

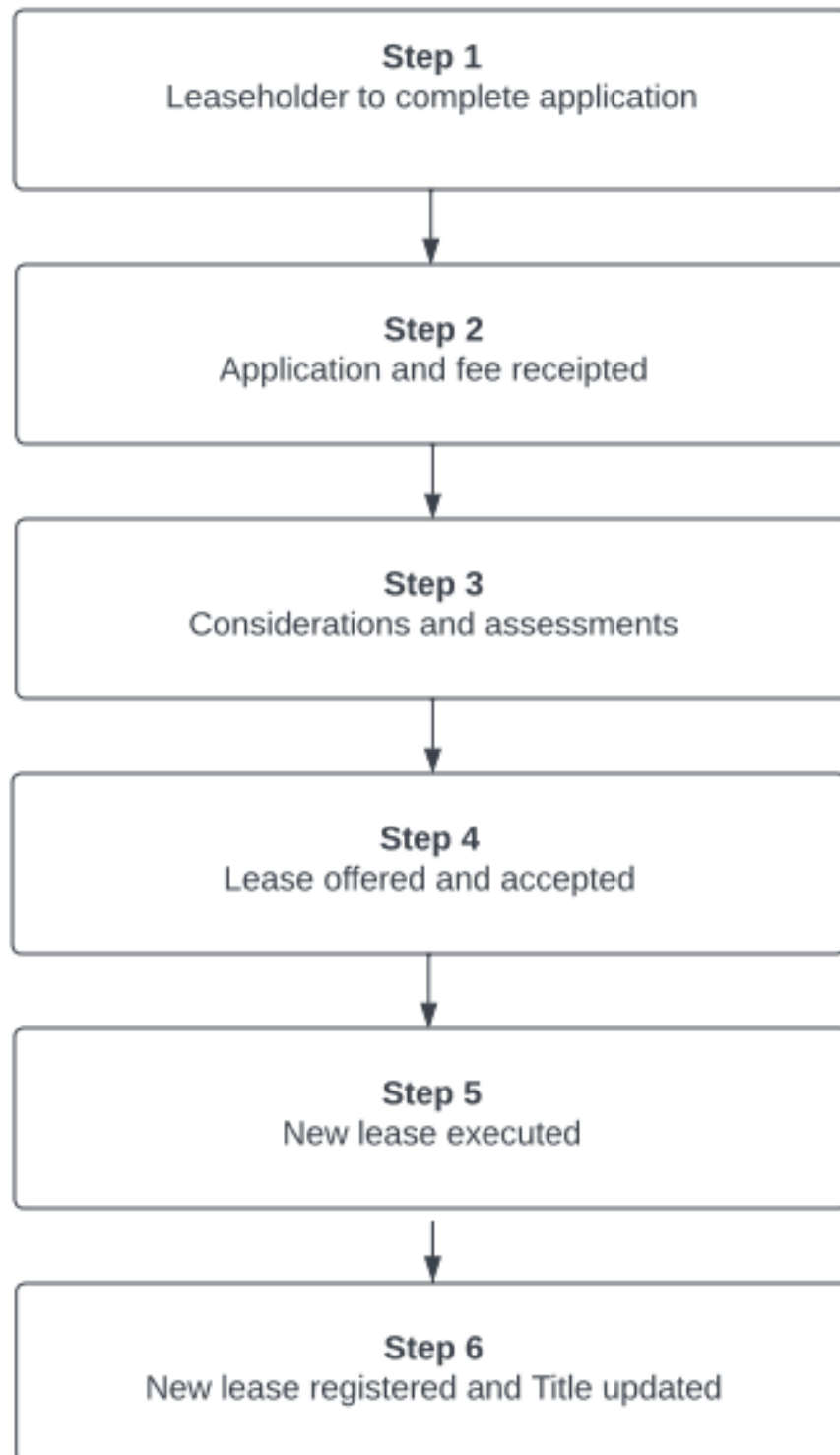
# Guideline – Grant of a Crown lease at Lightning Ridge

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## Purpose of this guideline

This guideline explains the process for granting a new term Crown lease at Lightning Ridge in line with the Grant of a Crown lease at Lightning Ridge policy (**Policy**). The guideline is only applicable to those term Western Land Lease (**WLL**) often referred to as “Camps on Claims” granted under the former *Western Lands Act 1901*.

## Procedure



### Step 1 - Leaseholder to complete application

Leaseholder completes a new term Crown lease application and pays the required fee using the relevant prescribed form.

### Step 2 – Application and fee received

The completed application form and application fee are received.

### Step 3 – Assessment

The department will complete an assessment of the application in accordance with the requirements detailed in the Policy and in the explanatory notes below. Refusal of an application may occur at this stage if the requirements are not satisfied. Application fees will not be refunded.

### Step 4 – Lease offered by the Crown and accepted by leaseholder

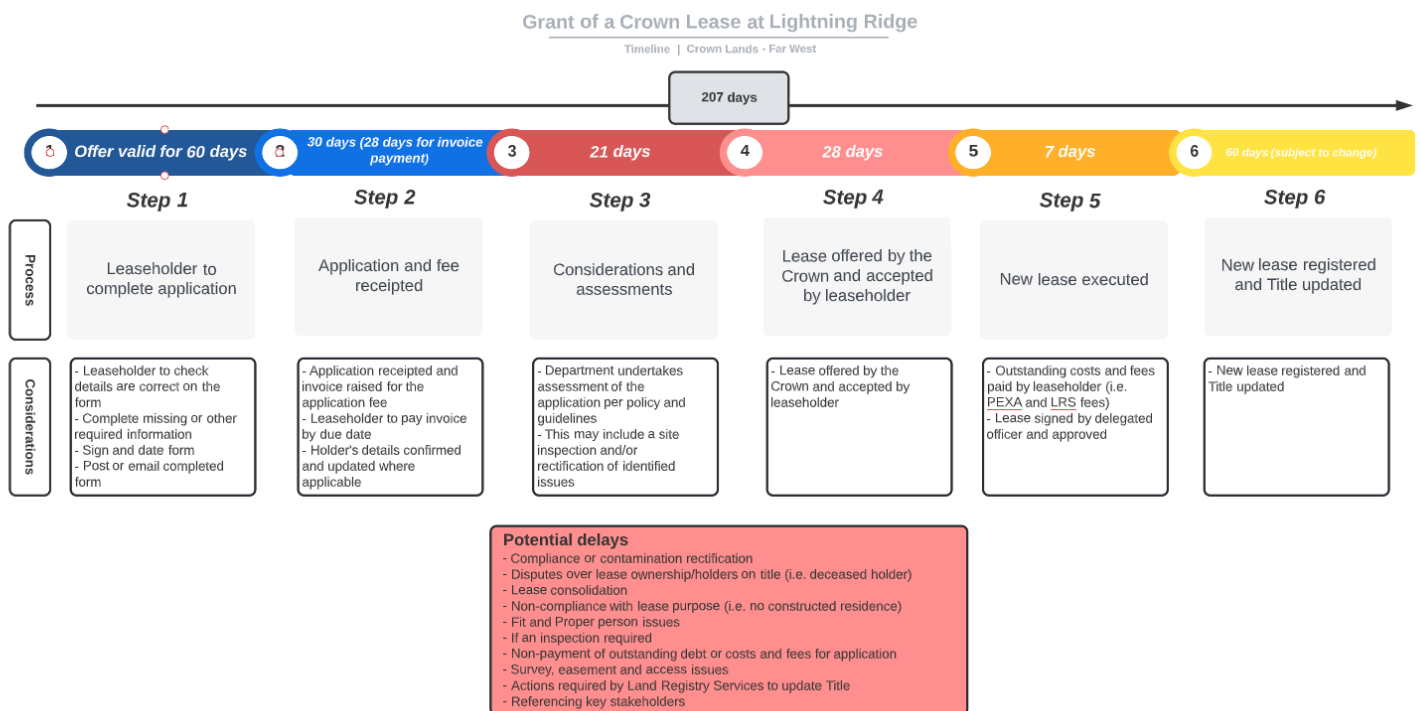
A new term Crown lease will be offered with the standard set of conditions. The leaseholder is required to accept by signing the lease instrument within the notified timeframe provided and returning it to the department.

### Step 5 – New lease executed

The department will execute the lease once all costs and fees have been paid by the leaseholder.

### Step 6 - New lease registered and Title updated

The department will complete all actions to have the lease registered which will then be reflected on Title.



## Key considerations

### 1. Lease purpose

The existing term WLL must be used for its correct purpose as identified in the gazetted WLL document related to the lease that is due for expiry. A leaseholder that is not using the existing term WLL for its correct purpose may not be offered a new lease.

### 2. Management of outstanding debt

If any debt is identified for a term WLL the leaseholder will be required to either pay the outstanding monies in full or enter an agreed departmental payment plan in accordance with the Crown Land Debt Management Policy IND-O-255 before a new lease will be offered.

### 3. Compliance and contamination

If there is any low or medium risk compliance issues affecting the term WLL these will need to be rectified in accordance with the Compliance and Enforcement Policy (IND-O-248) before a new lease will be offered. Any compliance issues identified as a high risk will be required to have departmental agreed measures in place to correct the non-compliance before a new lease will be offered.

Any contamination identified on the area of the term WLL will have to be rectified by the leaseholder or have an approved remediation plan in place before a new lease will be offered. An example of contamination is fuel and oil spills, asbestos or other chemicals.

### 4. Application form

The department will invite the leaseholder to apply for a new term Crown lease at least 2 years prior to the expiry of their existing term WLL.

### 5. Rent

A market-based rent will be applied to the new lease with reference to Part 6 of the *Crown Land Management Act 2016* (the **Act**) and cannot be less than minimum statutory rent. The leaseholder may be eligible for concessions such as billing frequency and payment plans in accordance with the Crown Land Financial Concessions Policy (IND-O-254).

### 6. Access and easements

Access can be in the form of direct access to a public road, by a registered easement or via the Lightning Ridge Area Opal Fields reserve gazetted for public access.

### 7. Community engagement

The granting of a new term Crown lease at Lightning Ridge will not impact current community use and enjoyment. The Crown Lands Community Engagement Strategy requires however that a notice of the proposed lease is published on the department's website for 28 days before a decision is made to grant the lease. It also requires that outcomes and findings from community engagement

are captured in a report and considered by responsible persons as part of the final decision-making process, and that notification of the new lease is published on the department's website.

## 8. Direct negotiation

Direct negotiation with leaseholders who hold a current term WLL is permissible under clause 4 (b) of the Sale or Lease of Crown Land by Direct Negotiation Policy (IND-O-182) as the grant of a new term Crown lease is only of material benefit to the current leaseholder.

## 9. Standardised lease conditions

The department has developed a standardised lease instrument specifically for the grant of a new term Crown lease at Lightning Ridge. The lease instrument contains consistent, non-negotiable terms and conditions.

## 10. Costs and fees

Costs and fees associated with the application and acceptance of a new term Crown lease must be paid by the leaseholder prior to the issue of a new lease. These include:

- a. An application fee as prescribed by the *Crown Land Management Regulation 2018*. The application fee will be invoiced upon receipt of the application form.
- b. Costs and fees related to, but not limited to:
  - any required survey, subdivision, easement or plan registration
  - any independent valuation
  - fees associated with registering the lease dealings with NSW Land Registry Services
  - costs associated with rectification of any compliance or contamination issues

## 11. Term

A new term Crown lease can be granted by the department for a term of up to 50 years based on the assessment of information supplied by the existing leaseholder. Commencement of the new term Crown lease will be the day after expiry of the previous term WLL.

## 12. Assessment

The department will consider the following when assessing an application for a new Crown lease:

- a. The objects of the Act, including the principles of Crown land management, as well as other relevant provisions of the Act
- b. Provisions of any other relevant legislation
- c. Requirements of the *Native Title Act 1993*
- d. Pending Aboriginal land claims lodged under the Aboriginal Land Rights Act 1983
- e. Allocation of Crown Land Policy (IND-O-263)
- f. Consolidation of leases with adjoining boundaries held by the same leaseholder
- g. Information obtained from a physical inspection of the lease

- h. The leaseholder’s ability to perform the obligations in the proposed new Crown lease instrument

**13. Circumstances when a new term Crown lease will not be granted**

The department will not grant a new term Crown lease if:

- an application is not lodged or is lodged and subsequently withdrawn
- the leaseholder does not satisfy the above assessment criteria
- an offer has not been accepted prior to the existing lease expiring
- the existing term WLL:
  - has been abandoned
  - is part of deceased estate with no beneficiaries
  - is held by a deregistered company
- the applicant is not the registered leaseholder on Title

**Assistance**

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Revision history Version	Date issued	Notes	By
1.0	9 December 2022	Developed to support the <i>Crown Land Management Act 2016</i>	Director Regional Operations West