial year by 31 March of the previous financial year. The Trustee may, in its discretion, accept late or incomplete applications for operations funding.

The Trustee must attempt to determine applications for operations funding for the coming financial year by 31 May of the previous financial year, or such later date as the Trustee determines, to ensure the Regional Corporations have time to revise their operations budgets and annual plans prior to the start of the financial year.

The Trustee may, in its discretion, accept the first application for operations funding for a Regional Corporation from the CSC on behalf of that Regional Corporation.

## 3.2 CONTENT OF REGIONAL CORPORATION APPLICATIONS FOR OPERATIONS FUNDING

Applications for operations funding from the Regional Corporations to the NBT should contain the following:

- 1) A declaration from the Chair of the Regional Corporation:
  - confirming that the operations funding requested by the Regional Corporation will only be used to further objects of the Regional Corporation;
  - confirming that an appropriate service agreement is in place between the Regional Corporation and the CSC;
  - confirming that (until at least 29 March 2026 – the end of the Start-Up Period) the operations funding distributed to the Regional Corporation will not be used for any CSC Regional Services that would otherwise be available from the CSC;
  - identifying the costs associated with any CSC Optional Services that the Regional Corporation wishes to obtain from the CSC;
  - identifying funding secured from sources other than the NBT and any conditions attached to that funding by the funding body;
  - confirming any other potential funding sources the Regional Corporation has identified and is pursuing other than the NBT;
  - identifying any material differences to the Regional Corporation's budget for the previous and current financial year (if any) and the reasons for the differences;
  - identifying where the Regional Corporation's expenditure has exceeded the budget for the current (if at all) and the steps the Regional Corporation is taking to reduce its expenditure; and

*[In support of the Trust Deed Budget Principles]:*

- identifying the number of members of the Corporation; and
  - identifying the scope and nature of the Cultural Land in which the Regional Corporation has an interest and the cost of administering and managing that Cultural Land.
- 2) The Regional Corporation's budget for the coming financial year;
  - 3) The Regional Corporation's most recent annual plan;
  - 4) The Regional Corporation's most recent strategic plan;

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- 5) The Regional Corporation's most recent audited annual report (except for the first application);
  - 6) Evidence of the Regional Corporation's bank account details; and
  - 7) The most recent Special Purpose Report the Regional Corporation has provided to the Trustee (if any).

Where the CSC is applying for operations funding on behalf of a Regional Corporation for the Regional Corporation's first application for operations funding, the CSC must also provide:

- 1) A declaration from the Chair of the Regional Corporation:
  - confirming that the operations funding requested by the Regional Corporation will only be used to further objects of the Regional Corporation;
  - confirming that an appropriate service agreement is in place between the Regional Corporation and the CSC;
  - confirming that (until at least 29 March 2026 – the end of the Start-Up Period) the operations funding distributed to the Regional Corporation will not be used for any CSC Regional Services that would otherwise be available from the CSC;
  - identifying funding secured from sources other than the NBT and any conditions attached to that funding by the funding body; and
  - confirming any other potential funding sources the Regional Corporation has identified and is pursuing other than the NBT.
- 2) The Regional Corporation's budget for the coming financial year;
- 3) The Regional Corporation's most recent annual plan; and
- 4) The Regional Corporation's most recent strategic plan.

### **3.3 TIMING OF REGIONAL CORPORATION APPLICATIONS FOR SPECIAL PROJECTS FUNDING**

The timing of applications for Special Projects Funding will be determined by the Trustee from time to time in accordance with the requirements of the NBT Deed and these Funding Guidelines in order to be flexible and responsive to the operational needs of the Regional Corporations, and any Special Project Guidelines developed by the Trustee.

### **3.4 CONTENT OF REGIONAL CORPORATION APPLICATIONS FOR SPECIAL PROJECTS FUNDING**

An application for Special Projects Funding must set out:

- (a) the details of the proposed Special Project, including delivery timelines;
- (b) the intended outcome of the proposed Special Project;
- (c) an explanation of how the proposed Special Project furthers the Regional Corporation's objects;
- (d) what benefits the proposed Special Project is expected to deliver, and for which sections or classes of the Noongar community;
- (e) how the success of the proposed Special Project will be measured;
- (f) the type and amount of assistance sought from the Trust;
- (g) the type and amount of assistance sought and committed from other sources for the proposed Special Project; and

(h) the proposed method of acquittal.

## **4. HOW THE TRUSTEE WILL CONSULT WITH THE NOONGAR ADVISORY COMPANY**

The Trustee will consult with the NAC in relation to distributions of operations funding and special projects funding in the following way:

- (a) the consultation will occur at a meeting of the NAC;
- (b) the Trustee will provide the NAC with appropriate background information regarding the distribution application;
- (c) the consultation will occur in such a way that the NAC can ask the Trustee questions regarding the distribution application, or matters relevant to the distribution; and
- (d) the Trustee will provide the NAC with a reasonable opportunity to deliver feedback and recommendations to the Trustee prior to the Trustee deciding the distribution.

## **5. FACTORS THE TRUSTEE WILL CONSIDER IN ASSESSING APPLICATIONS FOR OPERATIONS AND SPECIAL PROJECTS FUNDING AND DETERMINING DISTRIBUTIONS TO THE REGIONAL CORPORATIONS**

In assessing applications for operations funding from the Regional Corporation, (or CSC on behalf of a Regional Corporation for the Regional Corporation's first application), the Trustee will consider:

- (a) the recommendations of the NAC;
- (b) the priority of the application in relation to other applications pending;
- (c) competing applications for distributions between the ENEs for different purposes;
- (d) any distribution conditions that apply to a sub fund from which the distribution will be sourced;
- (e) any consultations with the ENEs in respect of their applications;
- (f) the Regional Corporation's previous performance (if any) in meeting its annual plan and strategic plan;
- (g) what is reasonably required to ensure the proper and adequate administration of the Regional Corporation and the costs involved, based on the views of the Regional Corporation, the NAC and the Trustee;
- (h) whether there are any means available to ensure that the Regional Corporation acts more efficiently or cost effectively; and

(i) whether there are any other sources of funding to support the Regional Corporation.

In assessing applications for Special Projects Funding, the Trustee will have regard to:

- (a) the recommendations of the NAC;
- (b) the priority of the application in relation to other applications pending;
- (c) competing applications for Distributions between ENEs for different purposes;
- (d) any Special Project Guidelines that apply to the Special Project.
- (e) any consultations with the ENEs in respect of their applications.
- (f) the nature of the proposed Special Project;
- (g) what benefits the proposed Special Project will bring to the Noongar community, including who and how many persons (including the proportion of those persons who are members of the Noongar community) will benefit from the Special Project, and any relevant long-term benefits to future generations of the Noongar community;
- (h) the timeframe in which the proposed Special Project is anticipated to be completed;
- (i) how the success of the proposed Special Project would be measurable;
- (j) the amount of Special Projects Funding the Regional Corporation has received from the Trust in the past and at what times (if any);
- (k) whether the Regional Corporation can demonstrate the organisational capacity, expertise or experience required to deliver the proposed Special Project;
- (l) whether there is funding available for a Special Project of this nature from other sources;
- (m) any opportunities for the proposed Special Project to be delivered in partnership with effective programs operated by governments or other organisations;
- (n) what steps the Regional Corporation has taken to secure alternative funding; and
- (o) whether, in the Trustee's opinion, a distribution to Regional Corporation for a proposed Special Project should be alternatively funded by government.

Having regard to the Budget Principles in the NBT Deed, and after consulting with the Investment Committee and the NAC, the Trustee will determine in respect of each Financial Year the maximum share of the Annual Operations Budget that is available for distribution to the CSC and each Regional Corporation for operations funding which shall be allocated to the relevant ENE Operations Account.

When determining the Annual Budget and Annual ENE Allocation, the Trustee will:

- (a) ensure that Distributions do not exceed levels which would reduce the long-term capacity of the Trust Fund to support the expected operations funding needs of the ENEs;
- (b) consider the area and population of the Noongar community of each Noongar region;
- (c) consider the reasonable costs of supporting the core functions of the ENEs;

(d) determine a fair, just and equitable (which does not necessarily mean equal) allocation of the operations funding that is available for distribution between the ENEs having regard to the:

- (i) number of members in each Agreement Group;
  - (ii) scope and nature of Cultural Land in which the ENE has an interest, and the cost of administering and managing that Cultural Land;
  - (iii) needs and aspirations of the ENE, having regard to the ENE's most recent annual plan and strategic plan;
  - (iv) capacity of the ENE to undertake the activities proposed in its most recent annual plan and strategic plan;
  - (v) current status of each ENE having regard to the ENE's most recent audited annual report and any Special Purpose Report; and
  - (vi) minimum of 70 percent (or such other percentage determined by the Trustee with the consent of the NAC and the State) of the State contribution to the Operations Fund available for distribution in any financial year being available for allocation to the Regional Corporations; and
- (e) any other factors that the Trustee considers appropriate to take into account.

## 6. NOTIFICATION OF APPLICATION OUTCOMES

The Trustee will:

- notify the Regional Corporation of the outcome of their application for operations or special projects funding and any conditions placed on the distribution of operations funding by the Trustee; and
- make itself available to the directors of the Regional Corporation to discuss these matters.

In relation to a special projects funding distribution, this will involve discussing with the Regional Corporation the Special Project Guidelines, and any requests or recommendations of a Contributor (including whether any conditions on the distribution are in response to those requests or recommendations).

## 7. REPORTING REQUIREMENTS OF THE REGIONAL CORPORATION TO THE TRUSTEE

Where a Regional Corporation is in receipt of any distribution from the NBT, it must:

- keep financial accounts and records relating to the use of the distribution to enable all income and expenditure in connection with the distribution to be identified in the Regional Corporation's accounts and records;
- provide all information, records and documents as may be reasonably requested by the Trustee from time to time, including:
  - a report to the Trustee within 12 months of the Distribution:

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- (i) detailing the outcome of the distribution;
  - (ii) comparing the outcome with the objectives of the distribution as stated in the application made to the Trustee;
  - (iii) reporting on the satisfaction of any conditions that were attached to the distribution; and
  - (iv) a certificate by the Regional Corporation's auditor stating the amount of the distribution spent, or committed to be spent, for the purpose of the distribution.

## 8. REPORTING REQUIREMENTS OF THE TRUSTEE

Within 14 days of determining the Annual Budget and the Annual ENE Allocation, the Trustee will provide a copy to the:

- (i) ENEs;
- (ii) State (during the State Contribution Period);
- (iii) NAC; and
- (iv) Investment Committee.

The Trustee will include in its Trustee's Annual Report all distributions of operations funding and special projects funding, including details of the:

- (i) recipient of the distribution;
- (ii) amount of the distribution;
- (iii) purpose for which the distribution is being applied;
- (iv) relevant factors the Trustee has taken into consideration in assessing the application for distribution;
- (v) reporting requirements that apply to the distribution; and
- (vi) outcome of the distribution, if known.



## APPENDIX A. APPLICATION CHECKLIST FOR OPERATIONS FUNDING APPLICATIONS FOR THE REGIONAL CORPORATIONS

Before applying for a distribution of operations funding, it is recommended the Regional Corporation use the following checklist to ensure the application is complete and contains the information needed for the application and assessment process.

	The funding application has been approved by the directors of the Regional Corporation.
	The funding application has been discussed with the Trustee.
	Any issues raised by Trustee about the funding application have been considered.
	Evidence can be provided to demonstrate incorporation status and solvency of the Regional Corporation, where requested by the Trustee.
	These guidelines have been read and understood.
	The Chair of the Regional Corporation has signed a <b>declaration</b> which is included with the application documents that:
	<ul style="list-style-type: none"> <li>confirms that the operations funding requested by the Regional Corporation will only be used to further the objects of the Regional Corporation;</li> </ul>
	<ul style="list-style-type: none"> <li>confirms that an appropriate service agreement is in place between the Regional Corporation and the CSC;</li> </ul>
	<ul style="list-style-type: none"> <li>confirms that (until at least 29 March 2026 – the end of the Start-Up Period) the operations funding distributed to the Regional Corporation will not be used for any CSC Regional Services that would otherwise be available from the CSC;</li> </ul>
	<ul style="list-style-type: none"> <li>identifies the costs associated with any CSC Optional Services that the Regional Corporation wishes to obtain from the CSC</li> </ul>
	<ul style="list-style-type: none"> <li>identifies funding secured from sources other than the NBT and any conditions attached to that funding by the funding body;</li> </ul>
	<ul style="list-style-type: none"> <li>confirms any other potential funding sources that the Regional Corporation has identified and is pursuing other than the NBT;</li> </ul>
	<ul style="list-style-type: none"> <li>identifies any material differences to the Regional Corporation's budget for the previous and current financial year and the reasons for the differences (if any) and the reasons for the differences;</li> </ul>
	<ul style="list-style-type: none"> <li>identifies where the Regional Corporation's expenditure has exceeded the budget for the current financial year (if at all) and the steps the Regional Corporation is taking to reduce its expenditure;</li> </ul>
	<ul style="list-style-type: none"> <li>identifies the number of members of the Agreement Group; and</li> </ul>



	<ul style="list-style-type: none"><li>identifies the scope and nature of the Cultural Land in which the Regional Corporation has an interest including the cost of administering and managing that Cultural Land.</li></ul>
	The Regional Corporation's <b>budget</b> for the coming financial year is attached to the application.
	The Regional Corporation's most recent <b>annual plan</b> is attached to the application.
	The Regional Corporation's most recent <b>strategic plan</b> is attached to the application.
	The Regional Corporation's most recent <b>audited annual report</b> (except in the first funding application) is attached to the application.
	Evidence of the <b>Regional Corporation's bank account details</b> are attached to the application.
	The most recent <b>Special Purpose Report</b> the Regional Corporation has provided to the Trustee (if any) is attached to the application.
	The Regional Corporation's current <b>rules</b> are attached to the application.
	The Regional Corporation's current <b>service agreement</b> with the CSC is attached to the application.

## APPENDIX B. APPLICATION CHECKLIST FOR SPECIAL PROJECT FUNDING APPLICATIONS FOR A REGIONAL CORPORATION.

Before applying for a distribution of special projects funding for a Regional Corporation, it is recommended the Regional Corporation use the following checklist to ensure the application is complete and contains the information needed for the application and assessment process.

	The special projects funding application has been approved by the directors of the Regional Corporation.
	The special projects funding application has been discussed with the Trustee.
	Any issues raised by Trustee about the special projects funding application have been considered.
	The special projects funding application outlines the details of the proposed Special Project, including delivery timelines.
	The special projects funding application explains the intended outcome of the proposed Special Project.
	The special projects funding application explains how the proposed Special Project furthers the Regional Corporation's objects.
	The special projects funding application explains what benefits the proposed Special Project is expected to deliver, and for which sections or classes of the Noongar Community.
	The special projects funding application explains how the success of the proposed Special Project will be measured.
	The special projects funding application explains the type and amount of assistance sought from the Trust.
	The special projects funding application explains the type and amount of assistance sought and committed from other sources for the proposed Special Project.
	The special projects funding application explains the proposed method of acquittal.



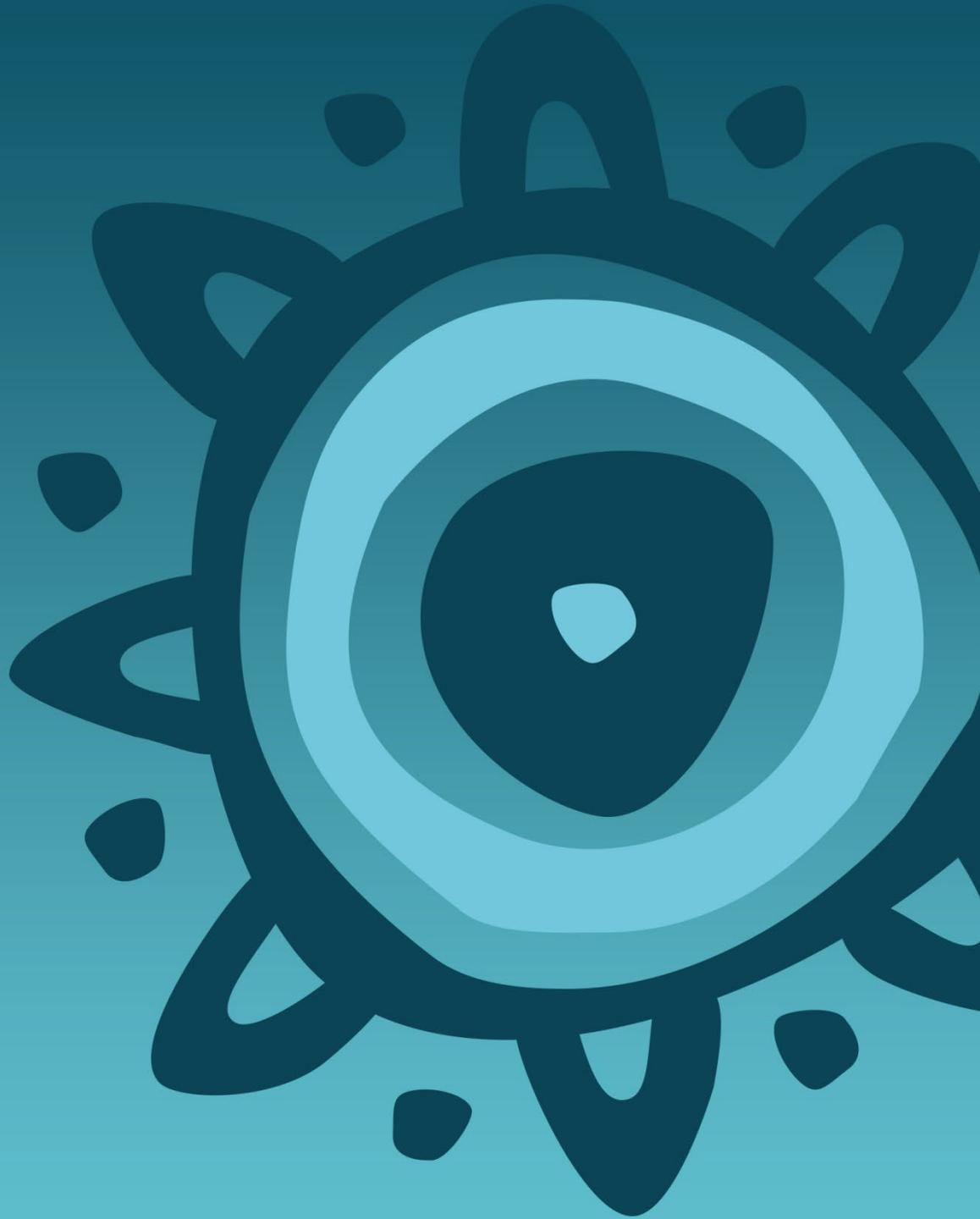
## CONTACT INFORMATION

If you have any further questions or queries in relation to any of the information contained in this document, please do not hesitate to contact Jai Wilson.

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