

## Department of Indigenous Affairs



The Department of Indigenous Affairs gratefully acknowledges the invaluable assistance provided by the Department of Land Administration and the Crown Solicitor's Office of the Department of Justice in the production of these Fact Sheets.

Working towards improving the living standards of Indigenous people.

*Providing whole of Government coordination of Indigenous affairs at all levels throughout the State.*

Assisting Indigenous people to protect and promote their heritage and culture.

Transferring Indigenous land to the direct control of Indigenous people.

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## What is a Land Title?

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The law of Australia originally considered that all the land of Australia belonged to the Crown (the government). In other words all land was Crown land. The Crown could then grant (or in other words create) interests in this land. Those interests could be freehold (what is commonly thought of as 'ownership' of land) or leasehold (see fact sheets concerning freehold and leasehold for more detailed explanation). Both of these interests carry with them a legal right to hold, occupy and use the land. That legal right is known as a land title. Land title can be held by a person or an Aboriginal organisation or another legal entity. The granting of freehold land title means that the land is no longer considered Crown land but is 'owned' by the person who holds the land title.

In Western Australia land titles are registered by the Department of Land Administration (DOLA) under the Transfer of Land Act. Once title is registered, it is guaranteed by the State Government. Land titles can usually be transferred or sold.

## What is Native Title?

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Beginning in 1992, the law of Australia changed so that the existence of native title was recognised. Native title does not depend on a grant of an interest in land by the Crown. Native title means the communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in land or water.

The existence and extent of native title depends on the traditional laws and customs of the Aboriginal peoples or Torres Strait Islanders and maintenance of a connection (or relationship) with the land or water. A determination whether or not native title exists in relation to a particular area of land or water can be made by the Federal Court under the Native Title Act. Native title can be extinguished (or destroyed so that it cannot be revived) by some circumstances.

Whether or not native title is extinguished in particular circumstances is controlled by the Native Title Act. Unlike land title, native title cannot be transferred or sold.

*What is Native Title?*

*What land does the Aboriginal Lands Trust (ALT) hold for Aboriginal people and how does the Trust transfer the land back to them?*

## **What land does the Aboriginal Lands Trust (ALT) hold for Aboriginal people and how does the Trust transfer the land back to them?**

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The ALT holds land in trust for Aboriginal people. This land may be

1. Freehold (see fact sheet – What is freehold land?)
2. Leasehold (see fact sheet – What is leasehold land?)
3. Reserve land (see fact sheet – What is a reserve?)

The total area of land held by the ALT is 27 million hectares (about 12% of Western Australia). Most of the land held by the ALT (over 20 million hectares) is reserve land.

It is intended that the control and management or ownership of all the land held by the ALT will be handed back to Aboriginal people. The hand back of land involves a thorough consultation process with the local community, including Traditional Owners, native title claimants, the Native Title Representative Body and those who have an interest in the land (such as people or groups leasing land held by the ALT).

## What is a reserve?

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Reserve land is Crown land set aside for public purposes: for example, hospitals, schools, conserving plants and animals, national parks, recreation, and for the use of Aboriginal people. Crown reserves are created under the Land Administration Act. For each reserve created, a Certificate of Crown Land Title is registered with DOLA.

Some reserves can be given an "A" classification that gives added protection against the reserve being changed in some way, because it requires that any changes be approved by both Houses of Parliament. National Parks and conservation reserves have an "A" classification. So do some Aboriginal reserves.

There is another level of protection for certain Aboriginal reserves held by the ALT. Aboriginal reserves proclaimed under Part III the Aboriginal Affairs Planning Authority Act have restricted access for miners or the public. Those groups can get access only by applying to the Minister for Indigenous Affairs and/or the ALT for a special entry permit. Once a reserve has been protected this way, the protection can only be changed by the approval of both Houses of Parliament.

Most reserves are managed by a Management Body. A Management Body is the group that the Minister for Lands gives the care, control and management of the reserve to. For example, the Management Body can be a local government authority, a State government agency, a statutory body such as the ALT, or an Aboriginal organisation.

*What is a reserve?*

## What is a reserve (continued)?

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Management Orders are made by the Minister for Lands and they set out the rights and duties of the Management Body. The Management Orders can include a power to lease (rent out) the reserve. Where there is a power to lease the reserve, any lease given by the Management Body must be consistent with the purpose of the reserve.

For example, the ALT holds the Management Orders for a large number of reserves for the “use and benefit of Aboriginal people” with, in the majority of cases, power to lease.

Management Orders cannot be used as security for a loan, but any leases given under Management Orders could be used as security if the Minister for Lands approves. Holding a Management Order is considered sufficient to receive funding under ATSIC programs.

*Who manages Aboriginal reserves and are those reserves a secure title?*

## **Who manages Aboriginal reserves and are those reserves a secure title?**

### **What is a Management Order?**

A Management Order gives the care, control and management of a reserve to a local government authority, State government agency or an Aboriginal organisation (a Management Body). Management must be in keeping with the reserve's purpose (the purpose for which the Crown land was set aside and made into a reserve). Management Orders are issued by the Minister for Lands under the Land Administration Act. Management Orders are registered on a Certificate of Crown Land Title.

### **Can Management Orders be taken away?**

Management Orders can be taken away (revoked) if the Management Body of the reserve wants that to happen. This may be because the Management Body does not want to have the care, control and management of the reserve any more. It can also happen if a reserve has been mismanaged or if it is in the public interest to take it away. It is not common for Management Orders to be taken away. When it does happen, it is usually at the request of the reserve's Management Body.

### **What is meant by 'power to lease'?**

A Management Order may allow the Management Body to lease (or rent out) the reserve. This will mean that the Management Body has the power to lease. Most Management Orders grant the Management Body a power to lease all or a part of the reserve.

## **Who manages Aboriginal reserves and are those reserves a secure title (continued)?**

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But this power depends on the Management Body being able to lease in its own right (in other words if it had power to lease before it got Management Orders). For example, say that a government department has a Management Order over a reserve, but the legislation creating that department never gave the Minister or anyone else in that department the power to lease land. In this case, the power to lease cannot be included in the Management Orders for that reserve.

So a Management Body can lease (rent out) a reserve if it has the power to lease land and if the Management Orders say it can lease the reserve. But even if the Management Body can lease a reserve, the lease must be consistent with the purpose of the reserve (in other words the purpose for which the Crown land was made into a reserve).

## **Are Native title rights and interests affected when reserves are transferred?**

A change in the Management Body changes the group that has the care, control and management of the reserve but does not affect native title rights or interests. Where a Management Body has a power to lease the reserve and does lease (or rent) the reserve, any leases in place will remain in place when control of the reserve is transferred to a new Management Body. This continuation of a lease under a new Management Body will not affect native title rights or interests. A new Management Body may also give new leases where the Management Orders contain a power to lease. Any new leases issued have some potential to affect native title rights or interests but would not extinguish (or destroy) native title under the Native Title Act.

*More about managing Aboriginal reserves and secure title*

## **More about managing Aboriginal reserves and secure title**

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### **What are Management Plans?**

A reserve's Management Body may want to draw up a Management Plan to deal with conservation, the environment or some community issue. In some cases, the Management Body may be required by the Minister for Lands to do that.

### **What part does ALT play in managing reserves?**

The ALT is authorised by Management Orders to care, control and manage a large number of Aboriginal reserves. It also has responsibilities under the Aboriginal Affairs Planning Authority Act 1972.

### **What is DOLA's job in this?**

DOLA administers the Land Administration Act for the Minister for Lands. It carries out the legal and administrative work for creating Crown reserves, amending them (for example, by upgrading reserves to 'A' classification, or changing reserve boundaries), and when appropriate, converting reserves to another form of tenure.

## **More about managing Aboriginal reserves and secure title (continued)**

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### **What is the Aboriginal community's role?**

When the care, control and management of a reserve (Management Order) is accepted by an Aboriginal organisation that Body takes over the same responsibility for the land as ALT had (as the old Management Body). This includes the new Management Body ensuring that where there is an existing lease ensuring that its conditions are followed and possibly issuing new leases where a power to lease is included in the Management Orders.

### **Will Aboriginal reserves be secure forever?**

If there is ever a need to change a reserve, it is done through consultation and by agreement with the Aboriginal communities concerned. A number of things might influence the status of reserves over a long period. For example, there could be new State planning requirements, pressures on land use and changes in government policy. This means no guarantee can be given that an Aboriginal reserve – or any type of reserve – or any other type of land for that matter – will be secure forever.

Some reserves can be given an "A" classification that gives added protection against the reserve being changed in some way, because it requires that any changes be approved by both Houses of Parliament. National parks and conservation reserves have an "A" classification. So do some Aboriginal reserves.

There is another level of protection for certain Aboriginal reserves held by the ALT. Aboriginal reserves proclaimed under the Aboriginal Affairs Planning Authority Act have restricted access for miners or the public. Those groups can get access only by applying to the Minister for Indigenous Affairs and/or the ALT for a special entry permit. Once a reserve has been protected that way, the protection can only be changed by the approval of both Houses of Parliament.

*Are local government rates payable on Aboriginal reserves and other lands?*

## **Are local government rates payable on Aboriginal reserves and other lands?**

Rates are generally not payable on a reserve when the Management Order is held by the Crown or an agent of the Crown e.g., the Aboriginal Lands Trust.

However, in respect of Aboriginal organisations, rates may or may not be payable on reserve, leasehold or freehold land. Rates normally would be payable, but if the land is used for “charitable purposes” then it is exempt. Reserves vested in the Aboriginal Lands Trust or in an Aboriginal organisation will often come within this exemption. Whether the land is rateable will depend upon the use of the land. If the land is used for a non-charitable purpose, rates may be payable. If a local government service (such as rubbish removal) is provided to a property, then the local government could charge for that service.

## **What effect do the Aboriginal Communities Act and the Aboriginal Heritage Act have on Aboriginal reserves and other land?**

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The Aboriginal Communities Act allows an Aboriginal organisation to draw up by-laws and have them enforced with the assistance of the Police. The by-laws can be about anything that is necessary for decency, order and good conduct on community lands. For example the by-laws may restrict access or bringing alcohol onto community lands. The by-laws will apply to all people who come within the community boundaries. Also the laws of Australia will continue to apply within the community boundaries.

The Aboriginal Heritage Act was introduced to protect all Aboriginal heritage. This includes all places and objects that are important to Aboriginal people because of connections to culture. Under the Act it is an offence for anyone (including Aboriginal people) to excavate, destroy, conceal or in any way alter an Aboriginal site, or any object without the permission of the Minister for Indigenous Affairs.

The Minister is advised on heritage matters by the Aboriginal Cultural Material Committee which includes Aboriginal men and women representing different parts of the State.

Leases to Aboriginal organisations usually include a clause requiring compliance with the Aboriginal Heritage Act.

*What rights do Aboriginal people have over land controlled by other Aboriginal interests?*

## **What rights do Aboriginal people have over land controlled by other Aboriginal interests?**

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It depends on what rights are involved and how the land is held or controlled by Aboriginal people.

Where an Aboriginal person or organisation holds freehold title to land, no other person can go onto that land without permission. This includes other Aboriginal people.

Where an Aboriginal person or organisation holds a general lease they also will be able to restrict who can come onto the land so long as the lease continues. This will only be different if the lease itself allows public access to the land and this is consistent with the lease purpose. So generally other Aboriginal people will only be able to enter land where an Aboriginal person or organisation holds a general lease if that Aboriginal person or organisation agrees.

All pastoral leases allow for Aboriginal people to enter unimproved and unfenced parts of the land that the lease applies to. Even though all Aboriginal people have this right, where a pastoral lease is held by the person or organisation it would be best to reach an agreement with that person or organisation before entering the land. Where the pastoral lease is held by an Aboriginal person or organisation, an agreement is still necessary.

## **What rights do Aboriginal people have over land controlled by other Aboriginal interests (continued)?**

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Where a reserve is proclaimed under the AAPA Act, non Aboriginal people (apart from public officers) are not allowed onto Aboriginal reserves without a special entry permit.

Sometimes an Aboriginal person or organisation has a lease for (has rented) an Aboriginal reserve. Another Aboriginal person cannot enter this land without the agreement of the person or organisation with the lease.

*What responsibilities do Aboriginal people have when taking over land?*

## **What responsibilities do Aboriginal people have when taking over land?**

State laws and local government by-laws must be obeyed. That is true whether the land is freehold, leasehold or a leased reserve.

Where a freehold land title is held over land, all local government rates, taxes and service authority charges have to be paid. In some circumstances, an Aboriginal community may seek an exemption from paying rates (permission not to pay) if, for example, the land is held for charitable purposes. Communities are normally expected to pay service charges such as rubbish collection costs.

Where land is leased (as leasehold of Crown land or as a leased reserve), it is necessary to comply with the requirements in the lease.

## **What is leasehold land?**

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Leasehold land is Crown land over which the Crown has granted an interest. That interest is a lease (or in other words the Crown has rented its land to an individual or other legal entity). The person or organisation that was granted the leasehold can hold, occupy and use the land and in return must pay rent.

Leasehold is a lesser interest in land to freehold. Leasehold will be for a set time and for a specific purpose. The person who has the leasehold never 'owns' the land. The grant of leasehold will carry with it certain conditions or requirements. If the requirements of the leasehold are not met then the Crown may take back the land. In most cases the leasehold will expire on a certain date.

Leasehold is similar to when a person who 'owns' land leases (or rents) it to another person. With leasehold the Crown is the owner of the land. Another name for leasehold is a Crown lease.

A leasehold may be sold to another person or group, but that requires the approval of the Minister for Lands. Depending on the leasehold's purpose and the length of the lease, sometimes leasehold land can be used as security to raise loans from banks and other financial institutions (but the approval of the Minister for Lands will be required).

There are different types of leaseholds (or leases for short).

## What is leasehold land (continued)?

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### What are the different types of leases?

**Pastoral leases** are leases for grazing stock and all purposes connected with that. DOLA issues pastoral leases. See fact sheet on pastoral leases for more information.

**General leases** are leases for some particular purpose. For example a general lease may be for the purpose of the use and benefit of Aboriginal people. General leases are issued by DOLA. See fact sheet on general leases for more information.

**Reserve leases** are issued by a reserve's Management Body or by DOLA if there is no Management Body for the reserve. A reserve lease has to be consistent with the purpose of the reserve. For example, a reserve whose purpose is for the use and benefit of Aboriginal people might have a lease over the reserve, or part of it, to an Aboriginal organisation.

**Leases in perpetuity** are leases that have no expiry date, they go on forever. But they will still have conditions or requirements like other leases. These leases are *only* given to or for the benefit of Aboriginal persons. They are issued by DOLA.

### How do you lease a reserve?

The leasing of a reserve can be done through a Management Body or, where the reserve does not have a Management Body, through DOLA. In order for a Management Body to give a lease it must have the power to lease in its Management Order (for more information see fact sheet on who manages Aboriginal reserves).

Any lease of a reserve must be consistent with the purpose of the reserve.

### Leases from the Aboriginal Affairs Planning Authority

The AAPA can issue leases over freehold land or reserve land held by the ALT.

### Leases from DOLA

DOLA can issue leases over Crown land for any particular purpose.

### What rights do leaseholders have?

The person or organisation which holds a lease (in other words is renting the land) has certain rights. If they comply with the lease conditions, leaseholders are entitled to use the land without any interference from the lessor (the person or organisation who owns the land, for example the Crown). Such interference can be anything which may be unreasonable, unwarranted or causes inconvenience to the lessee (the person renting the land).

*What are pastoral leases?*

## **What are pastoral leases?**

Pastoral leases are a particular type of leasehold that allows Crown land to be used for grazing stock. The leases are granted by DOLA (for the Crown) under the Land Administration Act. All pastoral leases expire in the year 2015, but they can be renewed subject to any conditions regarding management and development of the land.

## **What are the conditions of a pastoral lease?**

Pastoral leases usually allow commercial grazing of stock. In return, rent has to be paid and the land must be managed in an environmentally sound way. Also, the leaseholder cannot sell the lease or use the lease as security to raise money without approval from the Minister for Lands.

The Crown has the right to the compulsory purchase (in other words the Crown can buy the lease from you even if you don't want to sell it) of any part of the lease for purposes like State improvement or settlement.

## **What happens if the person who has a pastoral lease fails to meet the lease conditions?**

Pastoral leases can be taken away if the lease conditions are not met. Before that happens a default notice (describing what has not been done or done wrong) is issued. The notice requires the leaseholder to comply with the lease conditions (in other words to fix up what they have been doing wrong). If the leaseholder does not do what the default notice demands then a 'Notice of Intention to Forfeit' is issued. This notice means that the lease will be taken away.

## What are pastoral leases (continued)?

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In some cases a leaseholder may have to work out a development plan and then carry it out in order to comply with the lease conditions.

### Penalties

Apart from having the lease taken away, there can also be fines for some things. In many cases a permit is needed from the Pastoral Lands Board to do particular things on the land under a pastoral lease. The lack of a permit if it is required usually results in a fine for the person who holds the lease.

When the land is used for purposes that are not pastoral without having a permit, the fine will be \$10 000.

When the land is cleared (trees, shrubs and other plants removed) without a permit, the fine will be \$10 000

When plants that are not natural to the land are planted and sold without a permit, the fine will be \$10 000

When other people's stock is kept on the land in return for a fee without a permit, the fine will be \$5000 and \$500 daily.

If the person who holds the lease does not put in a yearly stock and improvement notice there is a fine of \$2000 and \$200 daily. If the person deliberately provides false information on that notice, there is a possible penalty of \$8000 or 12 months jail.

When the lease is held by a company if any shares in the company are transferred without approval there is a fine of \$10 000.

If the person who holds the lease gets a default notice and does not comply with it, the fine is \$50 000 and a daily fine of \$1000.

*More about pastoral leases*

## **More about pastoral leases**

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### **Is tourism allowed on a pastoral lease?**

Yes, if you have a permit. Permits can be issued by the Pastoral Lands Board to allow tourism but it must be as an extra and not the main use of the land.

### **Is agriculture or horticulture allowed on a pastoral lease?**

Yes, if you have a permit. The Pastoral Lands Board may issue permits for those types of land use. But the permits do not allow agriculture or horticulture to be the main use of land.

### **Are there any charges on a pastoral lease?**

Yes. Rent will have to be paid to the Crown. There will also be rates due to the local government and charges for vermin control.

### **What happens when a pastoral lease is abandoned?**

The Pastoral Lands Board takes over the management of the lease.

## **More about pastoral leases (continued)**

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### **Can pastoral leases be changed to another form of interest in land if the pastoral lease is not working?**

It depends on the circumstances of each case. For example, pastoral leases can be changed to general leases, leases in perpetuity or to reserves. No changes would occur without consultation and agreement of the person who holds the lease, and approval by the Pastoral Lands Board.

### **What does the Pastoral Lands Board do?**

The Pastoral Lands Board advises the Minister for Lands on policy matters in the pastoral industry and administers pastoral leases according to the Land Administration Act.

*What is a general lease?*

## **What is a general lease?**

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General leases are a particular type of leasehold that allows Crown land to be used for a particular purpose. These leases were formerly known as 'special leases' or 'special purpose leases'. For example, a general lease may be for the purpose of the use and benefit of the Aboriginal people. The leases are granted by DOLA (for the Crown) under the Land Administration Act.

Sometimes a general lease will be a lease in perpetuity. That means that the lease has no expiry date. Leases in perpetuity can be granted only to Aboriginal people for advancing their interests.

General leases have conditions connected with the purpose.

## What is freehold land?

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Freehold land is land over which the Crown has granted an interest. The freehold interest is the least restricted interest in land and is usually known as 'ownership' of land. Unlike leasehold, the land is no longer called Crown land after the freehold interest has been granted. The Crown cannot put conditions on the use of the land like it can with Leasehold. There may be some restrictions on how the land can be used because of other laws (such as local government laws). The terms 'freehold' and 'fee simple' mean the same thing and are usually both called 'ownership' of land.

Freehold gives the owner of that interest the exclusive right to the land for an indefinite period of time. The owner of the freehold can sell the land to anyone else. The owner may also lease (or rent) the land to someone else on whatever conditions they like (just like the Crown can lease land).

When the Crown grants the freehold interest, it keeps a right to compulsorily buy the land back (in other words, even if you do not agree with the Crown buying the land back, it can) for public works such as roads, railways, bridges, schools, hospitals or other purposes to benefit the State. When freehold land is needed for that sort of use, the Crown first tries to buy the land by agreement with the owner. If that fails, then the Crown will compulsorily buy the land and pay compensation to the owners.

*What is freehold land?*

## **What is freehold land (continued)?**

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### **What is conditional freehold land?**

The Crown can grant a conditional freehold interest in land. A conditional freehold title can be issued where there may be restrictions on use of the land and usually where there is a community benefit. It is the same as freehold, except that conditions restrict the use of the land. Also, any sale needs to be approved by the Minister for Lands. For example, if a charitable group has been granted Crown land to build and run a nursing home, they may later want to raise money to extend the nursing home. They could be granted a conditional freehold, and that could allow them to borrow money using the land as security.

### **Can freehold land transferred from ALT be sold?**

If ALT freehold land is transferred to an Aboriginal community, then the land can be sold by that Aboriginal community. But there may be some conditions on a sale that were placed on the freehold interest when it was originally created by the State. Or there may be conditions placed on the land when it was transferred from the ALT which may restrict the ability to sell the land.

If ALT conditional freehold land is transferred to an Aboriginal community, then the land can only be sold with the approval of the Minister for Lands. There may also be some conditions on the sale that were agreed to when the original interest in land was created.

### **Can freehold land be mortgaged?**

Yes.

### **Are rates and other charges payable?**

Yes, unless an exemption is obtained.

### **Is freehold the best type of title for Aboriginal communities?**

People need to be aware that there are a number of responsibilities in owning freehold. For example, there are local government rates and charges, and service authority charges like water and electricity. Each Aboriginal community needs to decide whether freehold would suit the community best.

### **Can freehold land be changed to another type of interest in land?**

Yes (see fact sheet on how interests in land can be changed for more information).

## **How can the type of interest in land be changed?**

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The transferrals of land by the ALT are meant to take the land held by the ALT (of all different types of interest in land, freehold, leasehold or reserve) and simply hand it to the Aboriginal people so that they will have the interest in land themselves. Remember that land titles (such as freehold or leasehold) are different from native title which is not granted by the Crown (see fact sheet on land titles for more information).

There are a number of options that can be considered when transferring land to Aboriginal communities. In the end, it will be a community decision as to what form of tenure best suits the circumstances of the local people. These include-

- reserves). Some communities are happy to stay with a reserve because they feel comfortable with this type of land tenure and the fact that it does not usually attract the payment of Shire rates.
- reserve land remaining under the care, control and management of the ALT and the Aboriginal Affairs Planning Authority in the circumstance where the land is "proclaimed" under Part III of the AAPA Act. Proclaimed reserves give special protection in terms of access by miners and non-Indigenous people.

## How can the type of interest in land be changed (continued)?

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- cancelling reserves and negotiating a different form of land tenure ranging from perpetual leases to conditional freehold. Such change would be dependent on consultation with native title holders or native title claimants. The change in the land tenure would also depend on consent being given by the Department of Mineral and Petroleum Resources, particularly conditional freehold which may restrict access for prospecting and mining purposes.
- cancelling existing tenures and protections and allowing the land to revert (go back) to unallocated Crown land with a determination of exclusive native title over the area.

## What are the town-planning issues in converting interests in land?

Regional and town planning schemes control the manner in which land can be used. The schemes are administered by local government authorities (Shire Councils) and can cover towns, specific areas and individual communities. Issues for consideration when changing land interests can include:

- How close the land that is being transferred is to land that has other uses which may not be the same. For example, where an Aboriginal community exists near a planned industrial estate, this would affect the community's ability to receive a long term leasehold or a freehold title.
- The provision of public road access. A general planning requirement is that freehold lots are to have legal access usually by public road. Such access is provided by local governments. Where a lease is being issued, legal access can be achieved by providing an access easement as part of the lease.
- The need to provide community schools and hospitals.
- The need for sewerage facilities, water and electricity.

## **More about changing land interests**

### **Does the Mining Act affect changes in interest in land?**

Yes. In some situations the Department of Mineral and Petroleum Resources may not agree with a change in the type of interest in land held. It may not agree because the proposed type of interest and the land use may restrict access for prospecting and mining purposes. However, each parcel of land is treated on its individual merits. Reserves and leases located in built-up town areas are more likely to be converted to another form of tenure than those which are more remote.

### **What other clearances are needed to change to a different interest in land?**

A range of approvals are needed before the interest in land can be changed to a different type.

These may include approvals from the local government authority, the Department for Infrastructure and Planning, Department of Environmental Protection, Department of Conservation and Land Management, Department of Mineral and Petroleum Resources and service authorities (such as the Water Corporation, Western Power and Alinta Gas).

Where there is a change of interest in land the Native Title Act requirements must be met. Also Aboriginal heritage matters under the Aboriginal Heritage Act will need to be considered.

ALT and DOLA can apply for the necessary approvals and consult with the Aboriginal communities where necessary. But it may be that the Aboriginal community wants to negotiate an Indigenous Land Use Agreement for itself.

*Can Indigenous Land Use Agreements (ILUAs) help with the transfer of the interests in land?*

## **Can Indigenous Land Use Agreements (ILUAs) help with the transfer of the interests in land?**

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ILUAs may help in meeting the requirements under the Native Title Act and can include provisions that prevent acts that might otherwise extinguish (in other words destroy the native title so that it cannot exist any more) native title from doing so.

Even where an ILUA has been made, it will still be necessary to get the other approvals (such as planning approval) as discussed in the fact sheet on how interest in land can be changed.

For more information on ILUAs, refer to fact sheets published by the National Native Title Tribunal ([www.nntt.gov.au](http://www.nntt.gov.au))