



KAPI BIDI

Water Pathways

The Westport Aboriginal Engagement Strategy

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Effective Aboriginal engagement will produce a culturally competent organisation which has respect for the cultural protocols involved in Aboriginal culture. The organisation will have the capacity to empower Aboriginal people and incorporate them into the decision-making process. The strategy can create and implement effective employment and training opportunities for Aboriginal people, and provide Aboriginal businesses with an environment where they can participate in the provision of goods and services.

The Westport Aboriginal Engagement Strategy provides the State Government with the process to ensure that Aboriginal culture is recognised and integrated into the planning and building of Westport's recommended future port and supply chain.

Engagement Pillars

This strategy is based on seven pillars which will allow Westport to consult and engage with the Aboriginal community, and the Aboriginal community to engage with Westport, with respect for their culture and heritage.

The pillars will acknowledge, consult, protect, develop, design and advance the Aboriginal cultural connection with Westport.

Each of these pillars involves a process which incorporates the necessary elements through which the purpose of that pillar will can be achieved.





1. Noongar Cultural Acknowledgement, Recognition and Education

The Noongar Cultural Acknowledgement, Recognition and Education pillar seeks to ensure that the Noongar people are recognised in all forums as the traditional custodians of the land and water where the Westport project is involved.

It has the ability to develop a powerful cultural awareness and education program which can be undertaken by all staff, subcontractors and relevant personnel.

A communications strategy can be developed to ensure the wider community are provided with an understanding of the Aboriginal cultural elements, which can be integrated into Westport's process and planning.

Aboriginal stories and culture could be a key consideration in the design and construction of any development activity associated with the Westport recommendation (see pillar 5).

The information and gathering of knowledge that has been generated by the Westport project will be made available to the Noongar custodians.



2. Noongar Community Consultation Process

The recognised Noongar consultative bodies, including the Whadjuk Working Party, the South West Land and Sea Council, the Gnaala Karla Booja Working Party and other groups will be consulted during the Westport process.

A Westport Noongar Advisory Group is being established to provide ongoing specific input, knowledge and the endorsement of the Aboriginal cultural content incorporated into the Westport process.

Westport will develop a strategy to build rapport with the Aboriginal community and organisations. The process of ongoing consultation will be an integral element of that strategy.

The Noongar community will be consulted on any cultural elements involved in the progress of the Westport project, with a view to achieving optimal mutual outcomes.



3. Protection of Aboriginal Heritage

a. Noongar Heritage

Koorndaam (The Dreaming) is the Noongar word used to describe the belief system that explains the creation of the Earth for Noongar people. The belief is that the spirits arose and roamed the earth, creating the landscape, the people, the water, animals and vegetation.

These spirits provided Noongar people with their lore, involving the stories, songs, dance and customs. The ancestral spirits deemed certain places were sacred.

After their work was completed, the spirits returned to the earth and the habitat they had created. Noongar people believe they are still living there, and continue to play a role in Noongar people's lives.

The fact that the ancestral spirits still exist in the earth means the land is integral to their beliefs and spirituality. They have a powerful link to the land and generate strength from the spirits that exist in the land. They believe that they must take care of their land – their Country.

So Noongar heritage has a powerful significance for Noongar people historically, but the stories and heritage sites play an important role in the lives of Noongar people today.

b. Noongar People

Noongar people believe that the Earth was created by a Rainbow Serpent or snake that arose from the earth and its movement created the landscape, including the rivers and water features. The name of the serpent is the Waugal.

The Noongar community exists in the fourteen tribes who are located in the south-west of Western Australia. The Whadjuk tribe is located in the Perth regional area and surrounds. The Waugal is also strongly connected to the surrounding Noongar states including Binjareb, Balladong and Yued.

The Noongar people believe that the Waugal's pathway can be viewed within the landscape. The Swan River (the Derbal – River, Yerrigan – Swan) was created from the passage of the Waugal.

The Waugal created the spirits that take care of the land and they still exist there. This connection to land provides Noongar people with a sense of belonging – a sense of place.

c. Protection

i. Federal

The Native Title Act 1993

The *Native Title Act 1993* is a law passed by the Australian Parliament which recognises the rights and interests of Aboriginal and Torres Strait Islander people in land and waters according to their traditional laws and customs. It established a process for claiming and recognising native title lands and waters.

ii. Western Australia

1. What is an Aboriginal heritage site?

Any place of significance or importance which Aboriginal people used for the traditional cultural life, both past and present.

2. *Aboriginal Heritage Act 1972*

a. The *Aboriginal Heritage Act 1972* protects all Aboriginal heritage sites in Western Australia, whether or not they are registered with the department.

b. Consent is required from the Minister for Aboriginal Affairs for any activity which will negatively impact Aboriginal heritage sites. Under the AHA, Aboriginal sites of outstanding importance may be declared Protected Areas. The AHA also provides protection for Aboriginal objects.

c. The AHA makes provision for the preservation of places and objects customarily used by, or traditional to, the original inhabitants of Australia or their descendants. The Minister for Aboriginal Affairs is responsible for the administration of the Act and is assisted in that respect by the Department of Aboriginal Affairs (DAA) and the Aboriginal Cultural Material Committee (ACMC) which is a specialist advisory body established by the Act.

d. The AHA includes both registered and unregistered sites of Aboriginal importance and significance.

e. Any site works on land which is either known by it to be, or reasonably suspected by it to be, of possible Aboriginal importance and significance in terms of the AHA, must secure the consent of the Minister for Aboriginal Affairs prior to the works commencing. The WA AHA and *Aboriginal Heritage Regulations 1974* (AHR) were enacted to protect and preserve Aboriginal sites.

f. Anyone who excavates, destroys, damages, conceals or in any way alters any Aboriginal site commits an offence under Section 17 of the AHA, unless he or she acts with the authorisation of the Registrar of Aboriginal Sites (Registrar) under Section 16 or the consent of the Minister of Aboriginal Affairs (Minister) under Section 18.

All land users who wish to use land for a purpose which might constitute an offence under section 17 of the AHA must exercise due diligence in trying to establish if their proposed activity on a specified area may damage or destroy an Aboriginal site.

- g. Section 18 of the AHA allows a land owner to give notice in writing to the ACMC of any proposed use of land which would be likely to result in a breach of the AHA in respect of any Aboriginal site that might be on that land. The ACMC will consider the application and provide recommendations to the Minister, who will then consent to the proposed use, with or without imposing conditions, or decline to consent to the proposed use. Any site works for which such Ministerial consent has been obtained cannot result in a breach of the AHA.
 - h. *Review of the Aboriginal Heritage Act 1972*
In March 2018, the Minister for Aboriginal Affairs announced a review of the *Aboriginal Heritage Act 1972*.
- iii. Westport will comply with the *Aboriginal Heritage Act 1972*.



4. Economic Development

The Westport Aboriginal Engagement Strategy will be able to support the creation of economic development opportunities for Aboriginal people, incorporating support for Aboriginal employees, Aboriginal businesses and building capacity within Aboriginal people.

- a. Aboriginal Procurement
 - i. The Western Australian Government has implemented an Aboriginal Procurement Policy which requires government departments to award at least 3 per cent of their purchase contracts involving goods, services, community services and works, to registered Aboriginal businesses.
 1. The purpose of the policy is to develop business opportunities for Aboriginal businesses, to support new employment opportunities for Aboriginal people and improve the prosperity for the wider community.
 2. The Government guidelines provide for the direct engagement of a registered Aboriginal business where appropriate.
 3. The policy applies to contracts with a registered Aboriginal business where the value of the contract is \$50,000 or greater.
 4. The Aboriginal business must be registered on either the Aboriginal Business Directory WA or Supply Nation's Indigenous Business Directory Direct.
 - ii. The Noongar Economic Participation Framework ("NEPF")
 1. The South West Native Title Settlement (the Settlement) incorporated a separate framework – the Noongar Economic Participation Framework – to support Noongar business and its participation in the wider economy.
 2. The Objectives of the NEPF include:
 - a. Grow Noongar-owned businesses and Noongar/non-Noongar joint ventures, and increase Noongar employment in Noongar businesses;
 - b. Increase the knowledge and skills of the Noongar community in the areas of Government procurement, tendering and contracting;
 - c. Increase Noongar participation and representation in employment and the broader economy; and
 - d. Build on the existing strengths of the Noongar community to foster the Noongar entrepreneurial culture.
 3. WA Government agencies will also be responsible for helping meet the various key deliverables and initial projects identified in the NEPF.
 4. The Noongar Economic Participation (NEP) Steering Group will be responsible for overseeing the implementation of the Framework.
 5. The Settlement incorporates a range of significant assets and opportunities for the Noongar people to be incorporated into the Regional Corporations (see pillar 6d).

6. It is anticipated that there will be significant opportunities for Aboriginal business.
 7. There will be a number of supportive initiatives to strengthen the skills of Aboriginal businesses, including workshops, a one-stop information shop and promotion of the Aboriginal Business Directory.
- iii. Westport Procurement Policy
 1. Consistent with the State Government's Aboriginal procurement target of 3 per cent, Westport will undertake to incorporate this procurement target into its future work, and that contractors and sub-contractors will be required to adhere to that policy.
 2. Westport will incorporate consultation with the NEP Steering Group within its recommendation.
- b. Aboriginal Employment
 - i. The Barriers
 1. Normal methods of communicating employment opportunities may not be effective with Aboriginal people
 2. Interview formats may not be appropriate
 3. A challenging work environment
 4. Job readiness
 5. The knowledge gap – the fear of cultural inappropriateness
 - ii. The Target

The State Government announced a public sector target of 3 per cent Aboriginal representation by 2018. In response, the Western Australian public sector agreed to a target of 3.2 per cent of Aboriginal people represented in public employment to be achieved by 2019.
 - iii. The Strategy
 1. To support achieving that target, the government has produced an employment strategy for Aboriginal people based on three actions: attract, appoint and advance Aboriginal people in the workplace.
 - a. Attract Aboriginal people to work in public employment.
 - b. Appoint Aboriginal people to positions commensurate with their skills and expertise in a fair and equitable manner.
 - c. Advance the careers of Aboriginal employees and develop Aboriginal leaders for effective public sector stewardship.
 - iv. Attraction
 1. Utilise culturally appropriate methods of communicating opportunities.
 2. Provide an inclusive workforce environment:
 - a. Develop an understanding of Aboriginal cultural obligations;
 - b. Create an educated, culturally aware, respectful workforce.
 3. Provide cultural Awareness programming for staff.
 4. Maintain a safe working environment for Aboriginal people.
 5. Provide workforce flexibility to allow Aboriginal employees to honour their cultural obligations.
 6. Create entry-level opportunities across all levels of the public service.

- v. Appoint
 1. Utilise culturally appropriate selection practices.
 2. Use of mentor and peer support programs for new employees. An Aboriginal mentoring program, incorporating manuals and documentation has been developed to support agencies initiating their own mentoring programs.
 3. Offer a range of entry opportunities.

- vi. Advance

The strategy also supports the retention and development of Aboriginal employees.

 1. Employ Aboriginal trainees and provides long term employment solutions following their graduation from the traineeships.
 2. Improve the skills of current Aboriginal employees.
 3. Provide professional and leadership development opportunities, particularly for middle and senior levels.
 4. Incorporate Aboriginal employees into the decision-making process related to Aboriginal employment.

- vii. Westport

Consistent with the State Government's Aboriginal employment target of 3.2 per cent, Westport will undertake to incorporate the target into its recommendation.



5. Recognition of Noongar Culture in Design and Construction

The Westport project will eventually involve the delivery of new infrastructure.

Aboriginal culture is a living, evolving culture which employs modern means to ensure it survives and grows. The use of the platforms involved in the arts, including music, theatre, film, literature and design, ensures Aboriginal culture remains relevant in a contemporary world.

The engagement strategy supports the use of authentic Aboriginal design in the development of infrastructure, interiors, landscaping and signage where appropriate. The design would connect to the stories, culture and heritage from the land upon which the infrastructure will be constructed. The stories can come to life through the presence and personality of the building.

Aboriginal design can enhance the cultural experience, increase the knowledge and understanding for those who work at or visit the location, the wider community and strengthen the relationship with the Noongar community.

One of the goals is to strengthen the sense of place connected to the Westport development.

Aboriginal design may be embedded into the process of creating a vision for the infrastructure to be developed in conjunction with the Westport recommendation. The process would involve the architects and designers developing a full understanding of the role that Aboriginal culture could play in their work.

It would incorporate ongoing consultation and collaboration with the key Aboriginal stakeholders, including the Westport Noongar Advisory Group.

Westport will incorporate references to the recognition of Noongar culture in the design and construction of the recommended port and supply chain infrastructure.



6. The Six South West Native Title Settlement Indigenous Land Use Agreements

The Westport Aboriginal Engagement Strategy will need to incorporate an understanding of the establishment of the Regional Corporations and consultation with the Corporations once established.

- a. Noongar Standard Heritage Agreement
 - i. The Noongar Standard Heritage Agreement (NSHA) was negotiated by the South West Aboriginal Land and Sea Council, the Noongar Agreement Groups and the WA Government to ensure compliance with the AHA and Regulations when a planned use activity may adversely impact an Aboriginal site. The NSHA provides:
 1. a uniform and efficient approach to the conduct of Aboriginal heritage surveys;
 2. streamlined land approvals in compliance with the AHA and AHR;
 3. consistency with the WA Government's Aboriginal Heritage Due Diligence Guidelines;
 4. all parties with a clear, timetabled framework about their various obligations;
 5. a process to ensure the submission of relevant site or Aboriginal object information for inclusion on the Aboriginal Heritage Inquiry System.
- b. Noongar Traditional Owner Recognition through an Act of Parliament
 - i. The *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016* (the Act)

The Act formally recognises the Noongar people as the Traditional Owners of the south-west of Western Australia. The Act, proclaimed on 6 June 2016, recognises the important relationship that the Noongar people have with their traditional lands, and the significant and unique contribution of Noongar people to the heritage, cultural identity, community and economy of Western Australia.
- c. The South West Native Title Settlement (the Settlement)
 - i. The successful passage of the *Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016* (the Act) through Parliament fulfilled a central pre-condition to the future commencement of the South West Native Title Settlement (the Settlement).
 - ii. In the South West, as a condition of the Settlement, the six Settlement Agreements (or Indigenous Land Use Agreements – ILUAs) provide for a single comprehensive package of benefits to be provided to the Noongar people in return for the surrender of any native title rights and interests in an area of land referred to as the Noongar lands. The Act is in exchange for the Noongar people not seeking native title recognition and does not carry with it any of the statutory rights that flow with native title recognition.
 - iii. The Settlement is made up of six (6) individual Indigenous Land Use Agreements (ILUAs). Each of the following areas has a corresponding ILUA:

1. Yued People (Jurien, Moora, Lancelin, Gingin).
 2. Gnaala Karla Boodja (Mandurah, Bunbury, Donnybrook).
 3. South West Boojarah (Busselton, Dunsborough, Margaret River, Pemberton, Nannup).
 4. Wagyl Kaip and Southern Noongar (Katanning, Gnowangerup, Albany).
 5. Ballardong People (York, Northam, Hyden, Kondinin).
 6. Whadjuk People (Perth Metropolitan area).
- iv. Through the Act, the Noongar people are now formally recognised as the Traditional Owners of Noongar Lands in the south-west region of Western Australia.
- v. The Settlement is currently under legal challenge (as at early 2020).
- d. The Regional Corporations
- Six Noongar regional corporations and one central services corporation will be established once the Settlement commences. The corporations will represent and directly assist the six Noongar agreement groups. The central services corporation will provide administrative support to all of the Noongar regional corporations.

Once established, the Noongar regional corporations will:

- i. benefit, advance and promote the six Noongar agreement groups;
 - ii. manage and care for cultural land;
 - iii. develop a strategic plan based on regional priorities;
 - iv. develop key policies, such as a cultural advice policy, to guide cultural decision making;
 - v. engage with government and relevant stakeholders to further Noongar community interests and priorities;
 - vi. maintain, protect, promote and support their culture, customs, language and traditions;
 - vii. manage and use the land and waters within the region to which they have a traditional connection;
 - viii. manage their benefits and meet their obligations under the Settlement.
- e. Engagement with the Noongar Corporations once the Settlement Commences.
- The Noongar regional corporations will be the key conduit for engagement with a range of relevant stakeholders including government, non-government and the private-sector. Collaboration with the Noongar regional corporations will work to improve social and economic outcomes for the wider Noongar community, and provide for targeted service delivery and capacity building as identified by the regional corporations.

The regional corporations will also have the ability to provide advice to government and non-government organisations through the various formalised mechanisms in the Settlement, including but not limited to:

- i. joint management;
- ii. Aboriginal heritage management;

- iii. economic participation;
 - iv. community development.
- f. Westport can incorporate an understanding of the relevance of the Corporations in their planning and processes moving forward.





7. Assessment

The Westport Aboriginal Engagement Strategy is a living document that will change and grow with time, and over time.

An assessment of the implementation of the Westport Aboriginal Engagement Strategy needs to be developed, and will be based on the six pillars. It will involve timelines, key responsible personnel and expected outcomes.

The strategy should be revisited on an annual basis to monitor the effectiveness of the implementation and the need for amendments related to any changes to the operating environment.

Westport will register the importance of an assessment process to be developed to measure the effectiveness and need for modifications to the Westport Aboriginal Engagement Strategy.



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