TREATY IN WESTERN AUSTRALIA

WHAT IS TREATY?
HISTORY OF TREATY IN WESTERN AUSTRALIA
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What is Treaty?

Treaty is an acknowledgement by the Commonwealth and/or State that Indigenous peoples have been, since time immemorial, occupiers, users and enjoyers of the land now claimed by the State.

Treaties are made by way of negotiation with Governments and Indigenous peoples where they are able to come to an agreement.

Treaties must include substantive outcomes, meaning legal rights to protect Indigenous peoples should be recognised as well as provide opportunities for sustainable social and economic development.

Out of all Australia's States and Territories, Western Australia has made the most progress for Treaties. Liberal Premier Colin Barnett signed the first Agreement, thought by many as a treaty, between a state government and indigenous peoples in 2015.

This Agreement involved the Noongar people receiving a $1.3 billion package relating to land, resources, governance, finance and cultural heritage in exchange for surrendering native title rights and interests.

The settlement included the transfer of 320,000 hectares of land to the Noongar people over five years, and the granting of certain rights to land that was not transferred. Similarly to the Gunaikurnai and Dja Dja Wurrung settlements, the Noongar people will be invited to co-manage land and resources in land outside their territory.

A key element of the Settlement was enhanced socio-economic opportunities and increased employment. The Agreement also included a special law with Noongar language recognising the Noongar people as the traditional owners of the South West Region of Western Australia.

References

Click to view resource online (if supported)
1. SBS, Explainer: What is a Treaty?
3. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Articles 3 & 4
4. NITV, Treaty for Dummies
5. Australia's biggest native title settlement worth $1.3b, registered three years after deal struck
During the 1990 and early 2000s, the South West Aboriginal Land and Sea Council (SWALSC) oversaw the coming together of six native title claims to encompass the entirety of the Noongar country.

1991

By 1991, statutory land rights regimes had been enacted in all states excluding Western Australia and Tasmania.

1992

On 3 June 1992, the High Court of Australia decided that terra nullius had never applied to Australia, and recognised in the case of Mabo v Queensland (No 1) that Aboriginal and Torres Strait Islander peoples have rights to the land, and those rights existed before the invasion of the British.

1993

The Native Title Act 1993 (Cth) was passed by the end of 1993.

2006

In 2006, Justice Wilcox of the Western Australian Federal Court determined that the Noongar peoples held native title rights to occupy use and enjoy the lands and waters of the South West region of the state. Although celebrated as the first decision of the Full Federal Court of Western Australia to recognise native title, the Federal Court subsequently overturned this decision in 2008.

2009

This litigation continued, and in December 2009, the SWALSC and the State Government agreed to pursue a negotiated outcome outside of the Native Title Act.

2013

In July 2013, the State Government released the terms of its settlement offer concerning the native title rights of the Noongar people.

2014

By October 2014, the SWALSC Noongar Nation Negotiation team, and the Western Australian Government reached an agreement in principle on the text of the settlement.
## History of Treaty in Western Australia

### 2015

Between January and March 2015, a series of authorisation meetings were held to approve the settlement, which took the form of the 6 Indigenous Land Use Agreements (ILUA).

- the **Yued People** (Jurien, Moora, Lancelin and Gingin);
- **Gnaala Karla Boodja** (Mundurah, Bunbury and Donnybrook);
- **South West Boojarah** (Busselton, Dunsborough Margaret River, Pemberton and Nannup);
- the **Wagyl Kaip and Southern Noongar** (Katanning, Gnowangerup and Albany);
- the **Ballardong People** (York, Northam, Hyden and Kondinin);
- and the **Whadjuk People** (Perth Metropolitan area).

### 2016

As part of the Agreement, in 2016 the Western Australian Parliament enacted the Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016 (WA). This was the first piece of legislation in Western Australia to include the Noongar language and recognises the Noongar people as the traditional owners of the land and their continued relationship with country.

### 2018

In June 2018, the Honourable Ben Wyatt, Minister for Aboriginal Affairs, called for the community to provide feedback on a proposal for a new statutory office to advocate for Aboriginal people’s interests in policy and performance.

The Registrar of the National Native Title Tribunal announced the registration of all six ILUAs on 17 October 2018.

## References

1. AIATSIS, Mabo Case
Where are we up to?

The Noongar Settlement is the largest and most comprehensive agreement to settle Aboriginal interests in land in Australian history.

The Settlement has two important consequences for future debate.

In registering the comprehensive political agreement as six Individual Land Use Agreements, the Noongar Agreement shows that treaties can be achieved in a manner consistent with Australia’s existing public legal system.

The Federal State Relations Unit now coordinates the Western Australian Government’s response to requests from the national Standing Committee on Treaties in consultation with relevant agencies. This is undertaken by facilitating participation in treaty negotiations, manage state government input to national interest of Commonwealth treaties and provide strategic input and support of agency specific treaty and national reform negotiations.

If and when the Noongar Treaty presents as a popular and effective settlement, it can provide the basis for further treaties with Aboriginal and Torres Strait Islander peoples.

"The signing of these land use agreements today represents the next step in an extraordinary act of self-determination by Aboriginal people and provides them with a real opportunity for independence. It also means the State and Noongar people must work towards a new level of partnership and shared responsibilities."

Hon. Colin Barnett, Former Premier of Western Australia

References

Click to view resource online (if supported)
1. Noongar, Settlement Agreement
3. Australia’s biggest native title settlement worth $1.3b, registered three years after deal struck
4. WA.gov.au, Media Statements archive.
“What Aboriginal people ask is that the modern world now makes the sacrifices necessary to give us a real future. To relax its grip on us. To let us breathe, to let us be free of the determined control exerted on us to make us like you... recognise us for who we are, and not who you want us to be. Let us be who we are – Aboriginal people in a modern world – and be proud of us.

Acknowledge that we have survived the worst that the past had thrown at us, and we are here with our songs, our ceremonies, our land, our language and our people – our full identity. What a gift this is that we can give you, if you choose to accept us in a meaningful way”

Referendum Council member, Galarrwuy Yunupingu in his essay ‘Rom Watangu’