

Converting term western land leases to perpetual western land leases at Lightning Ridge – Policy

Purpose of this policy

This policy sets out the NSW Department of Planning, Housing and Infrastructure – Crown Lands’ (the Department) approach to facilitate the conversion of term western lands leases to perpetual western lands leases (Perpetual WLL) for approximately 1,055 leases unique to the Lightning Ridge area which commence expiring from 2025.

These term WLL were formerly mineral claims granted under the *Mining Act 1992*. Claim holders, over time, started to reside on these mineral claims unlawfully and constructed permanent dwellings. A whole of government approach, known as the Camps on Claims project, facilitated the ongoing residential occupation which resulted in the grant of term WLL to claim holders. These are a discrete cohort of tenures that only exist in the Lightning Ridge area and there are no other groups of leases in Crown Lands that have been issued in this way.

Application of this policy

The policy only applies to those term WLL in Lightning Ridge that are expiring between 2025 and 2048 and which are commonly referred to as Camps on Claims, granted under the repealed *Western Lands Act 1901*.

The policy will not apply to the granting of any other Crown leases located outside of Lightning Ridge or for any Crown leases that may be granted by a Crown land manager under the *Crown Land Management Act 2016* and does not remove any requirement for a leaseholder to obtain approvals under other relevant legislation.

This policy applies to all employees, consultants and contractors of the Department. It also applies to employees, consultants and contractors of all Departmental entities that have people employed in or through the Department.

Requirements

The following requirements must be satisfied before the Department will convert the term WLL to a Perpetual WLL for the purposes specified in this policy. The *Guideline – Conversion of Term Western Lands leases to Perpetual Western Lands leases at Lightning Ridge* also sets out additional matters

that Crown Lands will consider (including but not limited to native title interests and the existence of Aboriginal land claims).

1. Lease purpose

The existing term WLL must be used for the purpose for which it was granted.

2. Management of outstanding debt

The existing term WLL must not be subject to any outstanding debt owing to the Department, unless an agreed Departmental payment plan has been entered into in accordance with the Crown Land Debt Management Policy (IND-O-255).

3. Compliance and contamination

The existing term WLL must not be subject to any unresolved Crown Lands compliance issues.

4. Application form/fee

The leaseholder must apply to convert to a Perpetual WLL and pay any prescribed fees.

5. Rent

Rent must be applied and cannot be less than statutory minimum rent.

6. Access and Easements

Practical access (i.e. access within the reserve, existing tracks in use or public roads) must be identified.

7. Community Engagement

The Crown Lands Community Engagement Strategy will be considered as part of the application assessment process.

8. Direct Negotiation

The leaseholder must meet the criteria set out in the Sale or Lease of Crown Land by Direct Negotiation Policy (IND-O-182).

9. Standardised lease conditions

Each Perpetual WLL must be subject to a standardised lease instrument with the same set of terms and conditions.

10. Costs and Fees

The leaseholder must accept any costs and fees applicable to the conversion to a Perpetual WLL.

11. Term

The Perpetual WLL term will be ongoing.

Failure to comply with this policy

Conversion to a Perpetual WLL will not be approved if the requirements in this policy are not satisfied.

Review timeframe

Crown Lands will review this policy no later than 5 years from the date the document is approved. The document may be reviewed earlier in response to post-implementation feedback, changes to legislation, or as necessary.

Related policies and relevant legislation

Other policy documents that should be read in conjunction with this policy:

- Compliance and Enforcement Policy (IND-O-248)
- Crown Land Financial Concession Policy (IND-O-254)
- Delegation of Authority for Crown Lands (IND-O-179)
- NSW Department of Industry Code of Ethics and Conduct (INT18/201086)
- Sale or Lease of Crown Land by Direct Negotiation Policy (IND-O-182)
- Crown Lands Community Engagement Strategy

Legislation that should be read in conjunction with this policy:

- *Aboriginal Land Rights Act 1983*
- *Crown Land Management Act 2016*
- *Crown Land Management Regulation 2018*
- *Environmental Planning & Assessment Act 1979*
- *Independent Commission Against Corruption Act 1988*
- *Native Title Act 1993 (Cth)*

Appendices

Appendix 1 – Definitions

Appendix 2 - Roles and responsibilities

Appendix 1 – Definitions

Terms	Definitions
Accountable Authority	As defined in <u>Section 2.7 Government Sector Finance Act 2018</u>
Direct Negotiation	Negotiating directly with one leaseholder in accordance with the criteria specified in the Sale or Lease of Crown Land by Direct Negotiation Policy
Employee	<p>Any individual employed, appointed, or otherwise attached to the Department, whether on an ongoing, temporary, contractor, casual, or voluntary basis</p> <p>This includes all senior executives and secondees from other agencies and may include contractors and employees of any firm or company contracted to perform work on behalf of the Department subject to the nature of the policy and its application.</p> <p>Employee also includes those employed by the Department who provide services to other entities.</p>
Head of Agency	<p>Consistent with the <i>Government Sector Employment Act 2013 (NSW) (GSE Act)</i>, a Head of Agency is defined for the purpose of this policy framework as:</p> <ol style="list-style-type: none">In the case of DPE – the secretary of the DepartmentIn any other case – the Head of Agency listed in Part 2 or Part 3 of Schedule 1 of the GSE Act, such as chief executive, commissioner or chairperson.In practice, this represents the key person responsible for directing the affairs of the agency.

Appendix 2 - Roles and responsibilities

Roles	Responsibilities
The Department	<ul style="list-style-type: none">a) Provide an application form that is accurate to the Department's knowledgeb) Review and respond to lease applications in accordance with this policy and associated procedural guidancec) Respond to leaseholders in a timely manner with accurate information
Leaseholders	<ul style="list-style-type: none">a) Respond to the Department in a timely manner with information that is truthful and accurate