**Revised Annexure U**

**Noongar Aboriginal Heritage Agreement - Proponent Statutory Declaration**

**Information for Proponents**

A Noongar Standard Heritage Agreement (**NSHA**) is an agreement substantially in the form of the template agreed between the State and the Native Title Agreement Group (**NTAG**). A copy of the NSHA template is available on the Department of Planning, Lands and Heritage website.

If the tenure holder has entered into an agreement which contains any substantive modifications to the terms of the NSHA, the agreement is not a NSHA, but is an alternative Aboriginal/Noongar Heritage Agreement.

There are three Proponent Statutory Declaration options to choose from depending on whether the tenure holder has:

1. entered into a form of Aboriginal heritage agreement other than a NSHA (**Option 1**);

2. entered into a NSHA – that is an Aboriginal heritage agreement in the form of the NSHA template (**Option 2**); or

3. offered to enter into an agreement in the form of the NSHA, but the Regional Corporation or SWALSC on behalf of a NTAG did not execute the NSHA (**Option 3**).

Delete whichever two options are not applicable.

The text highlighted in yellow is intended to be modified or deleted, as applicable.

**Option 1**

**Proponent Statutory Declaration where the Proponent has entered into an Aboriginal/Noongar Heritage Agreement other than in the form of the NSHA[[1]](#footnote-1)**

Statutory Declaration

*Oaths, Affidavits and Statutory Declarations Act 2005* (WA)

I,

[XX – Insert full name, address and occupation of person making declaration]

**Do solemnly and sincerely declare:**

[(\*) Delete whichever is not applicable]

1. (\*) I am the registered holder of the following Tenure [XX – Insert details of Tenure].

(\*) I am a director of [XX – Insert name of corporation] being the registered holder of the following Tenure [XX – insert details of the Tenure] and am duly authorised by it to make this declaration.

2. The registered holder of the Tenure as mentioned above has on [XX – Insert date of alternative Aboriginal/Noongar Heritage Agreement] entered into an Aboriginal Heritage Agreement (as defined in clause 18.1(b) of Schedule 10 of the relevant ILUA) in a form other than the Noongar Standard Heritage Agreement (**NSHA**) (as defined in clause 1.3 of Schedule 10 of the relevant ILUA) with [XX – Insert name of relevant Native Title Agreement Group (through SWALSC) or Regional Corporation as the case may be] that applies to the Tenure.

3. By entering into an Aboriginal Heritage Agreement in a form other than the NSHA with the relevant Native Title Agreement Group (through SWALSC) or the Regional Corporation in the manner provided in paragraph 2 above, and upon providing this Statutory Declaration to the Department of Mines, Industry Regulation and Safety, I believe that the registered holder of the Tenure as mentioned above will have satisfied the relevant conditions applicable to the Tenure.

4. This declaration is true and I know that it is an offence to make a declaration knowing that it is false in any material particular.

5. This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA).

**Declared**

|  |  |  |  |
| --- | --- | --- | --- |
| At:  |  |  |  |
|  | (Place) |  |  |
| On: |  |  |  |
|  | (Date) |  |  |
| By: |  |  |
| (Signature of person making declaration) |  |  |
| In the presence of: |  |  |
| (Signature of Authorised Witness) |  | (Name and qualification of Authorised Witness) |

**Option 2**

**Proponent Statutory Declaration where the Proponent has entered into a NSHA[[2]](#footnote-2)**

Statutory Declaration

*Oaths, Affidavits and Statutory Declarations Act 2005* (WA)

I,

[XX – Insert full name, address and occupation of person making declaration]

**Do solemnly and sincerely declare:**

[(\*) Delete whichever is not applicable]

1. (\*) I am the registered holder of the following Tenure [XX – Insert details of Tenure].

(\*) I am a director of [XX – Insert name of corporation] being the registered holder of the following Tenure [XX – insert details of the Tenure] and am duly authorised by it to make this declaration.

2. The registered holder of the Tenure as mentioned above has on [XX – Insert date of Noongar Standard Heritage Agreement], entered into a Noongar Standard Heritage Agreement (**NSHA**) (as defined in clause 1.3 of Schedule 10 of the relevant ILUA) with [XX – Insert name of relevant Native Title Agreement Group (through SWALSC) or Regional Corporation as the case may be] that applies to the Tenure.

3. By entering into a NSHA with the relevant Native Title Agreement Group (through SWALSC) or the Regional Corporation in the manner provided in paragraph 2 above, and upon providing this Statutory Declaration to the Department of Mines, Industry Regulation and Safety, I believe that the registered holder of the Tenure as mentioned above will have satisfied the relevant conditions applicable to the Tenure.

4. This declaration is true and I know that it is an offence to make a declaration knowing that it is false in any material particular.

5. This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA).

**Declared**

|  |  |  |  |
| --- | --- | --- | --- |
| At:  |  |  |  |
|  | (Place) |  |  |
| On: |  |  |  |
|  | (Date) |  |  |
| By: |  |  |
| (Signature of person making declaration) |  |  |
| In the presence of: |  |  |
| (Signature of Authorised Witness) |  | (Name and qualification of Authorised Witness) |

**Option 3**

**Proponent Statutory Declaration where the Proponent has attempted to enter into a NSHA, but the NSHA has not been executed by SWALSC or the Regional Corporation[[3]](#footnote-3)**

Statutory Declaration

*Oaths, Affidavits and Statutory Declarations Act 2005* (WA)

I,

[XX – Insert full name, address and occupation of person making declaration]

**Do solemnly and sincerely declare:**

[(\*) Delete whichever is not applicable]

1. (\*) I am the registered holder of the following Tenure [XX – Insert details of Tenure].

(\*) I am a director of [XX – Insert name of corporation] being the registered holder of the following Tenure [XX – insert details of the Tenure] and am duly authorised by it to make this declaration.

2. The registered holder of the Tenure as mentioned above has made reasonable endeavours to execute and enter into an Aboriginal Heritage Agreement (as defined in clause 18.1(b) of Schedule 10 of the relevant ILUA) with [XX – Insert name of relevant Native Title Agreement Group (through SWALSC) or Regional Corporation as the case may be] within 20 Business Days of the commencement of negotiations between the registered holder of the Tenure and the relevant Native Title Agreement Group (through SWALSC) or the Regional Corporation (**RC**) under clause 18.1(e) of Schedule 10 of the relevant ILUA and condition [XX insert condition number] on Tenure and, in the absence of an executed Aboriginal Heritage Agreement, has on [XX – Insert date of execution of the NSHA] subsequently executed a Noongar Standard Heritage Agreement (**NSHA**) (as defined in clause 1.3 of Schedule 10 of the relevant ILUA) which would, if executed by SWALSC on behalf of the relevant Native Title Agreement Group or the RC, apply to the Tenure, and provided a copy of the same to the RC. The executed NSHA was received by the RC on [XX – Insert date on which NSHA received by the RC] and by [XX – insert date 20 Business Days after the date of receipt] the registered holder of the Tenure had not received a copy of the fully executed NSHA from the RC.

3. By executing a NSHA and providing it to the relevant Native Title Agreement Group (through SWALSC) or the RC in the manner provided in paragraph 2 above, and upon the relevant Native Title Agreement Group (through SWALSC) or the RC not providing an executed copy of the NSHA to the registered holder of Tenure by [XX – Insert date] and upon providing this Statutory Declaration to the Department of Mines, Industry Regulation and Safety, I believe that the registered holder of the Tenure as mentioned above will have satisfied the relevant conditions applicable to the Tenure.

4. This declaration is true and I know that it is an offence to make a declaration knowing that it is false in any material particular.

5. This declaration is made under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA).

**Declared**

|  |  |  |  |
| --- | --- | --- | --- |
| At:  |  |  |  |
|  | (Place) |  |  |
| On: |  |  |  |
|  | (Date) |  |  |
| By: |  |  |
| (Signature of person making declaration) |  |  |
| In the presence of: |  |  |
| (Signature of Authorised Witness) |  | (Name and qualification of Authorised Witness) |

Instructions for executing Statutory Declaration

The following is a guide for executing a statutory declaration pursuant to *Oaths, Affidavits and Statutory Declarations Act 2005* (WA). It is recommended that prior to executing any statutory declaration the person making the declaration should consult the provision of that Act to ensure compliance with it.

**Signature by the person making the statutory declaration**

The person who is making the statutory declaration must:

1. sign or personally mark the statutory declaration;
2. sign or initial any alteration that has been made to the statutory declaration (if any); and
3. in the presence of an authorised witness declare orally:

(i) that he or she is the person named as the maker of the statutory declaration;

(ii) that the contents of the statutory declaration are true;

(iii) that the signature or mark is his or hers; and

(iv) if necessary, that any attachment to the statutory declaration is the attachment referred to in it.

**Witnessing of a statutory declaration**

After the maker of the statutory declaration has complied with the authorised witness must:

1. sign or personally mark the statutory declaration;
2. sign or initial any alteration in the statutory declaration (if any); and
3. imprint or clearly write his or her name and qualification as an authorised witness.

**Categories of authorised witnesses**

A statutory declaration must be made before one of the following persons (authorised witnesses):

Academic (post-secondary institution), Accountant, Architect, Australian Consular Officer, Australian Diplomatic Officer, Bailiff, Bank manager, Chartered secretary, Chemist, Chiropractor, Company auditor or liquidator, Court officer, Defence force officer, Dentist, Doctor, Electorate officer of a member of State Parliament, Engineer, Commonwealth. Industrial organisation secretary, Insurance broker, Justice of the Peace, Landgate officer, Lawyer, Local government CEO or deputy CEO, Local government councilor, Loss adjuster, Marriage celebrant, Member of Parliament, Minister of religion, Nurse, Optometrist, Patent attorney, Physiotherapist, Podiatrist, Police officer, Post office manager, Psychologist, Public notary, Public servant (Commonwealth), Public servant (State), Real estate agent, Settlement agent, Sheriff or deputy sheriff, Surveyor, Teacher, Tribunal officer or Veterinary surgeon.

1. **NOTE**: an alternative Aboriginal/Noongar Heritage Agreement is any form of Aboriginal/Noongar Heritage Agreement that as a result of negotiations between the Proponent and SWALSC/the RC is not substantially in the form of the Noongar Standard Heritage Agreement (**NSHA**). A NSHA is an agreement substantially in the form of the template agreed between the State and SWALSC. If you have entered into an agreement in the form of the NSHA template you should make a statutory declaration using the option entitled "Proponent Statutory Declaration where the Proponent has entered into a NSHA". [↑](#footnote-ref-1)
2. **NOTE**: a NSHA is an agreement substantially in the form of the template agreed between the State and SWALSC. If the agreement you have entered into contains any substantive modifications to the terms of the NSHA, the agreement is not a NSHA, but is an alternative Aboriginal/Noongar Heritage Agreement. If you have entered into an alternative Aboriginal/Noongar Heritage Agreement, you should make a statutory declaration using the option entitled "Proponent Statutory Declaration where the Proponent has entered into an Aboriginal/Noongar Heritage Agreement other than in the form of the NSHA". [↑](#footnote-ref-2)
3. **NOTE**: a NSHA is an agreement substantially in the form of the template agreed between the State and SWALSC. If the form of agreement you have offered to enter into contains any substantive modifications to the terms of the NSHA template, the form of agreement is not a NSHA. [↑](#footnote-ref-3)