

Operational policy

SLM/2013/423
Formerly PUX/901/335
Version 6.00
17 September 2021

Lease renewal

Purpose

This operational policy details matters to be considered when assessing an application for the renewal (including early renewal) of a term lease, and for a lease renewal to be initiated by the Department of Resources.

The policy does not cover the broader considerations that are needed at any time when assessing all renewals of term leases.

Rationale

A lessee, other than the lessee of a rolling term lease, may apply to renew a term lease unless a condition of the lease or the *Land Act 1994* (Land Act) prohibits its renewal.

An application for renewal may be made only after 80% of the existing term of the lease has expired unless special circumstances are considered to exist.

An application to renew is based upon the original term of the lease and does not include any extension to the original term granted under sections 155A, 155B or 155BA of the Land Act.

A renewal application may be treated as a conversion application for a more appropriate form of tenure (e.g. freehold).

The department may initiate renewal of a lease.

Policy

Early lease renewal application – special circumstances

An application for a renewal of a term lease is not supported if received earlier than the last 20% of the term of the lease unless there are special circumstances. These special circumstances may include:

Indigenous

- Negotiation of an indigenous access and use agreement to enhance indigenous access to, or use of, leased land
- Agreement to surrender an area of land required for the protection and management of cultural heritage
- Agreement to surrender an area of land required for the management and use of traditional owners

Natural resource management

- Agreement to surrender a significant area of land required for natural resource protection and management by the state (e.g. state forest)
- Negotiation of a statutory covenant providing substantial natural resource protection over the whole property or a significant part of it
- Agreement to remediate a major land degradation problem

Enterprise reconstruction

- To facilitate the voluntary amalgamation or the rearrangement of a larger aggregation of leases that results in an enterprise enhancing its economic and environmental sustainability

Major Investment

- Where there is a proposed major investment:
 - that is consistent with the purpose of the lease benefiting both the public and lessee's interests
 - and
 - the balance of the term of the lease is:
 - significantly less than the term that would generally be considered for a lease where a lessee proposes a similar level of investment; and
 - not adequate to enable finance to be secured, for example, by way of a registered mortgage (if finance is required to be raised); and /or
 - not sufficient to enable a suitable return to the lessee on the level of investment.

Note—A lease may only be renewed for the same purpose of the expiring lease.

Carbon sequestration projects

- Where the lessee has the project declared as an Emissions Reduction Fund project with the Clean Energy Regulator.

A lessee may apply for eligible interest holder consent from the Minister administering the Land Act and a carbon abatement interest to be registered under the Land Act. These applications are where the lessee is participating in a carbon sequestration project with the Clean Energy Regulator under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cwth).

Emissions Reduction Fund projects can have either a 25 or 100-year term, which creates potential for projects to be contracted beyond the current term of a term lease.

In these instances, eligible interest holder consent from the Minister administering the Land Act will be considered if the lease is renewed or extended and the term of the lease covers the majority of the term of the carbon sequestration project.

Initiation of lease renewal by Department of Resources

Renewal of a term lease may be initiated where:

- the lease is not a rolling term lease
- 80% of the existing term of the lease has expired
- renewal of the lease is not prohibited by the Land Act or a lease condition
- the lessee has not entered into an agreement to surrender all or part of the lease
- the lease does not contain a reservation that all of the lease land is a future conservation area
- for a lease over protected area estate (National Park or State Forest), or a reserve issued under the *Land Act 1994*, the Department of Environment and Science or the relevant trustee supports renewal of the lease.

The same terms and conditions will apply to the new lease.

A lease renewal application is not required to commence an initiated renewal process.

Legislation

Land Act 1994

- Section 157A – Chief executive’s approval required for renewal
- Section 158(2) – Application for new lease
- Section 159A(3) – Provisions for decision about most appropriate form of tenure
- Sections 373R to 373ZA – Carbon abatement interests

Carbon Credits (Carbon Farming Initiative) Act 2011 (Cwth)

Related documents

Policy - [Land Allocation: Deciding most appropriate use, tenure and management \(SLM/2013/481 = PUX/901/101\)](#)

Procedure - [Undertaking a land evaluation report prior to lease renewal, lease conversion and state land allocation \(SLM/2013/577 = PUX/952/094\)](#)

Human Rights

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

Approval

Position	Name	Effective Date
Director	Anita Haenfler	17 September 2021

Version history

Version	Date	Comments
2	24/12/1997	Endorsed
3	24/12/2007	Updated to reflect Land Act amendments
4	12/06/2014	Updated to include Land Act amendments made by the <i>Land and Other Legislation Amendment Act 2014</i> effective 1/7/2014
5.00	28/07/2017	Updated to reflect Land Act amendments made by the <i>Land and Other Legislation Amendment Act 2017</i> effective 1/7/2017.
6.00	17/09/2021	Full document review and revised title – previously Land Holdings: Leases – Early Renewal Rolling Term Lease Extensions and Conversions (Special Circumstances) PUX/901/335

Further information

- Contact your nearest business centre (https://www.dnrme.qld.gov.au/?contact=state_land), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

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