

6.3 SOUTH WEST NATIVE TITLE SETTLEMENT LAND BASED CONSULTATION

OBJECTIVE

To clarify and provide justification for Council's position with respect to the transfer of land parcels to the Noongar People under the South West Native Title Settlement.

POLICY

Scope

This policy applies to all land within the boundaries of the Shire of Gingin that is subject to a transfer proposal under the South West Native Title Settlement.

Background

The South West Native Title Settlement (the Settlement) is a landmark native title agreement reached between the State Government of Western Australia (the State) and the six Noongar Agreement Groups. The six Indigenous Land Use Agreements (ILUAs) comprising the Settlement were conclusively registered on 27 January 2021 after some years of delay. The Settlement then formally commenced on 25 February 2021. The Settlement recognises the Agreement Groups as the Traditional Owners of the South West Region of Western Australia, and resolves Native Title in exchange for a negotiated package of benefits

The State has committed to allocating up to 320,000 hectares of Crown land to the Noongar People to create the Noongar Land Estate, in accordance with the Noongar Land Base Strategy. The Noongar Land Estate will contain up to 300,000 hectares of land transferred in reserve or leasehold, and up to 20,000 hectares of land transferred in freehold. The Landholding Body for all land transferred is Noongar Boodja Land Sub Pty Ltd, which will hold and manage the land in the Noongar Land Estate in consultation with the soon to be established Noongar Regional Corporations. All land will be used and managed in line with Noongar cultural, social and economic aspirations for the benefit of generations to come.

Local governments, as part of this process, are not advised as to any intent for the future purpose of the land and/or how it is proposed to be managed into the future, and this creates uncertainty from a local government perspective. For example, it is difficult for any local government to approve the transfer of land without understanding what purpose the land will be used for, who it will be managed by, and whether it will be freehold transfer. This advice could be provided as simply as "The site is requested for reasons of cultural significance or for commercial purposes and will be administered as a vested reserve by the South West Land and Sea Council (SWLSC)".

As a result of these deficiencies in the referral process, Council has previously resolved not to support the 182 land parcels that have to date been identified to be transferred to the Noongar People under the South West Native Title Settlement.

Prior to the adoption of this policy, referrals relating to the transfer of 182 lots within the Shire of Gingin had already been considered by Council. The Department of Planning, Lands and Heritage (DPLH) has advised that there are some 230 additional locations identified for potential transfer within the Shire.

The Shire, and all local governments, should be provided with a full list of the properties within their municipalities that have been identified for potential transfer so that early due diligence can be undertaken.

This policy will outline Council's position of not supporting any land transfers until such time as the State Government has provided sufficient consultation time and information for Council to be able to provide an informed response.

Policy Statement

The Shire of Gingin does not support the transfer of lots under the Settlement for the following reasons:

1. Large tracts of land along the Shire's coastline and within its coastal towns of Guilderton, Seabird, Ledge Point and Lancelin are considered to be high value public open space.
2. The State should consider retaining lots within coastal towns in the event that land swap becomes a viable long term option in dealing with coastal erosion and inundation issues.
3. Large tracts of bushland identified in rural areas will require management in terms of fire hazard mitigation and may require management in terms of control of weeds/noxious plants/pest plants and declared animal pests.
4. There is no clear strategic direction provided for the intended future use and management of transferred land parcels.
5. The consultation period provided with respect to the referral of proposed land transfers is insufficient to allow for an informed decision to be made and a response provided to the Department of Planning, Lands and Heritage by the nominated deadline.

The Shire of Gingin will not support the transfer of lots under the Settlement until such time as:

1. Evidence is provided that the concerns expressed in One to Four above have been addressed; and
2. With respect to Point Five, a three month consultation period is provided for each referral to allow sufficient time for local governments to advertise the proposal for public comment (for a minimum of 14 days), and for the referral and any public comment received to then be considered by Council at an ordinary Council meeting and an informed response subsequently provided to DPLH.

GOVERNANCE REFERENCES

Statutory Compliance	<i>Native Title Act 1993 Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Act 2016 Land Administration Act 1997</i>
Industry Compliance	<i>N/A</i>
Organisational Compliance	<i>Policy 1.4 Council Policy Management</i>

POLICY ADMINISTRATION

Review Cycle	2 years	Next Review	2025
Department	Regulatory & Development Services (Planning)		

Version	Decision Reference	Synopsis
1.	OCM 17/01/2023 Item 13.1	Policy adopted.