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REGIONAL ABORIGINAL CONSULTATION GUIDELINES



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Introduction

The health and management of the Swan and Helena rivers and foreshore areas is of high importance to the EMRC and its six member councils.

An important part of managing and maintaining the health and quality of these areas is ensuring appropriate and meaningful engagement with local Aboriginal people(s)/communities and traditional owners.

Member councils have identified difficulties in undertaking meaningful engagement and applying the *Aboriginal Heritage Act 1972* to achieve the required outcomes in implementing works programs along the river foreshore. Costs of consultation are high and breaches of the Act can result in severe penalties.

The Regional Aboriginal Consultation Guidelines have been developed to assist local government officers in dealing respectfully, efficiently and effectively with river management, project planning, and approvals relating to Aboriginal heritage, whilst also ensuring compliance with legal requirements including the *Aboriginal Heritage Act 1972*.

The EMRC and its six member councils wish to support traditional owners and Aboriginal people(s)/communities in their desire to care for their country. Partnerships between member councils and traditional owners will provide a means for the passing on of knowledge and skills about country. It will build capacity for the next generation of traditional owners to continue managing country with traditional and non-traditional environmental knowledge and facilitate opportunities for reconciliation and stronger relationships between traditional owners (in particular the Whadjuk people) and member councils.

The guidelines build on previous work undertaken by the EMRC and its member councils and more recently the Swan and Canning Rivers Iconic Trails project with the South West Aboriginal Land and Sea Council (SWALSC), Perth Region Natural Resource

Management, Swan River Trust and the National Trust (WA).

SWAN AND HELENA RIVERS MANAGEMENT FRAMEWORK

The Swan and Helena Rivers Management Framework (SHRMF) was initiated by the EMRC on behalf of its member councils with the support of the Swan River Trust and Western Australian Planning Commission in 2007. The strategic framework identified roles and responsibilities and allocated strategic actions to all stakeholders to guide the ongoing sustainable management and development of the eastern reaches of the Swan River and its major tributary, the Helena River.

To date, five key documents have emerged from the framework:

- Perth's Eastern Region Swan River Trails Project; EMRC, Kulbardi Hill Consulting and Transplan;
- Heritage Audit and Statement of Significance – EMRC, Latitude Creative Services, Heritage and Conservation Professionals and National Trust (WA);
- Regional Recreational Path Development Plan – EMRC and Transplan;
- Best Management Practices for Foreshore Stabilisation – Swan River Trust and EMRC;
- Best Management Practices for Shore Stabilisation - Concept Designs for City of Bayswater – Swan River Trust and EMRC;
- Heritage Audit of the Swan Canning Riverpark – Swan River Trust, National Trust (WA).

The Heritage Audit and Statement of Significance and the Regional Recreational Path

Development Plan reports identified the need to conduct further consultation with the Noongar community to ensure that any future infrastructure including interpretation, trails and foreshore restoration works were sensitive to Aboriginal heritage and cultural values.

Relevant recommendations in the Heritage Audit and Statement of Significance included:

- Consultation with representatives of the Noongar community should be ongoing to ensure that the large numbers of closed and open sites in the study area are respected and protected;
- Preparation of interpretation should reflect the contrasting long history of the Noongar occupation and the continuing history interlinked with recent settlers along the rivers;
- Preparation for interpretation of historic heritage places should include consultation with relevant community groups and the local authority. Interpretive material should be prepared and checked by an interpretation professional to ensure that it is historically accurate and culturally appropriate;
- Trails involving any form of infrastructure (e.g. signage, pathways) must be environmentally friendly and sensitive to Aboriginal cultural issues understood through consultation and research; and
- Any infrastructure or physical works for trails and other interpretation proposed should be subject to Section 18 applications under the *Aboriginal Heritage Act 1972* in order to minimise risk of cultural conflict or legal action during or after construction.



Recommendations in the Regional Recreation Path Development Plan of relevance included to:

- Refer this report to key Aboriginal groups and engage with key Aboriginal stakeholders in the ongoing implementation of the proposed riverside path network and ongoing development of the interpretation plan; and
- Consider the recommendations of the Heritage Audit and Statement

of Significance when implementing this report in relation to Aboriginal consultation and the development of an interpretation plan.

The SHRMF Steering and Officer Working Group members prioritised the need for Regional Aboriginal Consultation Guidelines to assist in improving the current planning and consultation processes through Section 18 applications under the *Aboriginal Heritage Act 1972*. This would enable more consultative and respectful engagement whilst also streamlining current processes.

Developing the Guidelines

Information was collated from a desktop assessment and stakeholder consultations to identify the key issues in Aboriginal consultation and processes.

Desktop assessment

Current information, research and resources were identified and reviewed through online search engines and searching of international, national and state government agency and stakeholder websites. Other local government approaches and experiences were also reviewed.

Stakeholder consultation

Interviews were conducted with member council officers (Town of Bassendean, Cities of Bayswater, Belmont, Swan and the Shires of Kalamunda and Mundaring) on the Regional Environmental Advisory Group (REAG) and

other relevant member council staff. The aim of the interviews was to outline the project and obtain information regarding current activities, guiding documents, consultation processes, and issues experienced.

External stakeholder groups were interviewed to provide their points of view and to seek clarification on current Aboriginal consultation processes and practices. This included regulatory and administrative agencies involved with Aboriginal matters (the Department of Indigenous Affairs¹, South West Aboriginal Land and Sea Council and Perth Region NRM) and other local government agencies (City of South Perth, City of Fremantle and City of Armadale).

A stakeholder workshop was held with representatives from local government authorities, regulatory and administrative agencies and private companies. The workshop provided information on current Aboriginal engagement and consultation practices, issues faced by local governments, the current regulatory framework and the role of the native title representative bodies. This information was then explored through a facilitated discussion and used in the development of the guidelines.



Overview of the Guidelines

These guidelines have been developed to support member council officers to undertake appropriate and meaningful engagement with local Noongar peoples and traditional owners to facilitate reconciliation and collaboration.

They are based on the fundamental principles developed by the South West Aboriginal Land and Sea Council (SWALSC) to ensure Noongar participation in decision-making² and support an acceptance and understanding that Noongar culture lives through the people who are descendants of the original inhabitants. To ensure the guidelines are a useful and effective document, they have been structured under four headings:

- **WHY ENGAGE?**
- **WHEN TO ENGAGE?**
- **WHO TO ENGAGE?**
- **HOW TO ENGAGE?**

Definitions

Throughout the document the following terms have been used as defined by the South West Aboriginal Land and Sea Council³ and the Federal government⁴.

Aboriginal people(s)

Broad collective noun for an Indigenous Australian of Aboriginal descent.

Noongar

Language term used to broadly identify Aboriginal people from the South West Region of Western Australia. Alternative spellings include Nyungar, Nyoongar, Nyoongah, Nyungah, Nyugah, Yunga. Noongar are made up of 14 different language groups.

Traditional Owners

Aboriginal representatives of the traditional language group that inhabited an area prior to European settlement and are recognised as traditional owners by local Aboriginal communities.

Whadjuk

One of the 14 Noongar language groups associated with the Swan Coastal Plain and Jarrah Forest which are defined by⁵ geographic area and ecological distinctions. Alternative spelling Wadjuk.

WHY ENGAGE?

Engagement is an ongoing process or conversation that builds trust and relationships. It is not a single process or set of activities. Engagement involves respectfulness, building cultural awareness, connections, capacity, trust and promoting dialogue⁶.

There are a number of reasons why local government should engage with Noongar peoples and traditional owners including:

1. To facilitate reconciliation;
2. To help protect, conserve and respect Noongar cultural heritage;
3. Collaboration; and
4. Fulfil legal responsibilities for Aboriginal heritage sites.

Engagement is a process that involves people and communities in problem solving and decision-making to build trust and relationships. The input of Noongar peoples and traditional owners in project planning can improve project outcomes and ensure that projects are developed that respect Noongar cultural heritage. Early engagement of Noongar

peoples in the initial planning process will help identify relevant heritage protocols and any social, cultural or environmental needs. Early engagement can also assist with the identification of community needs and the development of relevant projects, programs and policies. Engagement provides opportunities for information to be sought, provided and exchanged and to encourage and support interaction and participation between local government authorities and Noongar people(s) and traditional owners.

The main pieces of legislation related to Aboriginal cultural heritage are the *Native Title Act 1993 (Cwlth)* and the *Aboriginal Heritage Act 1972 (WA)*. The Swan and Helena rivers are registered Aboriginal heritage sites as defined by the *Aboriginal Heritage Act 1972*.

Native Title Act 1993 (CWLTH)

Native title is the name given to the recognition of rights held by Aboriginal and Torres Strait Islander peoples who have maintained a traditional connection to areas of land and waterways in accordance with their laws and customs since European settlement.

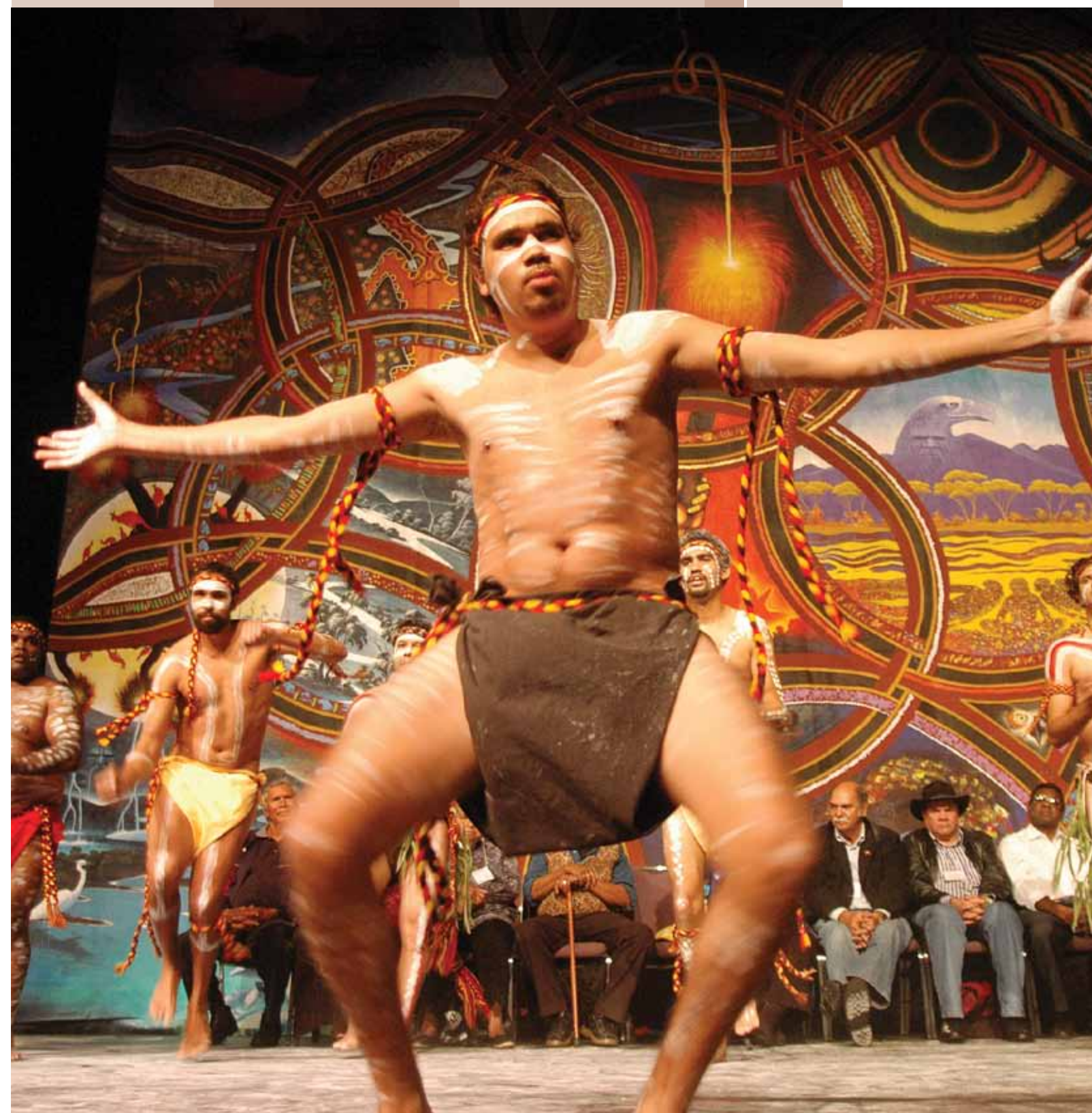
Under the *Native Title Act 1993 (NT)*, a claim may be brought before the Federal Court of Australia to determine if Aboriginal or Torres Strait Islander peoples have demonstrated a traditional connection to the land and waters of the claim area. The role of the Native Title Tribunal is to assess applications for a native title claim and to facilitate and mediate between all the parties that have interests in the claim area.

Under the NT Act, a Native Title Representative Body (NTRB) is an organisation with the primary role of representing Aboriginal and Torres Strait Islanders within their designated region. Not all claimants are

represented by a NTRB or service delivery agency. Some claimants choose private solicitors or other people to represent them, or they are unrepresented. The South West Aboriginal Land and Sea Council (SWALSC) is the NTRB for the south west region of Western Australia.

The *Native Title Act 1993* requires consultation with registered native title claimants and their legal representatives about proposed public works and management plans. Other consultation requirements may arise from native title determinations.

In 2009, the Western Australian government signed a Heads of State Agreement with SWALSC aimed at resolving the native title claims over Perth and the south west of WA by the negotiation process. In December 2011, the Western Australian Government made an in-principle offer to SWALSC on behalf of the Noongar community to resolve all native title claims in the south west. Negotiations have continued throughout 2012⁷.



WHY ENGAGE?

Aboriginal Heritage Act 1972 (WA)

The Swan and Helena rivers are registered Aboriginal heritage sites as defined by Section 5 of the *Aboriginal Heritage Act 1972* (AH Act).

The purpose of the AH Act is the preservation of places and objects customarily used by, or traditional to, the original inhabitants of Australia on behalf of the community⁸. The AH Act places an obligation on landowners not to destroy or damage Aboriginal heritage sites. This is achieved by making it an offence under Section 17 of the AH Act to excavate, damage or destroy Aboriginal sites. Where an owner of the land may want to use their land in a way that might damage or destroy an Aboriginal site, consent to use the land in a particular way may be applied for under Section 18 of the AH Act through the Department of Indigenous Affairs (DIA). Authorisation can also be obtained to use land under Regulation 10 of the *Aboriginal Heritage Regulations 1974* if the use is considered non-deleterious.

In Western Australia, Aboriginal consultation is not a statutory requirement. However it is required as part of applications made under Section 18 of the AH Act and under Regulation 10 of the *Aboriginal Heritage Regulations 1974*.

Whilst there is a legal obligation upon owners of land to obtain authorisation to use land that may be significant, there is a lack of guidelines and standards to assist landowners make decisions about appropriate consultation levels, payments and the scale of works needed to be undertaken. "Cultural Heritage Due Diligence Guidelines" are available to help landowners comply with the *Aboriginal Heritage Act 1972* and to provide guidance on how to manage activities to avoid or minimise harm to Aboriginal sites⁹.

In cases where there is little or no recorded information relating to the site/s that may be impacted upon, a full heritage survey is highly likely to be requested to allow the application

to be appropriately assessed. This process can become both costly and time consuming and, as such, needs to be considered early on in the planning stages of activities and projects. Early engagement with Noongar peoples and traditional owners can assist with identifying and assessing the importance of sites to the community and the management of cultural heritage matters.

Section 18

Under Section 18 the proponent must lodge a completed Section 18 notice to the Department of Indigenous Affairs (DIA) where it will undergo initial assessment by DIA officers. When the application is complete and all requests for further information by the DIA have been satisfied, an assessment by the Aboriginal Cultural and Material Committee (ACMC) is conducted. If the works are deemed acceptable, then a recommendation is made to the Minister for Indigenous Affairs who provides approval in writing.

A process flow chart of the Section 18 approval process can be downloaded from the Department of Indigenous Affairs at: <http://www.dia.wa.gov.au/en/Section-18-Applications/Application-process/>

Key details regarding the Section 18 authorisation process¹⁰ are as follows:

- Aim to identify any Aboriginal Heritage sites or objects located within the project area and analyse their importance;
- Aim to determine the effect or potential effect of proposed works on the cultural heritage values of Aboriginal sites and identify measures to avoid or minimise these impacts;

- Aboriginal Cultural Material Committee - meets the first Wednesday of every month except January¹¹. Deadlines for Section 18 application submissions to Registrar to be forwarded to committee for meeting;
- Have to provide a heritage consultant's details for:

- ethnographic survey
- archaeological survey
- Aboriginal consultation;

- Informant - a person who provides information about his or her culture to an anthropologist, archaeologist or other heritage consultant;
- Length of time valid - can be for the "proposed lifetime of a project" e.g. including future maintenance requirements if known such as that required for infrastructure upkeep;
- Section 18 remains open as long as there are no changes in landowner (otherwise new landowner must reapply) or changes in the type of works to be undertaken as part of a project; and
- Swan and Helena Rivers Management Framework Heritage Audit and Statement of Significance (2009) can be used as supplementary information for a Section 18 application.

The most common issue identified with the Section 18 notice application process was the amount of time they can take to be approved and the costs involved in order to meet the consultation requirements and undertake Aboriginal Heritage Surveys.

Regulation 10

A Regulation 10 authorisation is referred to the Registrar of Aboriginal Sites for approval of enhancement activities rather than the Section 18 notice application process of going through the Aboriginal Cultural Material Committee (ACMC) and the Minister of Indigenous Affairs for approval. Approval time for a Regulation 10 authorisation is usually shorter than applying for a Section 18 notice approval. It is not clear when a Regulation 10 authorisation may be obtained instead of a Section 18 approval being applied for without seeking advice from the DIA.

Key details regarding the Regulation 10 authorisation process are as follows:

- The Registrar has the discretion to issue approvals for work that is non-deleterious and aimed at enhancing the heritage values of the site. The Registrar will still need details of the site, the nature of the activity and a clear outline of Aboriginal community views. However the Regulation 10 application does not have to be considered by the Aboriginal Cultural Material Committee. If all the necessary information is provided and is clearly not detrimental to the site, approval will usually be issued within a few weeks of being submitted. It is still recommended that this, like any other approval, is sought well in advance of the planned commencement of works.

- Examples of enhancement (non-deleterious) activities may include:
 - maintenance
 - restoration
 - interpretation
 - removal of material (non-preferred option)
 - NRM work - revegetation, interpretation
- Form for a non-deleterious purpose¹²:
 - need to show consultation
 - send to Registrar of Heritage Places
 - officers process - can request more or less time
 - usually shorter turnaround time (few weeks or months).

Section 18 and Regulation 10 applications require:

- Communication between the party proposing the works and the Aboriginal people who have connection to the significant site(s);
- Investigating and recording the level of significance of the site, the impacts of the works and any agreement reached by both parties;
- Providing the records, along with a completed application form, to the Department of Indigenous Affairs.

WHEN TO ENGAGE?

Engagement should occur as early as possible in any consultation process and any project planning activities to ensure relevant engagement and to increase opportunities for good outcomes to be achieved for everyone involved¹³.

Generally speaking, there are a number of situations when consultation should occur including:

- pursuing general engagement of the Noongar community for project specific activities on land or water that occur on, or near, Aboriginal cultural and heritage sites that may require legislative compliance (Section 18 or Regulation 10 approval under the AH Act) and ;
- when undertaking cultural heritage management activities (Ask First Consultation Framework¹⁴); and;
- when developing and implementing policies and programs related to Aboriginal matters.

LEVEL OF ENGAGEMENT

The level of consultation required will depend on the type of activity to be undertaken; the level of impact of an activity and the location of the activity and whether it may impact on Aboriginal heritage. The consultation matrix provides a decision-making tool in regard to actions required; risk assessment and the initial level of consultation. Activities that may be undertaken by local governments have been summarised in Table 1 as follows.



WHEN TO ENGAGE?

Table 1 Consultation Matrix for assessing appropriate level of engagement

Type of Activity		Level of Discussion (see below)				
	Non site specific	Not Listed as a Heritage Site (see Level of Risk below)		Heritage Site – Listed (see Heritage Site below)		
		Low Risk	High Risk	Information Assessed (IA) (Insufficient Information, Lodged Data)	Registered Site (R)	Stored Data
Planning and Development						
New concepts and ideas	Engage	Engage	Engage	Support	Support	No action
Program development and planning	Engage	Engage	Engage	Support	Support	
Project planning and development	Engage	Engage	Engage	Consult	Consult	
Building and Construction						
Excavation	Not applicable as site specific activities	Feedback	Support	Consult	Consult	No action
Demolition		Feedback	Support	Consult	Consult	
Hard engineering (e.g. foreshore stabilisation techniques)		Feedback	Consult	Consult	Consult	
Soft engineering (e.g. survey and enhancement works)		No action	Feedback	Support	Support	
Earthworks		Feedback	Consult	Consult	Consult	
Enhancement and Maintenance						
Revegetation	Not applicable as site specific activities	No action	Inform	Inform	Support	No action
Weed control		No action	Inform	Inform	Support	
Ripping (mechanical)		Feedback	Support	Support	Consult	
Interpretation		Feedback	Support	Feedback	Support	
Removal of material (non-preferred)		Feedback	Support	Support	Consult	
Monitoring (e.g. water monitoring or plant survey)		No action	Feedback	Support	Support	

**Adapted from Department of Water - Aboriginal Heritage and Native Title Guidelines for On-Ground Works, Pilot Document, March 2008 and the Cultural Heritage Due Diligence Guidelines 2011 Department of Indigenous Affairs and Department of Premier and Cabinet Native Title Unit.*



WHEN TO ENGAGE?

LEVEL OF DISCUSSION

The matrix should be used to determine the initial level of discussion that may be required. It may become necessary to progress through the different levels after the initial discussion depending on the situation and outcomes of the initial discussion.

Engage:
Initiate and establish contact and communication channels with the Aboriginal people(s) to determine if any Aboriginal cultural heritage matters should be considered/included/developed. Ask first.

No Action:
No discussion required as no Aboriginal Cultural Heritage Sites identified and no implications for Aboriginal cultural heritage matters.

Inform:
A heritage site may exist, however, there will be no disturbance of the site from the activity. The activity may enhance the cultural, environmental and ecological values of the site. Advise the appropriate Aboriginal people(s) in writing of the activity to be undertaken. No feedback is requested. Seek advice from DIA as to whether a Regulation 10 approval will be required. If approval is required the level of discussion will progress.

Feedback:
A heritage site may exist and there may be limited disturbance of the site from the activity. The activity may enhance the cultural, environmental and ecological values of the site. Advise the appropriate Aboriginal people(s) of the activity to be undertaken in writing and through the Whadjuk Claim Working Party Group and request feedback. Seek advice from DIA as to whether a Regulation 10 approval will be required. If approval is required the level of discussion will progress.

Support:
A heritage site is likely to/does exist and there will be limited disturbance of the site from the activity. The activity may enhance the cultural, environmental and ecological values of the

site. Advise the appropriate Aboriginal people of the activity to be undertaken in writing and through the Whadjuk Claim Working Party Group and obtain written support. Seek advice from DIA as to whether a Section 18 or Regulation 10 approval will be required. If approval is required the level of discussion will progress.

Consult:
A heritage site is likely to/does exist and there will be disturbance of the site from the activity. The activity may enhance the cultural, environmental and ecological values of the site. Involve the appropriate Aboriginal people(s) throughout the planning, development and implementation of the proposed activity, project or program through the Whadjuk Claim Working Party and/or by writing to the appropriate people. Invite the appropriate Aboriginal people(s) to provide professional advice throughout the planning, development and implementation of the proposed activity, project or program which may include on-site and off-site meetings. The aim is to allow opportunities for involvement, collaboration and empowerment to achieve consensus on the proposed activity, project or program. Document involvement and obtain written support on what is agreed to. This level of discussion may necessitate a Section 18 application under the *Aboriginal Heritage Act 1972*.

Heritage Survey:
A heritage site exists, there is no previous heritage information or there is insufficient information in previous heritage surveys and the activity will disturb the site. The activity may enhance the cultural, environmental and ecological values of the site. A heritage consultant (anthropologist/archaeologist) should be contracted to undertake a full heritage survey¹⁵ (anthropological and ethnographic research and Aboriginal community consultation) to fulfil the requirements of a Section 16 or Section 18 application under the *Aboriginal Heritage Act 1972*.

LEVEL OF RISK

Risk level may be assessed in terms of the type of activity to be undertaken; location of the activity; level of impact of the activity and likelihood of Aboriginal heritage impact.

Low risk:
Artificial drains, dams (off-stream), sumps, developed land.

High risk:
Natural waterways (river, creek, stream, brook), swamps, lakes, estuaries, springs, dams (in-stream), uncleared/undisturbed land, sites that have limited Aboriginal cultural and heritage information available that may be considered significant by local Noongar community.

A comprehensive Heritage Risk Assessment Matrix is provided in the Cultural Heritage Due Diligence Guidelines which focuses on reducing the risk of Aboriginal cultural heritage and/or Aboriginal sites from being impacted by land use activity.

HERITAGE SITE

The Register of Aboriginal sites is maintained by the DIA and contains information on site files, heritage survey reports and the Aboriginal Heritage Management System. Online access to the system is available through the Aboriginal Heritage Inquiry System (AHIS) and can provide information on the status of a site and access to survey reports. The AHIS site definitions can be found on the Department of Indigenous Affairs website¹⁶. An overview of Aboriginal heritage sites is also provided in the “*Cultural Heritage Due Diligence Guidelines*”.



WHO TO ENGAGE?

ABORIGINAL PEOPLE(S) AND COMMUNITIES

It can be difficult to ensure that all the appropriate individuals and family groups are engaged in the consultation process. Local government officers are advised to check with SWALSC and the DIA to ensure representatives of the correct family groups with heritage connections to the project area are consulted. Getting this right is very important as it maintains integrity. It is also important to demonstrate as wide as possible consultation with the Noongar community. There are existing databases of information held at SWALSC and the DIA¹⁷. Local government officers are advised to contact these organisations for the most current information.

Identify Who Speaks For Country

A respectful protocol is firmly entrenched in the lived experience of Aboriginal people throughout Australia. In establishing and maintaining good relations with traditional owner groups, it is imperative to speak to the correct people who have heritage connections to certain areas in Perth's Eastern Region.

Noongar are made up of 14 different language groups which correspond to different geographical areas with ecological distinctions. Language groups within Perth's Eastern Region include the Yued, Whadjuk, Binjareb/Pinjarup and Wardandi associated with the Swan Coastal Plain and the Whadjuk, Binjareb/Pinjarup, Balardong, Wilman, Ganeang/Goreng associated with the Jarrah Forest¹⁸.

It is recommended best practice to contact SWALSC to determine who speaks for country.

Consultation Fees

There are no obligations under Western Australian legislation for payment to be made to Aboriginal people for consultation. However it is standard practice that when Aboriginal consultation is undertaken, payments will be made to the representatives at an agreed rate and/or per representative. Payments may be made for services including but not limited to:

- Welcome to Country expenses
- consultation fees
- meeting expenses (on-site and off-site meetings)
- site monitoring
- administration support
- catering
- travel reimbursement costs
- special events

It is recommended that local government authorities include Aboriginal engagement and consultation activities into their daily operations and, as such, should allow for any associated costs in their financial planning processes.

This may include budgeting in capital works programs, environmental management and community development areas.



WHO TO ENGAGE?

Table 2* outlines a recommended payment fee for different types of consultation services which may be provided¹⁹.

Table 2 Indicative Consultation Payment Schedule

Subject	Service Provided	Payment Rate
Whadjuk Working Claim Group Party Meeting	Input , advice and feedback into project / development and implementation	No payment required as a function of the Native Title Representative Body under the Native Title Act 1993 (Cwlth)
Aboriginal consultant	Heritage related survey and field work	\$400 - \$500 per person per day
Elder	Provision of cultural knowledge information Welcome To Country Special events	\$400-\$500 per person per day
Community representative	Non-heritage related activities – meeting attendance; participation on consultative group/s; general meetings	To be negotiated between parties

**Disclaimer – Whilst all care has been taken in the compilation of this information, these prices are a guide only and may vary between different organisations and Aboriginal people(s) and groups. Payment is based on an Elder consulting. Where a senior or junior community member is consulted prices may be subject to negotiation.
Prices may be subject to negotiation between parties dependent on financial resources and service/s to be provided.
Prices may be subject to GST and indexed to the Consumer Price Index.*



STAKEHOLDERS

South West Aboriginal Land and Sea Council - Whadjuk Claim Working Party Group

The Whadjuk Claim Working Party Group is representative of family groups who have traditional and custodial rights to the Perth metropolitan region. In June 2011 the Whadjuk people filed a Native Title determination application which passed the registration test and is listed on the Register of Native Title Claims. As registered native title claimants, the claim group has applied to the Federal Court to determine whether the group holds native title in the area outlined in the application. The group has gained some negotiation and procedural rights while their claim is pending²⁰.

Government, government agencies, developers, archaeologists, anthropologists, Aboriginal people and non-Aboriginal people have an opportunity to present information and seek input into project development, planning and preparation. Presentations should provide precise information on what they would like advice/input on and, where relevant, on project location including maps, land tenure, scope of works and include heritage site information.

In following protocol, all local governments should present all projects for approval to the Whadjuk Claim Working Party Group. The group meet around every eight weeks²¹ and require notification at least two weeks prior to the scheduled meeting for any agenda items. Meetings are co-ordinated by the SWALSC Regional Development Unit which should be contacted with any requests.

There are a number of traditional owner groups who do not attend these meetings. In the preparation stage of planning and consultation, contact should be made with SWALSC and DIA for a list of the relevant people who should be consulted.

The Department of Indigenous Affairs (DIA)

The DIA can provide guidance and advice in the following areas:

- register of significant sites;
- access to site survey information;
- informants list;
- Section 18 requirements;
- Regulation 10 requirements;
- heritage consultants;
- site visits;
- Aboriginal Cultural Material Committee;

The DIA Aboriginal Heritage Inquiry System (AHIS) can provide information on the status of a site in relation to whether it is a significant site and access to survey reports. The AHIS can be accessed from: <http://www.dia.wa.gov.au/en/Site-Search/Aboriginal-Heritage-Inquiry-System/>

Aboriginal people(s)

To obtain information about the Aboriginal cultural heritage of an area it is best to contact the relevant Aboriginal people(s) for that particular area. At a minimum the following people should be consulted:

- Determined native title holders;
- Registered native title claimants;
- Relevant native title representative bodies (e.g. SWALSC);
- Traditional Owners;
- Site informants as held by the DIA; and
- Any other Aboriginal persons with relevant cultural knowledge of a particular area.

Heritage consultants

Consultants such as anthropologists, archaeologists and historians may be required to provide assistance where site survey reports are required, and to liaise between different organisations and the community. Aboriginal people(s) may also provide specialist information about an area's cultural heritage and provide services such as field work, site surveys and site monitoring.

Local government officers should use internal processes such as tender and contract specifications to ensure that requested services can be delivered in a timely and appropriate manner that will benefit everyone and comply with regulatory requirements.

Contact the DIA for a consultant list or use the link below to access professional bodies: <http://www.dia.wa.gov.au/en/Section-18-Applications/Heritage-management/Aboriginal-heritage-surveys/Archaeological-surveys/>

The DIA can provide information on site informants and SWALSC can advise on relevant Aboriginal people(s) with cultural heritage knowledge for a particular area.

HOW TO ENGAGE?

Best practice in regard to engagement of the Noongar community is to ensure Noongar interests are being addressed through early engagement and the active involvement of local Noongar peoples and traditional owners with heritage connections to the region where activities may be undertaken.

Where possible, include Noongar peoples and traditional owners in your project planning and implementation. This may require working with an Aboriginal staff member or a staff member from another organisation linked to the project via a partnership with your local government. Partnerships with Aboriginal organisations, reference groups and committees can facilitate achieving the desired outcomes.

Having Aboriginal people(s) seeing the benefits of being involved in a program or project is subject to believing and knowing they are helping drive the concept. Motivation of people is a prerequisite to any program or project development.

PRINCIPLES FOR ENGAGEMENT

These guidelines are based on fundamental principles developed by SWALSC²² that ensure Noongar people's participation in decision-making and support an acceptance and understanding that Noongar culture lives through the people who are descendants of the original inhabitants. Principles for engagement include:

1. prior informed consent
2. mutual respect
3. nation building/relationship building
4. equal partnerships between Noongar and non-Noongar communities
5. acknowledgement of Noongar Country
6. acknowledgement of Noongar Culture
7. acknowledgement of Noongar knowledge and expertise
8. understanding that Noongars live their culture
9. Women's/Men's Business

PROTOCOLS

Protocols can be classified as a set of rules, regulations, processes, procedures, strategies or guidelines. Protocols are the ways in which you work with people, and communicate and collaborate with them appropriately.

Principles for developing protocols between parties include:

- relationships built on respect and trust
- information
- education
- legislation and regulations
- the need to negotiate decisions/agreements
- acknowledging different cultural values

The SWALSC Noongar consultation protocols document²³ has been developed by SWALSC under the direction of, and in collaboration with, Noongar Elders and the traditional owners of the Perth metropolitan region and encompasses:

- early engagement
- realistic timeframes
- cultural protocols
- resources
- Welcome to Country/Acknowledgement of Country
- intellectual property rights
- confidentiality
- showing results

These protocols should be used by local governments to engage with the Noongar community and in relation to activities involving Aboriginal cultural heritage matters.

PROCESS FOR CONSULTATION

Engagement and consultation is an ongoing process from the planning phase to implementation to monitoring and feedback. Consultation should involve all relevant parties/organisations and allow input to be sought, information to be provided and shared throughout the stages and the processes involved with a project including feedback from traditional owners and representative members from family groups. A consultation process is outlined below and a consultation checklist is provided in Table 3.

1. Planning and development should consider all factors involved with the proposed idea, program, activity or project including research, location, scope of any works, approvals required for works, benefits, potential issues or impacts and any other relevant information to assist with the consultation process. Be clear on why you are consulting; the aim of the consultation, and what needs to be achieved by the consultation. Other factors to consider include:
 - co-ordination and management of the consultation;
 - identifying resources required to undertake the consultation such as timing, people and budget;
 - choosing a method of consultation;
 - analysis;
 - feedback;
 - response to recommendations; and
 - monitoring and evaluation.
2. Identify the relevant stakeholders by contacting SWALSC and the DIA and any other relevant groups that may have an interest in the proposed activity. Once the relevant people have been identified, arrange an initial meeting to outline the scope of the proposed activity and/or works. Information should be clearly set out and include maps, data, technical information, benefits, issues, impacts and any other relevant facts related to the proposed activity.
3. Ensure that relevant Noongar groups are provided with enough time to consider the information. Further consultation may be required with other members of the community. Noongar governance processes should be taken into consideration and sufficient time and flexibility should be allowed for.



HOW TO ENGAGE?

4.

At the initial meeting establish an ongoing communication process/method for consultation and level of involvement of the Noongar community for the proposed activity/project. This may include establishing a specific working group or more broad consultation. Consider any employment opportunities for local Noongar people.
5.

Ensure ongoing involvement of interested Noongars in the project (establish a communication method/process). It is critical to actively illustrate that Noongar comments, concerns and suggestions have been taken into consideration.
6.

Noongar involvement may be required in monitoring, management and rehabilitation activities under the Section 18 consent process. Ensure that appropriate processes are undertaken to identify appropriate people to carry out these activities, recognising that time may be needed to reach a consensus on both appropriate methods to be used and the individuals to carry them out (consider during steps 2 and 3).
7.

Where a Regulation 10 approval is required for the proposed activity, this may require Noongar involvement in planning the activity and site visits. Ensure that appropriate processes are undertaken to identify appropriate people to carry out these activities, recognising that time may be needed to reach a consensus on both appropriate methods to be used and the individuals to carry them out (consider during steps 2 and 3).
8.

Ensure ongoing feedback and review of the activity/project with relevant Noongars. This is particularly important if there is a significant impact on culturally sensitive/significant areas (establish as part of communication method/process).
9.

Undertake and document/record consultation process in line with cultural protocols (see Protocols section of guidelines).

Table 3 Consultation Checklist for local government Officers.

Have we....	
Undertaken research into Aboriginal heritage and cultural matters and/or the Aboriginal community to be engaged?	<input type="checkbox"/>
Identified a need to engage/consult with the Aboriginal community? Have a clear purpose?	<input type="checkbox"/>
Undertaken planning and development of proposed activity (considering all factors)?	<input type="checkbox"/>
Allocated resources to undertake consultation?	<input type="checkbox"/>
Allowed adequate time for consultation to be built into project timelines (including ocal government, statutory approvals processes, meeting schedules, Noongar governance processes)?	<input type="checkbox"/>
Identified who needs to be involved in the consultation (all stakeholders)?	<input type="checkbox"/>
Identified a method of consultation?	<input type="checkbox"/>
Identified a communication process/method to allow input and feedback between participants?	<input type="checkbox"/>
Identified potential risks in the consultation and appropriate strategies to minimise the risks?	<input type="checkbox"/>
Provided the community with information about the level of involvement expected of them throughout the consultation process and any future actions that may be required?	<input type="checkbox"/>
Developed mechanisms to monitor the consultation process that allow for flexibility to make changes if required?	<input type="checkbox"/>
Developed an evaluation of the consultation process built into project timelines?	<input type="checkbox"/>

HOW TO ENGAGE?

TIMEFRAMES

Local governments, State government agencies, regulatory processes, and peak organisations are procedurally governed by deadlines and meeting schedules.

Local government officers should be aware that Noongar governance processes are complex and require extended family networks to be kept informed as part of the consultation process. Noongar Elders and representatives have high consultation demands and meeting commitments, and are usually engaged in multiple projects. Some cultural protocols such as attending funerals for sorry business will always take precedence over other commitments. Consideration and flexibility should be allowed for in preparation and planning to ensure that time factors will be manageable and respectful of governance processes and cultural protocols.

Be open and clear that the proposed activity has a beginning and end. Always revisit this important point during feedback sessions as part of your consultation.

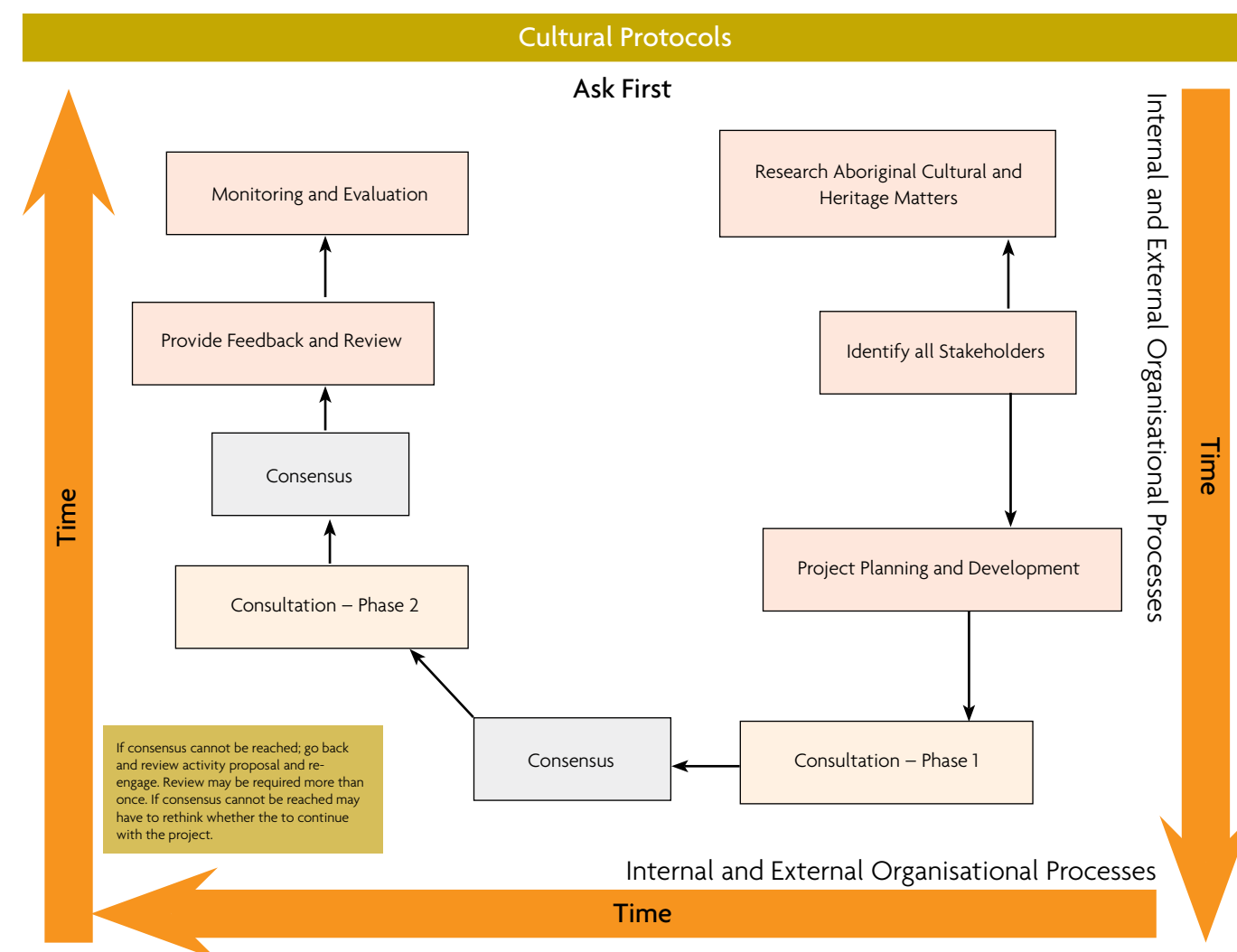
Be aware that a 'no show' at appointments does not necessarily mean a lack of commitment to a project or program. Aboriginal people may have unavoidable family commitments or harsh economic circumstances. These may include:

- transport – not readily available or difficulty using public transport;
- telephone – no access to a telephone to cancel and change appointments;
- family responsibilities – these can take priority;
- housing – homeless or highly mobile;
- death – funerals take precedence over everything else in an Aboriginal community and relatives will travel a great distance to be with grieving family;
- births – families and relatives gather together for births and care of the baby; and
- finances – if finances are low, money will go towards food for the family rather than transport to an appointment.

Timeframes should allow for internal local government processes (budgeting, tender and contract requirements, works program schedules); consultation activities that may need to be undertaken; liaison and feedback from the Whadjuk Claim Working Party Group; liaison with the DIA; research, preparation and planning for Section 18 applications and the Aboriginal Cultural Material Committee meeting schedule.

Figure 1 illustrates the components of engagement and consultation when seeking approval to undertake specific activities.

Figure 1 - Components of Engagement and Consultation



HOW TO ENGAGE?

RESPECTING CULTURAL DIFFERENCES

Aboriginal people live within a different world view to non-Aboriginal people and these differences may not be immediately apparent. Take your time to observe, listen and learn. Some important points include:

- When meeting someone and establishing a rapport, ask about who their family is – not: “Are you Aboriginal?” or “Where do you work?”
- Be who you are. Maintain your integrity and remain firm in your intent to include Aboriginal people and foster good relations. This will be one of the first things Aboriginal people perceive; and
- Do not get involved in community politics.

Communicating with people from another culture is often difficult. While it is not necessary to be an expert on a culture or linguistics to communicate effectively with others, it is essential to be aware that these differences may exist.

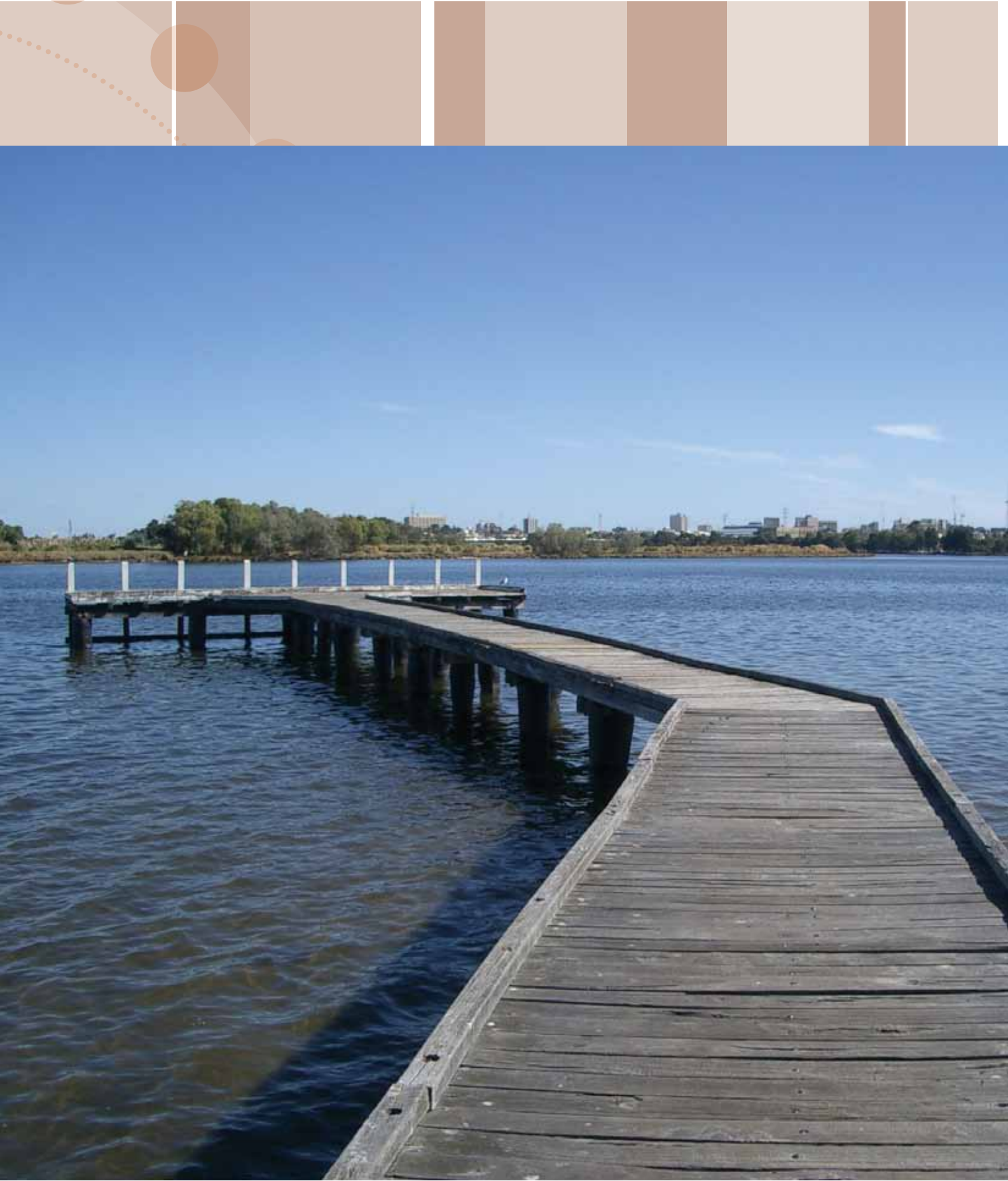
A number of communication difficulties are commonly encountered when dealing with Aboriginal people. Several are outlined below. Keep in mind however, that there is huge diversity in the Aboriginal community.

- “Are we speaking the same language?”
- Aboriginal people seek information by hinting at an issue rather than discussing it directly. A common example is Aboriginal people make a statement then wait for you to either confirm or refute it.

- Time is important to many cultures and time to think is essential for Aboriginal people, especially when important decisions are to be made. Don’t always expect immediate answers, you may have to wait until another time after community discussions have taken place.
- Nodding does not always mean ‘yes’. Nodding is a cultural norm which encourages smooth social relationships. So an Aboriginal person may nod but may not agree with you or understand what you have said.
- ‘I don’t know’ may have more to do with your inappropriate communication rather than the Aboriginal person’s lack of knowledge. It may also be due to a lack of an appropriately developed relationship.

Touching	Touching is used as an expression of acceptance, welcoming or direct communication.
Discipline	Adult members of the family have rights to discipline the children.
Eye contact	Aboriginal people may avoid eye contact. It is not polite to gaze into another’s eyes.
Plain talk	Plain talk is the best way to communicate. Too many explanations may confuse the issue.
Yes	Yes, does not always mean ‘yes’ as a direct answer to a question.
Quiet time	A pause in the conversation does not reflect avoidance – just thinking time.
Family business	Family business means all the family including children and Elders.
Non-verbal communication	Awareness of different cultural relationships within a group.





Notes

1. Please note that at the time of publication the Department of Indigenous Affairs is transitioning through a name change to become the Department of Aboriginal Affairs. During the transition period the DIA's existing website will still be available. All care has been taken to ensure references and links to the website are as current as possible.

2. See South West Aboriginal Land and Sea Council *"Final Report Swan and Canning Rivers Iconic Trails Project"* available on the SWALSC website at: <http://www.noongar.org.au/news.php>

3. See South West Aboriginal Land and Sea Council, *Living Culture – Living Land and its people. Noongar Protocols – Welcome to Country*

4. See at 1 above and South West Aboriginal Land and Sea Council *Noongar Consultation Protocol Guidelines: Living Culture – Living Land and its people*

5. See above

6. Department of Families, Housing, Community Services and Indigenous Affairs, *Closing the Gap: the engagement spectrum*.

7. Further information is available on the SWALSC website at: <http://www.noongar.org.au/> and the Department of Premier and Cabinet website at: <http://www.dpc.wa.gov.au/lantu/Claims/Pages/TheState%27sIn-Principle%20Offer.aspx> and <http://www.dpc.wa.gov.au/lantu/MediaPublications/Pages/Publications.aspx>

8. In 2011 the State government appointed a consultant to lead the reform of Aboriginal cultural heritage process. In April 2012 the State government released a discussion paper related to reviewing the AH Act.

9. The cultural heritage due diligence guidelines are available from the Office of Native Title (WA) website at: <http://www.dpc.wa.gov.au/lantu/MediaPublications/Pages/Publications.aspx> and the DIA website at: <http://www.dia.wa.gov.au/en/Section-18-Applications/Application-process/>
10. Information on Section 18 approval process and forms are available from the DIA website at: <http://www.dia.wa.gov.au/en/Section-18-Applications/Application-process/> <http://www.dia.wa.gov.au/en/Heritage-and-Culture/Resources/Forms-and-publications/>

11. The ACMC meeting schedule is available on the DIA website at: <http://www.dia.wa.gov.au/en/About-DIA/Boards-And-Committees/ACMC/>

12. A Regulation 10 form can be obtained by contacting the Department of Indigenous Affairs.

13. Refer to Consulting Citizens: A Resource Guide, Government of Western Australia, 2002, for detailed consultation information. The document can be downloaded from: <http://www.dia.wa.gov.au/Documents/ReportsPublications/ConsultingCitizensSept2005.pdf>

14. See Ask First: A guide to respecting Indigenous heritage places and values, Australian Heritage Commission available at <http://www.environment.gov.au/heritage/ahc/publications/commission/books/ask-first.html>

15. Information on heritage surveys is available on the DIA website at: <http://www.dia.wa.gov.au/en/Section-18-Applications/Heritage-management/Aboriginal-heritage-surveys/>

16. The AHIS can be accessed at: <http://www.dia.wa.gov.au/en/Site-Search/Aboriginal-Heritage-Inquiry-System/> Site definitions are available at: <http://www.dia.wa.gov.au/en/Heritage-and-Culture/Aboriginal-heritage/Aboriginal-sites/Aboriginal-site-types/>

17. The Swan Indigenous Reference Group is no longer operating in the City of Swan.
18. See above at 2

19. Adapted from Government of Western Government Standard Heritage Agreement and Department of Water Aboriginal Heritage and native Title Guidelines for On-Ground Works.

20. See National Native Title Tribunal website for claimant applications and registrations. Search application <http://www.nntt.gov.au/Applications-And-Determinations/Search-Applications/Pages/Search.aspx> Registration Test Decisions - <http://www.nntt.gov.au/Applications-And-Determinations/Registration-Test/Pages/search.aspx>

21. The Whadjuk Claim Working Party Group meeting schedule can be downloaded from the SWALSC website at: <http://www.noongar.org.au/meetings.php> or by contacting the working party Regional Co-ordinator at SWALSC.

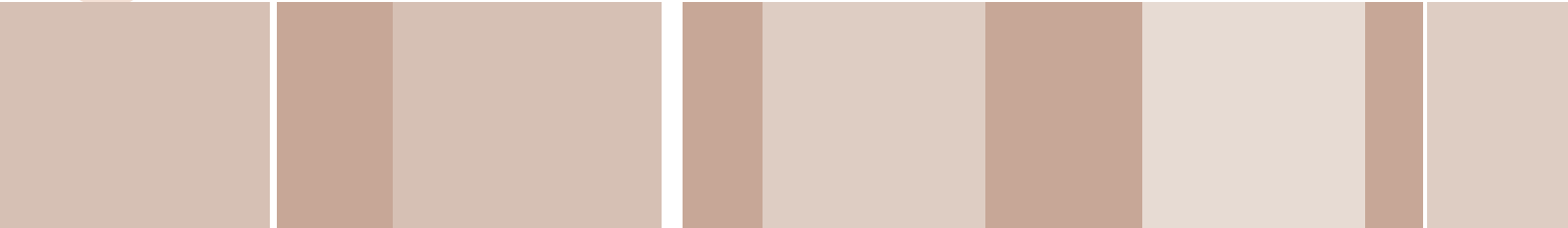
22. See South West Aboriginal Land and Sea Council *Noongar Consultation Protocol Guidelines: Living Culture - Living Land and its people*

23. As above

24. An Aboriginal Cultural Heritage Management Plan Template has been developed by Perth Region NRM for local government. The document can be downloaded at: <http://www.perthregionnrm.com/pr-nrm-programs/cultural-heritage/resources.aspx>

25. See Denis Byrne and Maria Nugent A spatial approach to Aboriginal post-contact heritage available at: <http://www.environment.nsw.gov.au/nswcultureheritage/MappingAttachment.htm>

26. Refer to SWALSC protocols document "Living Culture – Living Land and its people" available at: <http://www.noongar.org.au/news.php>



Glossary*

Consensus:	A form of decision-making which does not necessarily mean agreement; rather it means achieving an outcome that all participants can live with.
Consultation:	A tool of engagement used to gather and provide information and obtain feedback from people and communities through clearly defined channels. A two-way transfer of information that provides an opportunity to engage people in the activities of government and educate communities about government and decision-making processes. Can be concerned with the outcome of the consultation and/or reaching agreement about the process of consultation.
Elder:	The person or persons designated as the keepers of cultural knowledge in family and community. They are usually elder people but the responsibilities may be given to a younger person by some families. Family groups determine who the elders will be within their family group
Engagement:	A process that involves people and communities in problem solving and decision-making to build trust and relationships. The level of engagement can range from the provision of information, to involvement through consultation, collaboration, decision-making and implementation.
Informant:	A person who provides information about his or her culture to an anthropologist, archaeologist or other heritage consultant.
Non-deleterious:	Refers to types of activities which may be carried out on land that may require approval under Regulation 10 of the <i>Aboriginal Heritage Regulations 1974</i> .
South West Aboriginal Land and Sea Council:	The native title representative body of the majority of Noongar people who are the traditional owners of the South West of Australia.

* Definitions from SWALSC protocol document and Consulting citizens: A Resource Guide



Appendix - Toolkit and Resources

Tools for Engagement

There are a number of different engagement strategies and activities that local government can undertake to strengthen relationships with the Noongar and Aboriginal community.

1.

Cultural Awareness

Local government will benefit from providing staff with Cultural Awareness Training. Training in this field will allow local government officers to gain a greater understanding of interaction between non-aboriginal and Aboriginal Australian individuals, families and groups. Staff will also learn about Australian society from Aboriginal perspectives within the history of Australia. Cultural awareness training should be an ongoing process as part of an organisation to facilitate reconciliation, build cultural awareness, connections, capacity and trust between local governments and the Noongar and Aboriginal community.

Benefits of cultural awareness training include being able to recognise cultural differences and to see where these differences may cause conflict or difficulty in communication; recognising the similarities that makes us all human and to help in identifying ways to communicate and be inclusive.
2.

Significant Dates

Getting to know your community also includes attending, participating in and supporting Indigenous events. These events can be included in local government community event calendars.
3.

Aboriginal Cultural Heritage Management

Aboriginal cultural heritage management can encompass the protection and enhancement of Aboriginal heritage; the assessment of threats to Aboriginal heritage; foster appreciation and respect for Aboriginal cultural heritage values and to help fulfil heritage survey requirements under the *Aboriginal Heritage Act 1972*.

Aboriginal cultural heritage management plans can be used to guide activities for the protection and enhancement of Aboriginal cultural heritage. To ensure

the protection and enhancement of Aboriginal cultural heritage, it is necessary to incorporate Aboriginal traditional knowledge as part of the planning, implementation and operational processes when developing projects and management plans²⁴.

Heritage management is also used to assess the threats to a heritage site(s). Threats can include natural processes such as erosion, present-day practices such as road building or mining and the risk that people will pilfer artefacts if they find out about the site. The protection of a site can be supported by demonstrating how significant a site is through significance assessment. Significance assessment is carried out by heritage professionals who can carry out detailed field research, but it is often done because of the work of other people in the community and heritage professionals in Aboriginal communities.

A heritage assessment is a process by which Aboriginal heritage values within a local government area may be identified. These values may be tangible, that is associated with particular objects; or intangible, including places where no physical evidence remains but that have particular meaning for the Aboriginal community.

Heritage assessments are a strategic and proactive way for a local government to improve its planning and service delivery to include the Aboriginal community. They provide an opportunity to involve Aboriginal people early in the planning process to identify any cultural issues or important places which can reduce the chances of lengthy project delays due to discovering Aboriginal cultural heritage values late within the project planning process. Through heritage assessments, a better understanding can be gained of the important Aboriginal heritage places within a local government area that it may wish to protect and maintain culture.

Heritage assessments can also assist with decision-making on development and location of services and infrastructure.

Cultural mapping is inclusive of family groups who have heritage connections to areas and regions. Importantly this process is inclusive of other Aboriginal people living in the municipality²⁵.

4.

Reconciliation Action Plan

A Reconciliation Action Plan (RAP trademark pending) is a tool developed by Reconciliation Australia that organisations can use to build relationships between Aboriginal and Torres Straits Islander peoples and other Australians. The purpose of a RAP is to develop actions for organisations to engage within their sphere of influence in the national effort to close the 17-year gap in life expectancy between Aboriginal and Torres Straits Islander peoples and other Australians (Reconciliation Australia, 2006).

Reconciliation Australia provides access to a toolkit and resources where organisations choose to sign up to develop a RAP.

Local governments are in an excellent position to champion reconciliation between all groups in their respective regional boundaries and in particular to celebrate Noongar and Aboriginal culture.

5.

The Aboriginal Flag – A Symbol of Recognition

Flying the Aboriginal Flag on commemorative days is a strong symbol of recognition. The Australian Aboriginal Flag was designed in 1971 by artist Harold Thomas, an Elder from the Northern Territory, to be a recognisable symbol of unity and identity for Aboriginals.

The flag was first raised in Adelaide’s Victoria Square on National Aborigines Day, 12 July 1971. It was recognised nationally by Aboriginal and Torres Strait Islander communities after it was

Date	Event	Significance
26 January	Australia Day Day of Mourning Invasion Day Survival Day	A day to remember and celebrate. What made our nation what it is today – the landing of the First Fleet at Sydney Cove and the loss of sovereign rights for Indigenous Australians.
21 March	Harmony Day	To create and promote harmony within communities that embraces cultural diversity and addresses racism. Opportunity to support and encourage Noongar and other Aboriginal people’s participation.
25 April	ANZAC Day	Aboriginal men and women fought alongside other Australian heroes. Fighting for a free world.
26 May	National Sorry Day	Established a year after the “Bringing them Home Report” was tabled in Federal Parliament (1997) after the inquiry into the separation of Aboriginal and Torres Strait Islander children from their families. A National Sorry Day Committee maintains a website with an events calendar at: http://www.nsd.org.au/
27 May to 3 June annually	National Reconciliation Week	To acknowledge and celebrate the culture and history of Aboriginal and Torres Strait Islanders and to discuss reconciliation and consider ways to address disadvantage faced by Aboriginal and Torres Strait Islanders. The Reconciliation WA website http://www.reconciliationwa.org/
27 May	1967 Australian Referendum Anniversary	90% of eligible voters supported changes to the constitution related to Section 51 giving the Federal Parliament the power to make laws for Aboriginal and Torres Strait Islander peoples and Section 127 to ensure that Aboriginal people and Torres Strait Islanders would be counted in the census.
3 June	Mabo Day	This day marks the anniversary of the 1992 High Court of Australia’s decision in the Mabo case. The decision recognised the Native Title rights of the Aboriginal and Torres Strait Islander peoples by legally dismissing the doctrine of “Terra Nullius”.
1 July	Coming of the Light Festival	Celebrates the day the London Missionary Society first arrived in Torres Strait. The missionaries landed at Erub Island in 1871 and introduced Christianity to the region.
1 – 7 July	NAIDOC Week	National Aborigines and Islanders Day Observance Committee. NAIDOC week is a way of celebrating and promoting a greater understanding of Aboriginal and Torres Strait Islander peoples and our culture. Visit http://www.naidoc.org.au/ for details.
4 August	National Aboriginal and Islander Children’s Day	A day for the Kulungars (the children) observed since 1988. http://www.snaicc.asn.au/
9 August	International Day of the World’s Indigenous People	Recognises the first United Nations (UN) Working Group on Indigenous Populations meeting in Geneva in 1982. A celebration of culture and diversity and to promote and protect the rights of the world’s indigenous peoples.
10 December	Human Rights Day	Celebrates the anniversary of the adoption and proclamation of the Universal Declaration of Human Rights by the United Nations General Assembly in 1948. The declaration can be viewed at: http://www.un.org/en/documents/udhr/index.shtml

flown above the “Tent Embassy” outside Parliament House in Canberra in 1972 when Aboriginal people were seeking national justice, including land rights, improvements to education, legal rights and health.

On 14 July 1995 the flag gained official recognition ‘as the flag of the Aboriginal people(s) of Australia and a flag of significance to the Australian nation generally’ under the Flags Act 1953 (Cwlth).

The **black** is often said to represent the Aboriginal people of Australia.

The **red** to depict the earth, ochre and the spiritual relationship to the land.

The **yellow** to represent the sun, the constant giver of life.

The Aboriginal flag should be flown or displayed with the black at the top and the red at the bottom.

In 1997 the Federal Court recognised Harold Thomas as the author of the flag and as a result the Australian Aboriginal flag is protected under copyright and may be reproduced only in accordance with the provisions of the *Copyright Act 1968* (Cwlth) or with the permission of Harold Thomas. Mr Thomas has awarded a licence for the manufacture and marketing of the Australian Aboriginal Flag to Carroll and Richardson Flags where flags can be purchased.

Permission is not required to fly the Australian Aboriginal Flag.

More information on flag protocols can be found on the Australian Government website It’s An Honour <http://www.itsanhonour.gov.au/symbols/otherflag.cfm>.

6. Noongar Languages/Dual Naming - Noongar Place names

Local government can play an important role in the promotion of Aboriginal languages. This role in creating broader community awareness of Aboriginal languages is recognised in other regions and states. Dual naming can play a major role by prompting appreciation and fostering respect for historical Aboriginal links and symbolic recognition of Aboriginal places.

Local governments are encouraged to consider the appropriate use of Noongar names for newly proclaimed public places and roads, or if upgrading. In new land developments it is important that the use of Noongar names is carefully negotiated with the Noongar community.

Local governments are also encouraged to consider dual-naming already European named geographical features such as rivers, creeks, waterfalls, islands, hills and caves. This is especially important for those cultural and environmental features of significance to the local Aboriginal community.

Local government’s place-naming policies should include procedures for identifying and selecting the names of local places and features in the local Aboriginal language and consultative mechanisms to verify the appropriateness of suggested names.

7. Local government Council Policy and Processes

Local governments can recognise and acknowledge the Aboriginal community through Council policy and processes which can be incorporated in operational activities. This may include:

- conducting ceremonies such as traditional Welcome to Country and Acknowledgment of Country²⁶;
- developing a Reconciliation Action Plan;
- developing Statements of Commitment and Memoranda of Understanding;
- setting Indigenous employment targets;
- seeking input from the Aboriginal community into Council activities, programs and project planning and seeking new concepts and ideas; and
- providing ongoing cultural awareness training for staff.

Local government policy that acknowledges, respects and promotes Noongar and Aboriginal culture can create racial harmony in the community and provide guidelines and raise awareness for local government officers and elected members.

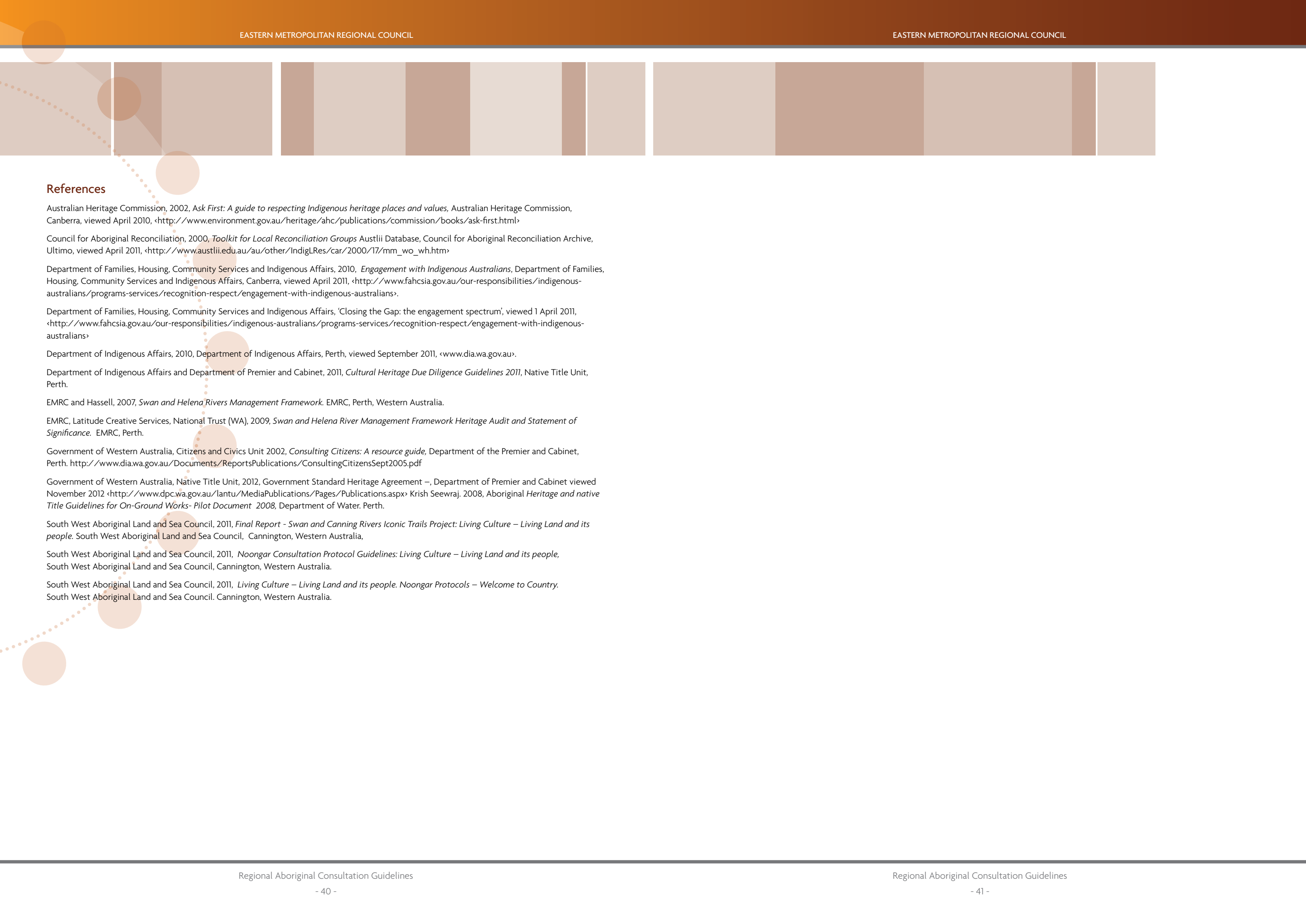
8. Resource List

Organisation	Resource Name	Source
Australian Heritage Commission	Ask First - A Guide to Respecting Indigenous Heritage Places and Values (2002)	http://www.environment.gov.au/heritage/ahc/publications/commission/books/ask-first.html
Department of Indigenous Affairs (WA) ATSIIS (Aust Govt)	Consulting Citizens - Engaging with Aboriginal Western Australians	http://www.dia.wa.gov.au/Documents/ReportsPublications/ConsultingCitizensSept2005.pdf
Department of Premier and Cabinet (WA)	Consulting Citizens: A Resource Guide	http://www.legco.gov.hk/yr03-04/english/panels/ca/papers/ca1117cb2-323-3e-scan.pdf
Department of Indigenous Affairs and Department of Premier and Cabinet Native Title Unit	Cultural Heritage Due Diligence Guidelines	DIA website at: http://www.dia.wa.gov.au/en/Section-18-Applications/Application-process/ DPC website: http://www.dpc.wa.gov.au/lantu/MediaPublications/Pages/Publications.aspx
Department of Premier and Cabinet - Native Title Unit (WA)	Guide to the Government Indigenous Land Use Agreement and Standard Heritage Agreements-July-2012	http://www.dpc.wa.gov.au/lantu/MediaPublications/Pages/Publications.aspx
Perth Region NRM	Aboriginal Cultural Heritage Management Template	http://www.perthregionnrm.com/pr-nrm-programs/cultural-heritage/resources.aspx
National Trust of Australia (WA)	We’re a Dreaming Country: Guidelines for Interpretation of Aboriginal Heritage (2012)	http://www.nationaltrust.org.au/wa/reports-papers
Local Government Association of NSW	Engaging with local Aboriginal communities: A Resource Kit for Local Government in NSW document (2007) Examples of a Memorandum of Understanding and Statement of Commitment	http://www.dlg.nsw.gov.au/dlg/dlghome/dlg_DocumentsIndex.asp?documenttype=10&sectionid=1&actonid=1&next=y&irecx=7&mi=31
Reconciliation Australia	Promote and build reconciliation between Indigenous and non-Indigenous Australians for the wellbeing of the nation. Administer Reconciliation Action Plans	www.reconciliation.org.au
Victorian Local Governance Association (VLGA) - Local Government Consultation and Engagement	Consultation and engagement with Indigenous and Aboriginal People	http://www.vlga.org.au/Resources/Consultation_and_Engagement/Engaging_Hard_to_Reach_Groups/Indigenous_and_Aboriginal_People.aspx
South West Aboriginal Land and Sea Council	Final Report, Executive Summary Report and Consultation Protocol Guidelines - Swan and Canning Rivers Iconic Trails Project – Living Culture – Living Land and its people.	http://www.noongar.org.au/news.php
Australian Government. Department of Families, Housing, Community Services and Indigenous Affairs	Engagement with Indigenous Australians Information Sheets’ (2010).	http://www.fahcsia.gov.au/our-responsibilities/indigenous-australians/programs-services/recognition-respect/engagement-with-indigenous-australians
It’s An Honour Website	Federal Government Recognition and Awards website. Information on flags, Australian symbols, coat of arms, national anthem, protocols for using, flying symbols and flags etc.	http://www.itsanhonour.gov.au/symbols/otherflag.cfm
NSW Department of Environment and Heritage	Denis Byrne and Maria Nugen – A spatial approach to Aboriginal post-contact heritage (Three parts)	http://www.environment.nsw.gov.au/nswcultureheritage/MappingAttachment.htm
RUAH Community Services	Perth Aboriginal Resources Directory – Edition 4 February 2013	http://www.ruah.com.au/page/General



9. Contact List

Organisation Name	Contact	Information/Services	Telephone/Fax	Email	Address	Web
South West Aboriginal Land and Sea Council	Regional Development Unit	Native Title Representative Body Co-ordination of Whadjuk Claim Working Party Group	Ph: (08) 9358 7400 Fax: (08) 9358 7499	reception1@noongar.org.au	HomeTown Centre, 1490 Albany Highway Cannington WA 6107	www.noongar.org.au
Department of the Premier and Cabinet – Native Title Unit		Native title policy, processes and information. <ul style="list-style-type: none">• Strategic policy• Research• Claims• Projects (agreements, whole-of-government strategies)	Ph: (08) 6552 5333 Fax: (08) 6552 5339	nativetitle@dpc.wa.gov.au	Street address: Level 3 Dumas House 2 Havelock St West Perth WA 6005 Postal address: Locked Bag 3001 West Perth WA 6872	http://www.dpc.wa.gov.au/landu/Pages/Default.aspx
National Native Title Tribunal	Perth Office	Agency responsible for the administration of the Native Title Act 1993 (Cwlth).	Ph: (08) 9425 1000 Freecall: 1800 640 501 Fax: (08) 9425 1193	enquiries@nntt.gov.au	Street address: Level 5, Commonwealth Law Courts Building 1 Victoria Avenue Perth WA 6000 Postal address: GPO Box 9973 Perth WA 6848	http://www.nntt.gov.au/Pages/default.aspx
Department of Indigenous Affairs (DIA)	Heritage and Culture Branch	General information on heritage and culture.	Telephone: 1300 651 077 Fax: (08) 6551 8088	heritageenquiries@dia.wa.gov.au	Street address: Ground Floor 151 Royal Street East Perth WA 6004 Postal address: PO Box 3153, East Perth WA 6004	http://www.dia.wa.gov.au/en/
Department of Indigenous Affairs	Aboriginal Cultural Material Committee (ACMC)	Advises Minister for Indigenous Affairs on matters relating to Aboriginal heritage. Assesses Section 18 applications	Fax: (08) 6551 8088	acmc@dia.wa.gov.au	As above	As above
Department of Aboriginal Affairs	Dr. Kathryn Przywolnik	Administers day to day functions of the ACMC and other delegated duties including maintaining the Register of Aboriginal Sites.	Ph: (08) 6551 8004 Fax: (08) 6551 8088	registrar@dia.wa.gov.au	As above	As above
Department of Aboriginal Affairs	Manager Heritage Information	Enquiries about online Register of Aboriginal Sites (Aboriginal Heritage Inquiry System)	Ph: (08) 6551 8160	sites@dia.wa.gov.au	As above	As above
Department of Aboriginal Affairs	Senior Compliance Officer	Enquiries about heritage compliance	Ph: (08) 6551 8100	heritage.compliance@dia.wa.gov.au	As above	As above
Department of Indigenous Affairs	Heritage Information Officer Southern	Access to Register of Aboriginal Sites within DIA head office in Perth	Ph: (08) 6551 8108 Fax: (08) 6551 8088	southernsites@dia.wa.gov.au	As above	As above
Landgate	Native Title Services	Native Title project management and Native Title Plan and Mapping. Mapping information, aerial photography.	Ph: (08) 9273 7373 Fax: (08) 9250 3187	customerservice@landgate.wa.gov.au	Street address: 1 Midland Square Midland WA 6056 Postal address: PO Box 2222 Midland WA 6936	http://www.landgate.wa.gov.au/corporate.nsf/web/Native+Title+Maps
Landgate	Shared Land Information Platform (SLIP)	Provides access to Western Australia's significant land and geographic information resources over the web.	Ph: (08) 9273 7832	SlipEnabler@landgate.wa.gov.au	As above	https://www.landonline.com.au
Perth Region Natural Resource Management Incorporated	Aboriginal Engagement Co-ordinator -Cultural Heritage Programme	The preservation and integration of Indigenous cultural heritage and traditional ecological knowledge into Perth Region NRM programme areas of Biodiversity, Water and Coastcare. Aboriginal engagement through natural resource management.	Ph: (08) 9374 3333 Fax: (08) 9374 0685	enquiries@perthregionnrm.com	Street address: 80 Great Northern Highway (Corner Bishop Road) Middle Swan WA 6056 Postal address: PO Box 2206 Midland WA 6936	www.perthregionnrm.com



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