

November 2021

FAQs for the Orange Land Transfers

This document answers frequently asked question regarding the transfer of land parcels from Crown Lands to the Orange City Council and Orange Local Aboriginal Land Council.

Why are these parcels of land being transferred out of state management?

The land transfers provide for ownership and management of locally significant land by Local Councils and Local Aboriginal Land Councils (LALCs).

The transfers unlock opportunities for Local Aboriginal Land Councils and local councils to deliver local community outcomes and to unlock multiple benefits from land.

What is the aim of the program?

The program aims to identify and transfer locally significant land to local councils and LALCs for management and ownership.

Local management of land preserves public access to community recreation land; protect sites of cultural significance; and supports the creation of local jobs; environmental care and maintenance; and investment in business, agriculture and community-led services.

The land transfers also realise Aboriginal land rights as intended in the *Aboriginal Land Rights Act 1983* through the return of land to Aboriginal ownership.

How will the program benefit Orange?

Under the Orange program agreement, locally significant land will be transferred to Orange City Council (OCC) and Orange LALC (OLALC).

Local management of land will preserve public access to community recreation land; protect sites of cultural significance; and support the creation of local jobs; environmental care and maintenance; and investment in business, agriculture, and community-led services.

A key opportunity being explored by both OCC and the OLALC is investment of land and assets into the planned South Orange Health and Innovation Precinct. The new precinct will incorporate the existing hospital site, the new private hospital, the Department of Primary Industries agribusiness accelerator (the GATE), education facilities, and life sciences businesses.

Transfers to OLALC, particularly within the planned precinct, will support job creation within Orange.

If these lands were not transferred to OCC these benefits would not be realised due to limitations on how local government can manage land.

How does the NSW Government identify suitable parcels of land for negotiation with Local Councils and LALCs?

The program negotiations focus on land parcels that the Local Council and LALCs have identified as land their organisations are best placed to enhance cultural, social and economic outcomes for local communities.

What is locally significant land?

The local land criteria for all Crown land are:

1. Whether the land provides, or has demonstrated potential to provide, a public good predominantly for residents in the local government area (LGA) concerned, or adjacent LGAs, in a way that is consistent with local planning instruments.
2. Whether the land use is consistent with the functions of local government or could be used for activities consistent with those functions.
3. Whether the land is management, or has identified potential to be managed, as a community asset by a council or some other body.

Does this program only include the Orange region?

There are currently 8 sites involved in the program. These are:

- Orange
- Randwick
- Tamworth
- Nungaroo
- Central Coast
- Northern Beaches
- Blayney
- Cabonne

These negotiations are in different stages, with Orange the most advanced site at present.

What land is being transferred in Orange?

A total of 398 hectares of Crown land will be transferred as part of this agreement. This will include 312 hectares of land to OCC and about 86 hectares of land to OLALC.

Some of the land parcels to the OLALC include the Bloomfield Golf Club Diving Range, Bloomfield Hall, part of Bloomfield Golf Course, Agricultural Research Station and Orange Racecourse, amongst other unencumbered land parcels.

How long will it take for the land parcels to be transferred to either OLALC or OCC?

Land parcels will be transferred to the relevant parties, which is expected to occur within 12 months of the final agreement.

How is this program contributing to the Crown lands' 2031 State Strategic Plan?

Accelerating and realising Aboriginal land rights and native title in partnership with Aboriginal people is a key priority under the 10-year Crown land 2031 State Strategic Plan.

Aboriginal land rights and native title interests are key to reconciliation and achieving economic, social, cultural and environmental outcomes in NSW.

Land negotiations are voluntary and will only occur where Local Councils and LALCs choose to participate.

The transfer of Crown land to LALCs will drive local cultural, social and economic outcomes, as well as the realisation of Aboriginal land rights as intended in the *Aboriginal Land Rights Act 1983* through the return of land to Aboriginal ownership.

Does the program recognise Aboriginal land rights?

The land transfers realise Aboriginal land rights as intended in the *Aboriginal Land Rights Act 1983* through the return of land to Aboriginal ownership.

Under the Act, LALCs in NSW can claim Crown land to compensate them for historic dispossession of land and to improve the social, cultural and economic prosperity of Aboriginal people. Land claims are lodged by LALCs and, under the Act, land is transferred with freehold title if at the time of the claim the land, among other requirements:

1. able to be lawfully sold or leased
2. not lawfully used or occupied
3. not needed nor likely to be needed as residential lands
4. not needed nor likely to be needed for an essential public purpose including nature conservation.

The Act provides for the return of land through 2 main mechanisms: Aboriginal land claims and Aboriginal Land Agreements.

Through the program, LALCs enter into an Aboriginal Land Agreement with the Crown Lands Minister.

How will the transfer of land to the LALC and the Local Council affect native title?

Native title rights and interests will not be impacted by transfers of land under the program to the Council or LALC. Transfers of any land will continue to be subject to the provisions of the *Native Title Act 1993*, where relevant.

What if there are direct stakeholders that oppose the transfers?

Changes to the ownership and management of any parcel of Crown land will only occur where there is agreement between the NSW Government, the Local Government Council and the relevant LALC.

Land negotiations are completely voluntary and will proceed only if the Local Government Councils and LALCs choose to participate.

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Land negotiations are completely voluntary and will proceed only if the Local Government Councils and LALCs choose to participate.

Once land is transferred to LALCs under these negotiations, what can the land be used for?

Land that is transferred to LALCs will have both cultural and economic value to Aboriginal communities.

Transferred land will become freehold (private) land, so would be eligible to be sold or developed at a later stage if the land councils wished, subject to the usual planning and environmental controls and approvals.

The transfer of Crown land to LALCs aligns with the legislative mandate of the *Aboriginal Land Rights Act 1983* to recognise Aboriginal people as the traditional owners of land in NSW, and to recognise the enduring connection Aboriginal people have to land in NSW.

When parcels of land are removed from Government management, is there a risk things like environmental protections will be forgotten?

Federal and State environmental legislation will continue to protect environmentally sensitive land after the transfer of ownership.

Areas that are identified as being 'of State significance' will remain under the management of Crown Lands.

What if Councils or LALCs raise fees on land that is transferred to them, impacting on users of the land?

Land transfers will not result in significant changes to existing tenures, in most cases the tenures will simply be reissued by the Council or LALC. Tenures will then need to be renewed/renegotiated when they each come up for renewal.

Any fees on land previously paid to Crown Lands will be paid to the new owners. Fees on land under Council management is already being paid to Council so there will be no changes for these land users.

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If land transferred to LALCs becomes private land, does that mean public access can be restricted?

Potentially yes. Land transferred to LALCs is private land that can be used, sold or developed subject to standard planning controls.

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Can local councils decide to sell the parcels of land they receive?

Crown land transferred to local councils will be classified as 'community land', which means that it cannot be sold and will continue to be available to the community for social, recreational, sporting, environmental, cultural and economic purposes.

Local councils are also required to consult with their communities to create a plan of management for community land, so it meets the needs and expectations of those communities.

If the local council wanted to reclassify some land for operational use (such as a works depot or administrative building), a public consultation process would be required.

What impact will the transfers have on community use and access to the racecourse?

There will be no impact on the current uses of the racecourse in Orange. The land parcels to be transferred are currently not used as part of the racecourse and are located outside the current site footprint.

Why are community, and users of these parcels of land, only finding out about these transfers now?

Negotiations on land parcels cannot be confirmed until an agreement can be reached. As such, details have not been announced until an agreement could be achieved and signed by all the parties.

The community's use and access to land being vested with OCC will remain unchanged.

What else is the NSW Government doing to support outcomes for Aboriginal communities?

Over the past two financial years, the Department of Planning, Industry and Environment – Crown Lands has processed more than 1,972 Aboriginal land claims, with more than 6,500 hectares of land granted to Aboriginal land councils in NSW.

Crown Lands has increased staff in its Aboriginal outcomes team from 8 to 22 since mid-2019 and is working innovatively to achieve Aboriginal outcomes.

For example, the 'LALC20 Project' has seen all 120 LALCs in NSW invited to each nominate up to 20 sites that are subject to land claims for priority assessments based on their local priorities.

Crown Lands' Aboriginal Community Engagement Officers are developing meaningful relationships with Aboriginal communities across the state, building trust, resolving issues, identifying license opportunities, sourcing IT equipment, and helping improve the administration of Aboriginal land rights in NSW.

In November, Crown Land data will be released in an 'ePlanning Local Aboriginal Land Council Portal' and updated weekly to show the status of Aboriginal land claims, providing a secure platform to provide key information to LALCs.

Three LALCs are using the portal with another 7 in the process of getting access. This has been a joint project between Local Government, Planning and Crown Lands.

At [Dungog](#) in the Upper Hunter, an agreement has been negotiated between the NSW Government and Karuah LALC that will protect and promote Aboriginal culture and heritage, while securing Dungog's future as a national mountain biking destination. Also, Indigenous Land Use Agreements (ILUA) are being negotiated, which are voluntary agreements between native title and other parties on the use and management of areas of land and/or waters.

For example, a [recent ILUA](#) in Far Western NSW has provided permanent security for residents who live in underground dugouts on Crown land at White Cliffs, while also recognising the native title rights of the Barkandji Aboriginal community and their enduring links to the land.

In June, it was [announced](#) Wentworth Shire communities were on track to get a new health service following the signing of a lease agreement between the NSW Government with the Barkandji and Malyangapa Aboriginal communities. It followed an agreement for Crown land at Buronga to be transferred to the Barkandji Corporation, with native title rights intact, as freehold land. The Barkandji will lease the land back to NSW Health to build and operate the facility.

More than a quarter of all Indigenous Land Use Agreements (ILUAs) that the NSW Government is a party to (6 out of 22) have been finalised by the Department of Planning, Industry and Environment (DPIE) since this department was formed in mid-2019.

In August this year, the government [announced](#) \$9.85 million in further funding to support native title claims on Crown land, and to build the capacity of LALCs to support resolution of Aboriginal Land Claims, as well as other initiatives to support positive Aboriginal outcomes.

In terms of native title claims, the NSW Government has been able to successfully resolve a number of claims in recent years, decreasing the number of outstanding native title claims.

Currently, there are 11 native title claimant applications awaiting resolution in NSW, with this number steadily decreasing from 17 since 2019 due to the increased number of native title determinations in NSW.

To date, native title has been recognised over 484,082 hectares of NSW (i.e., where native title rights have been found to exist). This includes 482,319 hectares of land and 1,763 hectares of sea country, with 42% of this having been recognised since 2017.

In terms of Aboriginal housing, the [Aboriginal Housing Office](#) in DPIE has a vision to ensure every Aboriginal person in NSW has equal access to, and choice in, affordable housing.

It is allocating \$25.8 million to deliver new dwelling as well as upgrades to existing dwellings through the Aboriginal Housing Office's capital works program (Budget 2021/2022).

For example, the Aboriginal Housing Office will complete a mix 23 new units and houses in remote Far Western NSW towns such as Wilcannia, Boggabilla, Moama and Bourke by June 2022.

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