

Purchasing your Crown land lease to obtain freehold title

Background

In 2012, the NSW Government began the first [major review of Crown land](#) in 25 years, prompting a comprehensive consultation process with community and other interested parties about the future management of Crown land.

This exhaustive review process culminated in the NSW Parliament passing the new [Crown Land Management Act 2016](#) (the Act) in November 2016 and the [Crown Land Legislation Amendment Act](#) in May 2017.

This new legislation will take effect in 2018 and will ensure the Crown estate is managed efficiently and effectively and continues to support and generate social, environmental and cultural benefits for the people of NSW.

In NSW, Crown land is managed by the NSW Department of Industry—Lands & Water (the department) for the benefit of the whole community.

Previous Crown land legislation was complex and included eight different pieces of legislation.

The new Act will:

- reduce red tape and duplication in managing Crown land
- improve certainty and clarity about legal requirements
- support greater community involvement in local decisions made about Crown land
- formalise opportunities and processes for community involvement and engagement
- recognise and support Aboriginal involvement in the management of Crown land.

Changes under the new legislation

Tenure holders should be aware of the following three changes:

1. There are many leaseholders who can already purchase their lease under the *Crown Lands (Continued Tenures) Act 1989*, *Hay Irrigation Act 1902* or the *Wentworth Irrigation Act 1890*.

These statutory rights are secured by savings and transitional arrangements in the Act for a period of two years for perpetual leases and five years for term leases. For some leaseholders, the commencement of the new Act may mean a reduction in their purchase rights after two or five years.

2. Leaseholders now have the option to purchase their lease in instalments.
3. Term leases administered under the *Crown Lands (Continued Tenures) Act 1989*, *Hay Irrigation Act 1902* or the *Wentworth Irrigation Act 1890* cannot be renewed under the new Act, and leaseholders will need to apply to purchase this type of lease before the tenure expires.

Further information is available from the [department's website](#)

Eligibility

The decision to purchase a lease is a voluntary decision. Leases are converted to freehold title based on either a right to convert or a right to apply.

- When a leaseholder has a right to *convert* to freehold title, this means they have an absolute ability to purchase the lease. If you currently have a right to convert, you will have two years once the Act commences to make an application; after this time you will revert to a right to apply only.
- When a leaseholder has the right to *apply* to purchase their lease, this means they have the ability to make an application to purchase, pending a decision on the appropriateness of the application.
- Leaseholders of term leases only have a right to apply within five years once the Act commences to make an application; after this time the right will cease.
- Leaseholders of perpetual leases may have either of these rights.

Consultation

When assessing a purchase application, the department will consider the rights of any other parties that may have an interest in the land, and if appropriate, consult with these parties before approving a purchase. Examples of third-party interests may include Crown-timber rights, Travelling Stock Reserves, pumps and pipelines and access routes to neighbouring properties.

Costs

The purchase price is determined by the type of lease being purchased. The purchase price will either be the:

- same as it would have been under the relevant repealed Act, where saving and transitional arrangements apply
- unimproved land value in accordance with the *Valuation of Land Act 1916*
- unimproved market value as determined by the minister.

When the savings and transitional arrangements cease, the purchase price will be determined at the date of the application as either the unimproved market value of the land or the latest unimproved land value.

Other costs may be applicable.

Payment options

There are two payment options available to leaseholders for approved applications:

- Option 1: payment of the full purchase price within 28 days once the leaseholder has accepted the purchase offer
- Option 2: payment of the full purchase price by instalments can be established through an Incomplete Purchase. An Incomplete Purchase will be established for a period up to 20 years. Each year, a minimum instalment of \$2,500 will be payable for each Incomplete Purchase. If the purchase price is less than the annual minimum instalment, then the purchase price must be paid in full within 28 days once the leaseholder has accepted the purchase offer.

How to apply

It is recommended that interested leaseholders contact the department to discuss potential eligibility and the purchase process.

There is an application fee of \$474 payable with each application.

Leaseholders are required to fill out an application form and forward the form and the application fee to the department. The form is available on the department's web site, industry.nsw.gov.au/lands

More information

Email: leases@crowmland.nsw.gov.au

Web: www.industry.nsw.gov.au/lands

Phone: 1300 886 235

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