



CROWN LANDS

## Proposed Crown land lease Medlow Bath

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Frequently asked questions

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## About this document

Following community consultation in June 2019, a comprehensive list of frequently asked questions has been compiled.

For information about Crown land and Crown land leases, including policies and guidelines, please visit [www.industry.nsw.gov.au](http://www.industry.nsw.gov.au)

On 1 July 2019, NSW Department of Industry and NSW Department of Planning and Environment became part of the newly formed Department of Planning, Industry and Environment. Any references to these previous departments in this document, except where made in a historical context, can be taken to refer to Department of Planning, Industry and Environment.

Links to the previous departmental websites will continue to function.

# Contents

<b>Leasing of Crown land</b> .....	<b>1</b>
Why is the Katoomba Airfield site available for lease?.....	1
Is the proposed lease for the same purpose as the original lease that ran from the late 1960s to 2017? .....	1
Has the lease for Katoomba Airfield already been approved? .....	1
Can the department set the term for the lease? .....	1
Can the department set the conditions for a lease? .....	1
How does the department check lease compliance? .....	1
If a lease for Katoomba Airfield is approved, can it be transferred or sold?.....	2
Where a lease is transferred or sold, do all the conditions of the original lease transfer? .....	2
Can a lease be granted to a foreign-owned entity/company? .....	2
What rent would the leaseholder pay?.....	2
FlyBlue is currently advertising their services; does this mean a lease has been granted?.....	2
If the lease application is not approved, what happens to the site, given it is Crown land? .....	2
Why hasn't the lease application been made public?.....	2
Has the department contacted the NSW National Parks and Wildlife Service about the proposal? .....	3
<b>Current licence arrangements and the expression of interest process</b> .....	<b>3</b>
Why does management of the site need to change from a licence to a lease? .....	3
Are there any flight restrictions on the current licence over Katoomba Airfield? .....	3
Is the current licence only for three years? .....	3
If the lease application is not approved, what happens to the licence? .....	3
How did the expression of interest process work? .....	3
Who was the successful applicant from the expression of interest process? .....	4
Why was FlyBlue chosen as the successful applicant? .....	4
If a lease is not granted, what happens to FlyBlue?.....	4
What happens with any financial investment made by FlyBlue to date if the lease application is not approved? .....	4
<b>Land assessment</b> .....	<b>4</b>
What is a land assessment? .....	4
Was a land assessment undertaken on the Katoomba Airfield and what were the findings? .....	5
Can a land assessment be completed now? .....	5
Where can I get a copy of the last land assessment for Katoomba Airfield? .....	5
<b>Environment</b> .....	<b>5</b>
Will the department complete an environmental impact statement prior to the granting of a lease for Katoomba Airfield? .....	5
Was Katoomba Airfield once part of the National Park? .....	5
Will the proposed lease of the Katoomba Airfield impact the World Heritage standing of the Greater Blue Mountains?.....	6
Does the lease application include any proposed environmental offsets?.....	6
Is there a native title claim over the Katoomba Airfield site? .....	6
Is there an Aboriginal land claim over the Katoomba Airfield? .....	6

Does the lease application outline how the impacts of helicopters on the surrounding residents will be managed? .....	6
Does the lease application include any upgrades to the access road? .....	6
Does the lease application include information about traffic management for the access road? ..	7
<b>Community .....</b>	<b>7</b>
What benefits to the community are outlined in the lease application? .....	7
What benefits does the department look for when assessing a lease application? .....	7
Are there any supporters of the lease proposal? .....	7
Will the department consult the community about the lease application?.....	7
What consultation is the department proposing? .....	7
How will the department consider feedback and submissions in the decision-making process? ..	8
How will the community find out about the decision? .....	8
Why did the department invite groups of stakeholders to separate meetings in June 2019?.....	8
How is the department reaching communities who may be impacted by the lease proposal?.....	8
<b>Emergency use of the Katoomba Airfield .....</b>	<b>8</b>
Will the NSW Rural Fire Service and other emergency services be able to use the airfield? .....	8
If the lease is not approved, will the airfield still be able to be used by emergency services? .....	9
Who would maintain the airfield for emergency use if the lease is not approved?.....	9
<b>Proposed use of the airfield .....</b>	<b>9</b>
What restrictions would be placed on helicopter and other aircraft movements in and around the airfield?.....	9
What are short-cycle/short duration joy flights? .....	9
How many helicopter flights per day does FlyBlue propose in its lease application?.....	9
Is there a maximum weekly/daily number of take offs and landings allowable for helicopters and fixed wing aircraft? .....	10
How many helicopter flights per day will the department allow if the lease was approved?.....	10
Is FlyBlue proposing any night time flights? .....	10
What hours of operation is FlyBlue proposing?.....	10
Will you allow other helicopters to land at Katoomba Airfield? .....	10
Has FlyBlue submitted its proposed flight paths for both fixed wing and helicopters? .....	10
Can FlyBlue change its flight paths at any time? .....	10
Which authority is responsible for approving flight paths and the number of flights?.....	10
Will helicopter ‘joy flights’ over the Blue Mountains stop if a lease is not granted to FlyBlue? ....	11
People living near Sydney Airport benefit from ‘noise sharing’ arrangements. Will the same be applied at Katoomba Airfield?.....	11
Is Katoomba Airfield being upgraded to the standard of an airport? What development will be permitted? .....	11
<b>Submission process .....</b>	<b>11</b>
How can I make a submission? .....	11

## Leasing of Crown land

### Why is the Katoomba Airfield site available for lease?

The site of Katoomba Airfield is on Crown land that was held under lease from the late 1960s until October 2017. When the lease ended, the department held a competitive expression of interest process to identify a tenant for the site. A licence for the purposes of aerodrome and land management started on 1 February 2018.

In January 2019, FlyBlue Management Pty Ltd lodged a lease application and business case for the site.

### Is the proposed lease for the same purpose as the original lease that ran from the late 1960s to 2017?

Yes. Like the former lease, the new lease will authorise use of the land as an aerodrome. The department has added to the lease purpose 'land management' to emphasise the tenant's conservation and other environmental obligations and responsibilities.

### Has the lease for Katoomba Airfield already been approved?

No. A lease application by FlyBlue Management Pty Ltd for Katoomba Airfield was received by the department in January 2019. There have been no negotiations to date and no decision has been made on this application.

In assessing the application we are commencing consultation with the community and stakeholders and considering the pros and cons of the application.

### Can the department set the term for the lease?

Yes. While lease applicants can propose the length of time or term for which they would like a lease, the decision is made by the department. The applicant, FlyBlue Management Pty Ltd, has requested a 50-year lease.

The approved term of a Crown land leases depends on several factors, including the value of any capital investment proposed by the applicant. If a tenant invests in the improvement of land within an initial five-year term of lease, the department may grant an option for a further term.

In the case of the FlyBlue application, the department has not yet made a decision about the term of the lease or any option.

For more information about Crown land leases, visit [industry.nsw.gov.au/lands/use](http://industry.nsw.gov.au/lands/use)

### Can the department set the conditions for a lease?

Yes. The department can restrict or otherwise control the use of any Crown land by putting special conditions in a lease. The department has adopted a new form of lease that emphasises the leaseholder's obligations to responsibly manage all aspects of the environment.

### How does the department check lease compliance?

The department regularly audits Crown land held under lease or licence. We will instruct the leaseholder to fix any breach of lease conditions. If the tenant fails to fix any breach of lease conditions, we may terminate the lease.

## If a lease for Katoomba Airfield is approved, can it be transferred or sold?

Yes, Crown land leases can be transferred or sold.

Minister's consent to the transfer must be obtained before it can be registered and processed. Also the *Crown Land Management Act 2016* prohibits the transfer of a lease if there is any outstanding debt to the state government on the lease.

The department can deny an application for transfer or sale at any stage during the transfer application assessment process.

We will transfer the lease if the applicant is legally able to hold the land and is considered to meet the 'fit and proper' criteria of the Leasing of Crown Land policy IND-0-253.

Further information about leases can be found at [www.industry.nsw.gov.au/land/use/leases](http://www.industry.nsw.gov.au/land/use/leases)

## Where a lease is transferred or sold, do all the conditions of the original lease transfer?

Yes. All conditions attached to the original lease will transfer.

## Can a lease be granted to a foreign-owned entity/company?

A lease will only be granted if the applicant is legally able to hold the land and is considered to meet the 'fit and proper' criteria of the Leasing of Crown Land policy IND-0-253.

## What rent would the leaseholder pay?

The application from FlyBlue proposes a commercial lease of Crown land. In such cases, the leaseholder must pay a market rent, determine after considering a professional valuation.

If the department decides to proceed with the lease, we will get a valuation. If we approve the application, we will set the rent accordingly.

## FlyBlue is currently advertising their services; does this mean a lease has been granted?

No. A lease has not been granted. FlyBlue was provided with a licence to manage the site in 2017. It is able to run its business under this licence subject to compliance with all relevant laws.

## If the lease application is not approved, what happens to the site, given it is Crown land?

If the lease application is not approved, we will review feedback from the submissions process to identify options for the use of the site. The licence held by FlyBlue would be terminated by the department.

## Why hasn't the lease application been made public?

The department does not generally make lease applications public as they may contain information that is commercially sensitive for the applicant. The department has included elements of the FlyBlue application in this FAQ document with permission from FlyBlue.

## Has the department contacted the NSW National Parks and Wildlife Service about the proposal?

Yes. In 2016, the department notified the NSW National Parks and Wildlife Service (NPWS) of the intention to invite expressions of interest in the land for the purpose of identifying a new tenant. The department regards NPWS as a key stakeholder in the consultation process.

Consultation with NPWS also occurred in June 2019 and discussions will continue as part of the lease application assessment process.

## Current licence arrangements and the expression of interest process

### Why does management of the site need to change from a licence to a lease?

A lease provides the tenant with long-term security. It can be registered on the title of land to which it applies, and enables the holder to raise finance for making improvements to the land and developing the business.

### Are there any flight restrictions on the current licence over Katoomba Airfield?

No. While there are conditions applied to the licence, these don't relate to the number and type of flights, flight paths or hours of operation.

The licence conditions relate generally to the management and maintenance of the land and structures, as well as the rent payable. The purpose of the licence is for use as an aerodrome and land management.

### Is the current licence only for three years?

No. The current licence that was granted to FlyBlue Management Pty Ltd in 2017 does not include an end date and can be terminated by either party.

### If the lease application is not approved, what happens to the licence?

If the lease application submitted by FlyBlue is not approved, the licence would be terminated by the department at an appropriate time.

### How did the expression of interest process work?

In anticipation of terminating the former lease, the department notified several other government agencies of our intention to find a new tenant through a public expression of interest (EOI) process.

Applicants were asked to identify a purpose or activity for the site and show how they could manage Crown land consistent with the principles set out in legislation. Submissions were assessed against a set of criteria and reviewed by a panel that was independent of the project manager.



At the end of the EOI process, we offered the successful applicant a licence to manage and operate the site while it developed a business case that would support a lease application.

We conducted the EOI process in accordance with NSW Government procurement policy and practice. Specialists in this area provided guidance to make sure that we followed all the proper steps. For more information, visit [procurepoint.nsw.gov.au](https://procurepoint.nsw.gov.au)

## Who was the successful applicant from the expression of interest process?

Derek and Floyd Larsen were the department's preferred applicants, and were offered a licence. Mr and Mrs Larsen later established a company, FlyBlue Management Pty Ltd, as the legal entity to hold any future lease.

## Why was FlyBlue chosen as the successful applicant?

As part of the expression of interest process (EOI), applicants were asked to identify a purpose or activity for the site and show how they could manage Crown land consistent with the principles and Objects of the Act contained in the legislation.

FlyBlue demonstrated a willingness to engage with the local community and develop options for multiple uses of the site. FlyBlue identified that the site is of significant value to the general amateur aviation community and proposed to take responsibility for the whole site, including environmental management and rehabilitation.

## If a lease is not granted, what happens to FlyBlue?

The owners and operators of FlyBlue are aware of the process for assessing a lease application and understand that in making an application, they do so at their own business risk.

If the lease application is not approved, the licence will be terminated by the department.

## What happens with any financial investment made by FlyBlue to date if the lease application is not approved?

All investment to date has been made at the business risk of FlyBlue.

No compensation is payable where a lease application is not approved.

## Land assessment

### What is a land assessment?

Under previous Crown land legislation, a land assessment was completed before an application to allocate the land could be considered.

Land assessments considered the capabilities of the land and identified suitable uses, and where practicable, the preferred use or uses. Assessment criteria and requirements for public consultation were defined in the Crown Land Regulation 2000.

Responding to the need for greater transparency and community input into decisions about Crown land, the *Crown Land Management Act 2016* introduced the Community Engagement Strategy, which replaced the land assessment process.

## Was a land assessment undertaken on the Katoomba Airfield and what were the findings?

Yes. An assessment of the land commenced for the site of the Katoomba Airfield in 2000.

The land assessment was triggered when the leaseholder at the time, Mr Hay, considered surrendering the lease over the airfield.

The leaseholder decided not to surrender the lease, so the land assessment was never implemented.

## Can a land assessment be completed now?

No. On 1 July 2018 the legislation governing Crown land changed with the commencement of the *Crown Land Management Act 2016*.

Responding to the need for greater transparency and community input into decisions about Crown land, the new act introduced the Community Engagement Strategy, which replaced the land assessment process.

More information about the Community Engagement Strategy can be found at [www.industry.nsw.gov.au/lands/public/community-engagement-strategy](http://www.industry.nsw.gov.au/lands/public/community-engagement-strategy)

## Where can I get a copy of the last land assessment for Katoomba Airfield?

The last land assessment for Katoomba Airfield was completed in 2000 under previous legislation.

As the leaseholder of the time did not change the purpose of the land, the land assessment has not been implemented.

## Environment

### Will the department complete an environmental impact statement prior to the granting of a lease for Katoomba Airfield?

No. An environmental impact statement (EIS) is used to inform development consent decisions as part of a development application. Development applications are generally managed by local councils.

The lease application for Katoomba Airfield is not a development application.

Further information on when an EIS is required can be found at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

### Was Katoomba Airfield once part of the National Park?

No. National Parks and Wildlife advised that the Crown land currently accommodating the Katoomba Airfield has never been reserved under the *National Parks and Wildlife Act 1974*.

It also advised that the land north and east of Medlow Bath surrounding the Katoomba Airfield was reserved as National Park on 24 December 1970.

## Will the proposed lease of the Katoomba Airfield impact the World Heritage standing of the Greater Blue Mountains?

The Greater Blue Mountains World Heritage Area is managed and protected by both Commonwealth and state legislation.

The NSW Office of Environment and Heritage manages the area and the department will seek input from this agency prior to any decision regarding the lease application.

Note that from the 1 July the NSW Office of Environment and Heritage will be changing, with its environmental protection and management functions moving to the newly formed Department of Planning, Industry and Environment.

## Does the lease application include any proposed environmental offsets?

Yes. The lease application indicates that 50% of the current Katoomba Airfield site would be dedicated to environmental restoration and rejuvenation. An area of runway would be closed and dedicated to bush regeneration.

The lease application proposes to partner with a not-for-profit environmental organisation for carbon offset management, donating the value of one tree planting for every flight in and out of Katoomba Airfield. Details of FlyBlue's carbon offset program can be found on its website [www.flyblue.com.au](http://www.flyblue.com.au)

## Is there a native title claim over the Katoomba Airfield site?

No. There is no current native title claim over Katoomba Airfield. More information about native title and Crown land can be found at [www.industry.nsw.gov.au/lands/what-we-do/our-work/native-title](http://www.industry.nsw.gov.au/lands/what-we-do/our-work/native-title)

## Is there an Aboriginal land claim over the Katoomba Airfield?

Yes. A claim (ALC 49068) was registered over Lot 550 DP 751627 (Katoomba Airfield) on 1 July 2019 by Deerubbin Local Aboriginal Land Council. The department is undertaking a determination of the claim and will make a recommendation to the minister to either grant the claim or refuse it, prior to any tenure arrangements being agreed. A previous claim was made in 2009 and was not granted as the airfield was leased and being actively used.

More information about aboriginal land claims and Crown land can be found at [industry.nsw.gov.au/lands/what-we-do/our-work/aboriginal-land-claims](http://industry.nsw.gov.au/lands/what-we-do/our-work/aboriginal-land-claims)

## Does the lease application outline how the impacts of helicopters on the surrounding residents will be managed?

FlyBlue has drafted a Fly Neighbourly policy that addresses the issue. The policy is available from [www.flyblue.com.au](http://www.flyblue.com.au)

## Does the lease application include any upgrades to the access road?

No. Road upgrades and local traffic are managed at a local council level and require certain approvals and considerations.

If a lease application is approved, this does not bypass the requirements deemed necessary by council or other approving bodies.

## Does the lease application include information about traffic management for the access road?

No. Local traffic is managed at a local council level. This may be a consideration for Blue Mountains City Council.

## Community

### What benefits to the community are outlined in the lease application?

The lease application indicates that benefits would include enhanced infrastructure for use by emergency services, 50% of the current site to be dedicated for community use and recreation, as well as delivery of tourism and employment opportunities.

### What benefits does the department look for when assessing a lease application?

As per the *Crown Land Management Act 2016*, the department will lease Crown land to optimise the social, environmental, economic and cultural benefits and provide for the ongoing development and improvement of Crown land.

More information about leasing Crown land can be found at <https://www.industry.nsw.gov.au/lands/use/leases>

### Are there any supporters of the lease proposal?

As part of the community consultation for the lease application, four information sessions and two small group meetings were held in Katoomba in June. Feedback from these meetings indicates a variety of views on the proposal.

The public submissions process is open from 9 June to 4 August 2019.

### Will the department consult the community about the lease application?

Yes. The community uses and benefits from Crown land, so it's important for you to be involved in making the decisions on how land is enjoyed and managed.

Our Community Engagement Strategy is an important tool to facilitate this involvement.

For more information about the Community Engagement Strategy, visit [industry.nsw.gov.au/lands/public/community-engagement-strategy](https://www.industry.nsw.gov.au/lands/public/community-engagement-strategy)

### What consultation is the department proposing?

A public submission process will be open for 56 days.

The public can make submissions online, via the post or to a specified email. Details of the time frames and process are available on the department's website.

Local drop-in information sessions were advertised in the local newspaper and held in June, along with two small group meetings with representatives from local community groups.

## How will the department consider feedback and submissions in the decision-making process?

Once the submission period is closed, the department will review the submissions and publish a report outlining the key themes.

Copies of the submissions will be published on the department website, noting the privacy preferences for each submission.

We will consider each issue raised in detail as part of the decision-making process.

The Community Engagement Strategy is a requirement of the *Crown Land Management Act 2016*.

## How will the community find out about the decision?

Once we have reported on the outcomes of community engagement and made a decision about whether to approve a lease, we will notify the community through the department's website. We will also notify you personally if we hold your email address.

## Why did the department invite groups of stakeholders to separate meetings in June 2019?

The department identified a number of representatives from community groups who had existing interest in the project and invited them to participate in two round table sessions in June 2019.

The purpose of these sessions was to hear via the designated representative, feedback from their members, as well as to share information about the proposal.

Representatives were tasked with taking information back to their membership in acknowledging that not everyone may be able to attend an information session or have access to the internet.

## How is the department reaching communities who may be impacted by the lease proposal?

Advertising promoting the public submission period and the information sessions appeared in the Blue Mountains Gazette commencing 12 June 2019 and running until 3 August.

Advertising was also placed in the Lithgow Mercury commencing 14 June 2019, running until 3 August 2019.

Radio and social media advertising about the submission period started from the week commencing 14 July 2019, and will run until 3 August 2019.

## Emergency use of the Katoomba Airfield

### Will the NSW Rural Fire Service and other emergency services be able to use the airfield?

Yes. As a condition of the lease, the department will ensure that the NSW Rural Fire Service and other emergency services have unrestricted access to and use of the land.

## If the lease is not approved, will the airfield still be able to be used by emergency services?

If the lease application is not approved, the licence currently held by FlyBlue will be terminated by the department.

The department will continue to allow the site to be used by emergency services.

## Who would maintain the airfield for emergency use if the lease is not approved?

If the lease application is not approved, the department will investigate alternative options.

## Proposed use of the airfield

### What restrictions would be placed on helicopter and other aircraft movements in and around the airfield?

The department will not permit short-cycle/short-duration 'joy flights' into or out of Katoomba airfield. Circuit training, which involves flying a rectangular pattern around the perimeter of the airfield, will also be prohibited.

Any tenant must adhere to agreed designated flight paths. The lease will limit flight operating times and the type of aircraft permitted to use the airfield.

Other consent authorities, such as the Environmental Protection Authority (EPA) and the Civil Aviation Safety Authority (CASA) have a role to play in the management of air traffic and impacts such as noise.

### What are short-cycle/short duration joy flights?

Short-cycle/short duration joy flights are flights of about 10–15 minutes that generally fly up and around and then descend to the ground at the point of departure. These typically occur on a frequent rotational basis.

FlyBlue has indicated on its website that it will provide destination 'scenic heli-charters' that will be a minimum of 30 minutes duration.

FlyBlue also notes it does not intend to fly in sensitive and populated areas or over Echo Point, the Three Sisters, Grose Valley and up the Grand Canyon. This information is available from the FlyBlue website [www.flyblue.com.au](http://www.flyblue.com.au)

### How many helicopter flights per day does FlyBlue propose in its lease application?

FlyBlue has not specified a minimum or maximum number of daily helicopter flights. It has advised the department that, because the proposal is for a start-up business that could be impacted by any number of scenarios such as weather and tourism growth, any number provided could be perceived as misleading.



## Is there a maximum weekly/daily number of take offs and landings allowable for helicopters and fixed wing aircraft?

The NSW Environment Protection Authority (EPA) is the regulatory authority responsible for approving and regulating air traffic movements.

## How many helicopter flights per day will the department allow if the lease was approved?

The department is in the process of assessing the lease application and consulting with the community and key stakeholders, so it is premature to consider flight numbers at this time.

## Is FlyBlue proposing any night time flights?

No night time flights are proposed unless for emergency and defence force training purposes. Refer to Fly Neighbourly Policy on the FlyBlue website for a list of proposed curfews.

## What hours of operation is FlyBlue proposing?

Refer to the Fly Neighbourly Policy on FlyBlue website for a list of proposed curfews.

## Will you allow other helicopters to land at Katoomba Airfield?

FlyBlue has advised the department that Katoomba Airfield is a licensed and legal airfield open to the public and it will allow helicopters other than its own to land at the airfield for a fee.

## Has FlyBlue submitted its proposed flight paths for both fixed wing and helicopters?

Flight pathways were not included with the lease application, however the department has requested that FlyBlue make these available on its website during the consultation period.

FlyBlue also notes it does not intend to fly in sensitive and populated areas or over Echo Point, the Three Sisters, Grose Valley and up the Grand Canyon.

Proposed flight paths will be available from the FlyBlue website [www.flyblue.com.au](http://www.flyblue.com.au)

## Can FlyBlue change its flight paths at any time?

No. Flight paths require the approval of Airservices Australia. We also have the option of including flight paths in a lease as part of the conditions, with an additional requirement that any changes require consent from the department.

When safety is paramount (for example, at times when low cloud is present) there may be a need for an individual pilot to amend the flight path. This would generally be the only reason, other than an intervention by Civil Aviation Safety Authority or Airservices Australia, that this would occur.

## Which authority is responsible for approving flight paths and the number of flights?

Airservices Australia provide a comprehensive overview of who is responsible for what on its website at <http://www.airservicesaustralia.com>

## Will helicopter ‘joy flights’ over the Blue Mountains stop if a lease is not granted to FlyBlue?

No. Helicopter joy flights can originate from other heliports and airports.

## People living near Sydney Airport benefit from ‘noise sharing’ arrangements. Will the same be applied at Katoomba Airfield?

FlyBlue has developed a Fly Neighbourly Policy to provide a similar approach to managing noise to surrounding communities. Information about the policy is available from the FlyBlue website [www.flyblue.com.au](http://www.flyblue.com.au)

## Is Katoomba Airfield being upgraded to the standard of an airport? What development will be permitted?

No. Katoomba Airfield is not licensed by the Civil Aviation Safety Authority (CASA) for commercial aviation. It is classified as an aircraft landing area (ALA), and this will not change.

Any development on the site will require the consent of Blue Mountains City Council.

Subject to all necessary approvals, FlyBlue proposes to seal one of the two existing runways to allow recreational, fixed-wing aircraft to use the airfield. The company intends to permanently close other runway.

## Submission process

### How can I make a submission?

To find out how to make a submission, visit [industry.nsw.gov.au/lands/public/on-exhibition](http://industry.nsw.gov.au/lands/public/on-exhibition)