



LAND NEGOTIATION PROGRAM

Guidelines for expressions of interest – local government councils

**Local government council participation in the Land
Negotiation Program 2017-19**

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More information

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Acknowledgments

NSW Aboriginal Land Council

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Commonly used abbreviations

ALAs	Aboriginal Land Agreements
ALCs	Aboriginal Land Councils (includes both the NSW Aboriginal Land Council and Local Aboriginal Land Councils)
ALRA	<i>Aboriginal Land Rights Act 1983</i> (NSW)
LALCs	Local Aboriginal Land Councils
NSWALC	NSW Aboriginal Land Council

Introduction

Purpose

The NSW Government is inviting expressions of interest (Eoi) from local government councils that wish to participate in the Crown Land Negotiation Program.

At the same time, the government is also separately inviting Eois from Local Aboriginal Land Councils (LALCs) who want to enter into the program. The assumption is that both the respective LALC and local government council in an area will want to participate in the program. As such, Eois can also be made jointly by a local government council and a LALC.

The Eoi process outlined in this document will be used to invite applications from local government councils, and to guide the assessment of those applications.

All Eois received from LALCs and local government councils will be assessed by a governance committee that will make its recommendation to the Department of Industry—Lands & Forestry. Successful applicants will be invited to join the program and participate in negotiations at a mutually satisfactory time over the next three to four years (2017–20).

Depending on the number of applications received and approved, it may be necessary to undertake further expressions of interest.

Negotiations undertaken through the program with local government councils will aim to result in a comprehensive Local Land Agreement.

Land Negotiation Program

The Land Negotiation Program is a new initiative of the NSW Government. The program's goal is to ensure NSW Crown land is held by the most appropriate landholder to achieve the most positive social, economic, cultural and environmental benefit for the people of NSW, whilst retaining land of state significance.

The program involves a voluntary, multi-party land assessment and negotiation in discrete areas within NSW between the NSW Government, the NSW Aboriginal Land Council (NSWALC), the relevant LALC and local government council. If appropriate, with the consent of all parties, native title parties may also be invited to participate.

The Land Negotiation Program recognises the special importance of land to Aboriginal people and the aims of the *Aboriginal Land Rights Act 1983* (NSW).

The Land Negotiation Program recognises the benefits that local ownership of Crown land can bring to communities.

The assessment and negotiation will take a comprehensive approach to dealing with Crown land in the relevant area.

The objectives of the program are to:

1. recognise the importance of land to Aboriginal people and support sustainable spiritual, cultural, environmental and economic benefits for Aboriginal people by transferring appropriate Crown land to Local Aboriginal Land Councils through Aboriginal Land Agreements (ALA) under the *Aboriginal Land Rights Act 1983* (NSW) (ALRA)
2. recognise the best use of Crown land by local communities by transferring appropriate locally significant land to Local Councils under the *Crown Lands Act 1989* (NSW) for its ownership and management under the *Local Government Act 1993* (NSW)
3. support the continuing beneficial use of state significant Crown land by all people of NSW by identifying and retaining ownership and management of appropriate Crown land under the *Crown Lands Act 1989* (NSW)
4. Deliver greater certainty to the NSW Government about Crown land in NSW.

Operation of the Land Negotiation Program

The NSW Department of Industry—Lands & Forestry is responsible for managing the voluntary negotiations with LALCs, NSWALC, local government councils and, where relevant, native title parties through the Land Negotiation Program.

The Land Negotiation Program commenced in 2016 in the four local government areas that participated in the NSW Government’s Local Land Pilot in 2015: namely Tweed, Tamworth, Corowa (now part of Federation Council) and Warringah (now part of Northern Beaches Council). Negotiations in these areas are expected to formally commence in 2017 and be completed by mid-2018.

The Land Negotiation Program is proposed to expand in 2017–18 to additional areas (based on LGA boundaries or LALC boundaries). This EoI process will be used to identify, assess and determine the areas in to which the program expands. At this stage it is anticipated that up to six new areas could be added each year (commencing 2017–18), that is up to 18 areas over three years.

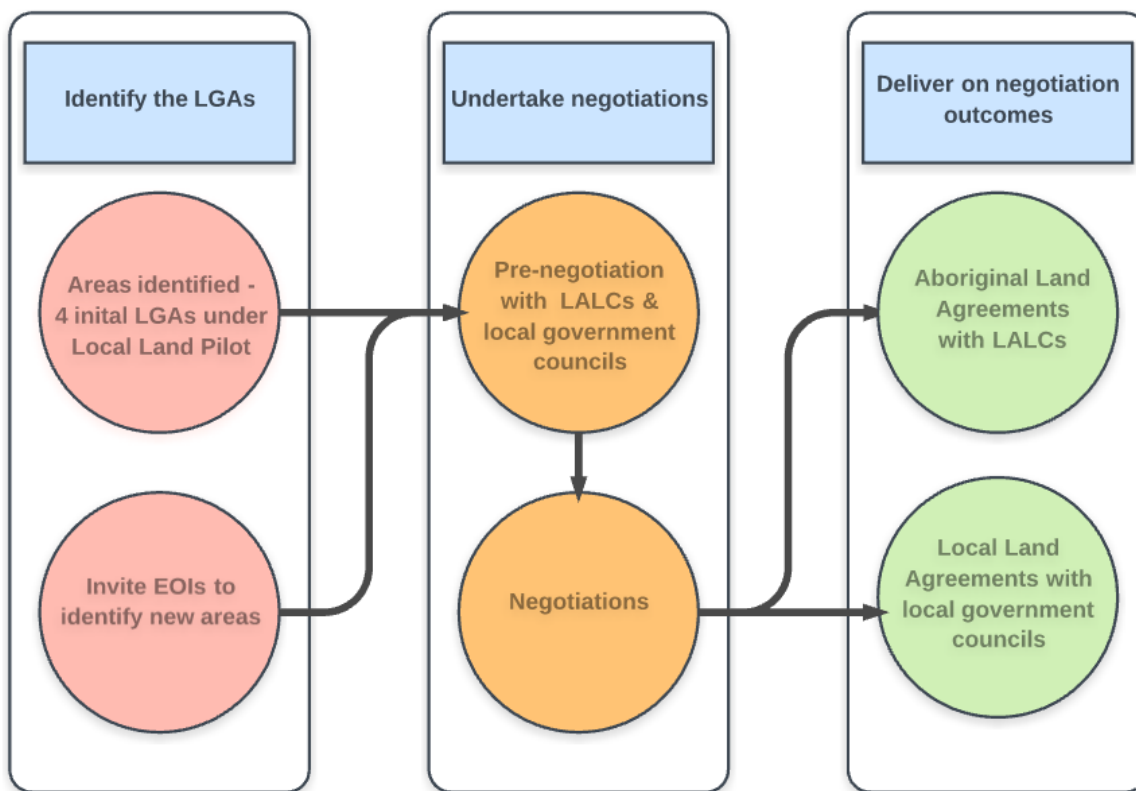


Figure 1. Flow chart of activities under the Land Negotiation Program

The diagram in Figure 1 outlines activities under the Land Negotiation Program. This EoI document relates to the first part, with the process of identifying new areas to participate. Once an area is identified for inclusion in the program, the negotiations will proceed as outlined above in parts two and three of the flow chart.

Local Land Agreement

The NSW Government is committed to achieving the best outcomes for the public, which includes ensuring that any land transfers are fair for local government councils and maximise positive outcomes for local communities.

Local government councils have local knowledge, resources and staff and are therefore often better equipped than the department to make decisions about how best to use locally significant Crown land for the benefit of the people of NSW.

The intention of the Land Negotiation Program is therefore to transfer locally significant Crown land to local government councils. This is a voluntary process and locally significant land would only be transferred with full agreement of the local government council.

The Land Negotiation Program will use Local Land Agreements as the mechanism to achieve the outcomes negotiated through the program with the local government council, which will generally consist of the transfer of land.

Any Crown land planning to be transferred to local government councils will be transferred under Crown lands legislation to local government councils for its ownership and management under the *Local Government Act 1993* (NSW).

It is anticipated that most of the Crown land transferred to local government councils will be classified as 'community land' under the *Local Government Act 1993*.

Expressions of interest

Who can apply?

The NSW Government is inviting expressions of interest (Eoi) from local government councils that wish to participate in the Land Negotiation Program. The government is also separately inviting Eois from local LALCs who want to enter into the program.

The assumption is that both the respective LALC and local government council in an area will want to participate in the program. As such, a joint application lodged with the relevant LALC/s should be considered if possible.

Governance arrangements

A governance committee, consisting of representatives from NSWALC, Department of Premier and Cabinet, the Office of Aboriginal Affairs, and the Department of Industry—Lands & Forestry, has been established. The governance committee will assess all applications, and will make recommendations to the Department of Industry—Lands.

Successful applicants will be invited to join the program and will participate in negotiations at a mutually satisfactory time over the three years (2017–20).

Expression of interest process

The key steps for the Eol process are as follows:

Application stage

Eol Application and assessment process	Stakeholder
1. The NSW Government will call for expressions of interest from local government councils to participate in the Land Negotiation Program.	Department of Industry—Lands & Forestry
2. Relevant parties prepare an Eol application seeking to join the Land Negotiation Program. A joint application lodged with the relevant LALC/s should be considered if possible. NSWALC can assist or prepare the application on behalf of the LALC, if LALC chooses.	Local government council (for joint application) LALCs (for joint applications)
3. Application submitted by closing date.	Local government council LALCs (for joint applications)

Assessment and decision stage

Eol Application and assessment process	Stakeholder
4. The Department of Industry—Lands & Forestry will undertake an administrative assessment of the Eol to ensure relevant information is included. This might include, where required, contacting the relevant LALC/s for the area to explore if they are potentially willing to participate in negotiation process (if the application is for the LALC only). NSWALC and/or LGNSW may be consulted, if required, regarding an application.	Department of Industry—Lands & Forestry LGNSW representative NSWALC (if joint application with LALC/s)
5. The governance committee will assess all Eols and make recommendations to the Department of Industry—Lands & Forestry.	Governance committee
6. The Department of Industry—Lands & Forestry will make final recommendation to the Minister for Lands and Forestry, who will invite successful applicants to join the program, and advise unsuccessful applicants of the decision.	Department of Industry—Lands & Forestry Minister for Lands and Forestry
7. The Department of Industry—Lands & Forestry will progress the negotiation process with the relevant successful parties, which will include confirming: <ul style="list-style-type: none"> relevant parties are willing to participate in the negotiation process timing for commencement of the negotiation process. 	Department of Industry—Lands & Forestry Local government council

The Eol application

The Department of Industry—Lands & Forestry will write to NSWALC, all LALCs and all local government councils to call for expressions of interest to participate in the Land Negotiation Program. The applications will be open for two months.

If it is interested in participating, local government council can liaise with NSWALC and/or the Department of Industry—Lands & Forestry to find out more information.

Before the closing date, the local government council must prepare and submit an Eol application.

The application should be in the pro-forma distributed with the invitation to participate. It should address the following, and include any other relevant supporting information:

- The area that would form the basis for the negotiation. For example this could be a LALC area(s) or a local government area, or a combination of both.
- Identification of the relevant parties that would be part of the negotiation process, including, if available, an indication of the relevant LALC(s)' willingness to participate in the process.
- Whether or not there are any native title parties in the area and if the proposed negotiation has the potential to consider native title issues. Also note the potential for native title parties to participate in the negotiation process.
- How a successful ALA negotiation process will result in economic, social and cultural benefits for the local community.
- How the transfer of Crown Land is consistent with its strategic planning for the council area, and its preparedness for ownership and ongoing management of any transferred Crown Land.
- The capacity of the local government council to participate in the negotiation process.
- Preferred timing for engagement in the program (for example, 2017–18, 2018–19, or 2019–20).

Assessing Eol Applications

The Department of Industry—Lands & Forestry will undertake an administrative assessment of the Eol to ensure relevant information is included. This might include, where required, contacting the relevant LALC/s for the area to explore if they are potentially willing to participate in the negotiation process (if the application is for the local government council only). NSWALC and/or LGNSW may be consulted, if required, regarding an application.

The Eol Application will then be forwarded to the governance committee for its consideration against the following assessment criteria.

Eol assessment criteria

1. The proposed economic, social and cultural benefits for the local community.
2. Potential fit with the Land Negotiation Program in terms of the practicalities of timing, geographical spread/representation, overall number of negotiations being undertaken, and resource capacity
3. The equitable distribution of negotiations and potential benefits from undertaking the negotiations across the state
4. The location of the proposed area is linked to one of the existing negotiation areas currently being undertaken, and ability to readily build on existing and available resources and information
5. The existence of any native title parties in the area, their willingness to participate in the negotiation process, and if the proposed negotiation has the potential to consider native title issues
6. The likelihood of all essential parties (local government council, and LALCs) agreeing to participate in the negotiation process.
7. Local government council's preparedness for ownership and ongoing management of any transferred Crown land.

Decision

The governance committee will undertake an assessment of the Eol and make recommendations to the Department of Industry—Lands & Forestry.

The Department of Industry—Lands & Forestry will make final recommendation to the Minister for Lands and Forestry, who will invite successful applicants to join the program, and advise unsuccessful applicants of the decision.

The Department of Industry—Lands & Forestry will then progress the negotiation process with the relevant successful parties which will include confirming:

- relevant parties are willing to participate in the negotiation process
- timing for commencement of the negotiation process.

Negotiations will begin at a mutually satisfactory time between 2017 and 2020.

More information

Contact the Department of Industry - Lands and Forestry:

- Web: www.crownland.nsw.gov.au/crown_land/land-negotiation-program
- Email: land.negotiation@industry.nsw.gov.au
- Phone: 1300 886 235