



South West Native Title Settlement

Noongar Land Estate

The South West Native Title Settlement (Settlement) is a landmark native title agreement negotiated between the Noongar people and the Western Australian Government (WA Government). The Settlement commenced 25 February 2021.

The Settlement, involving six Noongar Native Title Agreement Groups, and covering 200,000 square kilometres of land, represents significant social and economic investment in the Noongar community and the shared future of Western Australia.

For the latest Settlement information visit wa.gov.au (the WA Government website).

Noongar Land Estate

The Noongar Land Estate (NLE) will initially hold up to 300,000 hectares of land allocated as reserve or leasehold and up to 20,000 hectares of land allocated as freehold for cultural or economic development use. The NLE will be held in the Noongar Boodja Trust (NBT).

The NLE is intended to provide significant opportunities for the Noongar community to achieve sustainable economic, social and cultural outcomes.



Why is the Noongar Land Estate important?

It is recognised that land is intrinsically linked to the spiritual, social and economic wellbeing of the Noongar people. During the negotiations for the Settlement it was apparent that connection to land and lawful access to land was of high importance to the Noongar community. The WA Government, through the Settlement, is improving Noongar access to land with the NLE being the most significant land asset.

The NLE will provide the Noongar people a significant asset base to be developed in line with Noongar cultural, social and economic aspirations for the benefit of generations to come.

Is privately owned land affected by the Settlement?

No, privately owned land will not be eligible for selection and allocation to the NLE. Crown land that is currently leased to a third party (for example, a pastoral lease) is also not eligible. The WA Government and Local Governments may identify freehold land and reserves that they own or for which they hold management orders but no longer require, for potential inclusion in the NLE.

What land will be allocated?

The Noongar Land Base Strategy, which is Annexure J of the Indigenous Land Use Agreements (ILUAs), sets out how and what land will be allocated. The lands to be allocated include:

- Unallocated Crown land;
- Unmanaged reserves; and
- Aboriginal Lands Trust properties.

WA Government agencies may also identify freehold land and reserves, that they own or for which they hold management orders but no longer require, for potential allocation to the NLE.

Of the up to 320,000 hectares of land to be allocated to the NLE, approximately 1,100 hectares has been selected and incorporated as part of the ILUAs. This first tranche of land parcels are being transferred to the NBT following the Trust Effective Date on 29 March 2021. The Noongar Land Base Strategy sets out targets for identification and allocation of land of which the WA Government must work towards during first 5 years of the NBT.

How is land assessed for allocation?

The Department of Planning, Lands and Heritage (DLPH) is coordinating the allocation of all land to the NBT. The procedures for allocating land to the NBT is set out in the Noongar Land Base Strategy.

How will the Noongar Land Estate land be managed?

Once land is allocated, the Noongar Boodja Trustee (Trustee) will manage the land in accordance with the requirements of the Noongar Boodja Trust Deed (Trust Deed). Any further dealings on freehold land, including the potential sale of the land, are subject to the agreement of the Trustee in consultation with the relevant Noongar Regional Corporation(s).

The management responsibilities for all land in the NLE lie with the Trustee, regardless of tenure, however it is intended that cultural land will be leased to the relevant Regional Corporation.

All allocated reserves will be held under a management order. The management order will give the Trustee, as management body, a statutory right to manage and control Crown land in accordance with the designated purpose of “Noongar social, cultural and/or economic benefit”.

Reserves remain Crown land, with the Minister for Lands retaining the standard statutory rights, powers and duties in relation to reserves under the *Land Administration Act 1997* (WA).

The Trustee will own and manage freehold land like any other private land owner and must meet the standard land holding costs including local government rates and charges, insurance, fire service levies, and any additional land management costs.

As per the terms of [the Trust Deed](#), the Trustee, in consultation with the Noongar Regional Corporation(s), must determine whether the land to be allocated to the NLE will be for cultural or development purposes.

How will cultural land be managed?

Cultural Land

It is acknowledged that the Noongar community remain the spiritual and cultural custodians of land in the South West of the State and continue to practise their values, languages, beliefs and knowledge. The NBT will hold and manage Cultural Land, in consultation with and on the recommendation of the relevant Noongar Regional Corporation(s), in a manner that has regard to the spiritual and cultural connection of the Noongar Agreement Groups to their traditional lands. Cultural Land cannot be sold or commercially developed. Standard land management requirements will apply to Cultural Land.

There are a number of possible pathways for the management of Cultural Land (subject to any pre-existing lease arrangements on ALT land):

1. The relevant Noongar Regional Corporation may request and be granted an interest (e.g. a lease) in Cultural Land. Before granting an interest, the Trustee must be satisfied that the Noongar Regional Corporation is able to meet the costs of managing that land and that the land will continue to be held and treated as Cultural Land.
2. Where the Noongar Regional Corporation does not request an interest in the Cultural Land, the Trustee will consult with the Noongar Regional Corporation to manage the land and make decisions with regards to its use. This may include the grant of an interest to a third party consistent with Cultural Land purposes. Any leases or licences of Cultural Land cannot be transferred or mortgaged.
3. Cultural Land may be converted to Development Land. However, this requires an extensive consultation process with stakeholders and the relevant Noongar Regional Corporation(s). The members of the relevant Agreement Group must also endorse the conversion of the Cultural Land.

How will development land be managed?

Development Land

The NBT will hold, manage, invest and develop Development Land in consultation with the Noongar Regional Corporation(s) and the Investment Committee in a manner that will generate positive returns for the NBT Future Fund. The Investment Committee will be established by the Trustee to provide guidance on investment decisions.

Development Land, subject to any pre-existing leasing arrangements on ALT land, may be used in the following ways:

1. 'Property Development Activities'; for example, property development or redevelopment activities, commercial exploitation or sale. A separate Noongar Boodja Development Corporation (or Corporations) will be established to undertake the development activities, subject to the agreement of the Trustee, the relevant Noongar Regional Corporation(s) and the Investment Committee. The Trust Deed sets out the default rules for the distribution of proceeds from development activities (unless the Trustee decides otherwise):
 - 10% of the net proceeds will go to the operations account of the relevant Noongar Regional Corporation;
 - 15% will be distributed equally to the operations accounts of the other Noongar Regional Corporations; and
 - 75% will be directed to the NBT Future Fund to be invested to support future distributions to the six Noongar Regional Corporations.
2. 'Passive Investment Activities'; for example, leasing Development Land to third parties on commercial terms.

Will the Noongar Boodja Trust need to pay rates on the freehold land allocated under the Settlement?

Yes. The NBT will be required to meet the standard costs, including rates and service charges, associated with owning and managing land. Land may be exempt from rates under s.6.26(2)(g) of the *Local Government Act 1995* (WA), where that land is used exclusively for charitable purposes. If land is used for a commercial purpose or leased for a commercial enterprise it may be rateable.

When and how will Local Government Authorities be consulted?

The Settlement encompasses 101 Local Government Authorities (LGAs). DPLH will consult with LGAs at the 'Assessment Stage' of the land transfer process.

DPLH engagement with the LGAs will be in accordance with section 14 of the *Land Administration Act 1997 (WA)*. LGAs are invited to advise DPLH about the following:

- Whether there are existing local interests in the same land that cannot be met elsewhere;
- Whether there are future proposals for the same land or land within the same general location;
- Whether there are planning scheme amendments that could affect future use of the land;
- Whether there are other relevant land management issues; and
- Any other advice they may wish to provide about the allocation of the land to the NBT.

DPLH is corresponding directly with relevant LGAs in relation to parcels of land that are located within a specific local government area. DPLH has conducted a number of information sessions with LGAs across the Settlement area to explain the land transfer process and the consultative process that will be adopted to effectively address interests and concerns.

There is no requirement for LGAs to be consulted in relation to freehold land currently held by the WA Government.

Will Aboriginal Lands Trust properties be transferred to the Noongar Land Estate?

The transfer of Aboriginal Lands Trust (ALT) properties under the Settlement is in line with the Aboriginal Lands Trust Strategic Action Plan 2019-2021 to divest the estate in accordance with the aspirations of native title holders and Aboriginal residents.

Some ALT freehold properties that are unleased are included in the terms of the ILUAs. These properties are among the first parcels transferred to the NBT. Where ALT freehold land is subject to an existing lease, the freehold land may be allocated subject to the terms of the lease. ALT reserves may also be allocated to the NBT. The process of allocation will take into account any existing encumbrances (such as an existing lease), and the ALT will advise lessees about the re-allocation of the reserves to the NBT. The change of management body from the ALT to the NBT will not alter the lessees' rights and obligations under the existing lease terms.

Are there opportunities for third party interests, including existing Aboriginal organisations, in relation to Noongar Land Estate land?

Decisions regarding the management and leasing of NLE properties will be made by the Trustee in consultation with the relevant Noongar Regional Corporation(s) and other advisory committees, as outlined in the Trust Deed.

Subject to these decisions, it is possible for third parties, including existing Aboriginal organisations, to be involved in the management and/or leasing and development opportunities in land held by the NBT.

Planning in relation to third party arrangements for particular parcels of land should most appropriately occur following the establishment of the Noongar Regional Corporations and in consultation with the Trustee.

Will the Noongar Boodja Trust need to comply with zoning and planning laws when developing or using land allocated under the Settlement?

Yes. The Land Sub will be required to obtain standard planning, development and other regulatory approvals in order to develop or undertake certain activities within reserves. Any lessee of reserves, including a Noongar Regional Corporation, will need to comply with all applicable laws.

Further information

Further information about the Settlement, including the six ILUAs made in compliance with the Commonwealth *Native Title Act 1993*, can be found on the website of the Western Australian Government

<https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/south-west-native-title-settlement>