

Development of Rural Western Lands Leases for Residential Use

October 2015

Rural Western Lands Leases can in some circumstances provide opportunities for urban expansion of some towns in the Department of Primary Industries - Lands (the Department) Western Division and the development of those lands for residential use.

General

A procedure has been developed to allow for residential development of rural leasehold lands. This procedure provides a mechanism for meritorious proposals to be advanced on the basis that the lands are freehold in the first instance. This fact sheet sets out generally the steps involved.

Any proposals of this nature should be referred to the Department in the first instance. The Department will undertake a field inspection and make general enquiries to establish the merit of the proposal. If investigations conclude that the development does have merit, the landholder will be advised of their requirements as outlined below.

Consent of council

The Department will need to be satisfied that local planning instruments and the council support the development of the identified land for residential or rural residential use. This will include confirmation that the land is zoned appropriately and that a positive determination of a development application for the proposal has been made. The Department (as owner of the land) will support the lodgement of a development application with council for determination.

If the current zoning of the land does not support the development, the Department will either no longer support the proposal or will require that the current planning instrument (Local Environment Plan or Interim Development Order) be amended before granting any further consent. In this instance the Department may choose to support the lodgement of a rezoning application with council for the area.

Change of lease purpose

Subject to satisfactory zoning, rezoning and/or development consent, the landholder will be invited to apply to change the purpose of the lease from its existing purpose (e.g. grazing, agriculture etc.) to 'residential subdivision'. A change of lease purpose is effected under *s.18J* of the *Western Lands Act 1901*.

Subdivision

If the area proposed for residential development is less than the total area of the lease, then the area required will need to be excised from the lease. This will necessitate a subdivision of the lease to be effected prior to the change of lease purpose.

The subdivision provisions that apply are contained in *s.18 FA* of the *Western Lands Act 1901*. The total area of the proposed development is to be excised as a single parcel.

On completion of the subdivision, two separate leases will issue. One will comprise the area proposed for residential development the other will comprise the residue.

Conversion to freehold

After the purpose of the lease is altered to 'residential subdivision', the landholder will be invited to apply to convert the lease to freehold. The conversion is effected under s.28BB of the *Western Lands Act 1901*.

The Act specifies that the land's purchase price for the purposes of converting to freehold is to be the market value. The Department uses a Registered Valuer to assess the market value for this purpose. Opportunity exists to repay the purchase money over a period of up to 33 years, with interest payable on the balance currently set 8% per annum.

Residential development

Although this repayment scheme exists for conversion of the leasehold estate to freehold, subdivision of the land into multiple residential parcels is not possible until the purchase is fully paid out and the title is unrestricted freehold.

Costs

For current fees, please refer to the [Fee schedule](#) on the Department's website or contact the Department.

Various other costs for field inspection, plan investigation and lodgement, Stamp Duty and dealing lodgement will apply and vary with each proposal. All costs are payable by the lessee including the purchase price for the lands as outlined above and cost of any consultants or surveyors engaged by lessee's to assist with the proposal.

More information

For more information, please contact the Department:

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