



# Extension of term of a Western Lands Lease

*Most Western Lands Leases have a term in perpetuity. This means that the lease continues indefinitely. However, there are some Western Lands Leases that have been granted for a term of years. These leases may be for any purpose or be located in any area.*

## General

Where a lease is held for a term of years and is due to expire, the lessee may be invited to lodge an application to further authorise the occupation of the land. This application will either be for an extension of the term of years of the existing lease or for a new lease.

Provision exists under Sections 18E and 28B of the Western Lands Act 1901 to extend the term of a lease. Where the lease has been granted for a term of years and the original term including any subsequent extensions has not exceeded 40 years, an application may be processed to either:

- extend it in perpetuity
- to extend it for a further term of years (but not to exceed a cumulative term of 40 years).

Where the expiring lease has been in existence for 40 years, an extension of term is not legally possible under the Western Lands Act, however a new term or perpetual lease may be offered and granted and under Section 28A.

## Applications

Applications made in these circumstances must be lodged by the registered lessee/s on the approved form, accompanied by the prescribed fee.

Every application is fully investigated and assessed on its merits. Approval cannot be assumed or guaranteed.

An application to extend the term can be made at any time before the lease expires. If an application to extend the term is not received prior to the expiry of the lease, a new lease application must be lodged for consideration to enable future tenure.

## Native title considerations

Native title is considered to be extinguished on term leases for Residence, Business and Agriculture, so does not need to be considered in the extension process.

Where a term lease for Grazing or Pastoral Purposes is due to expire, the provisions of the Native Title Act do impact on the Department's ability to deal with the land. If there are no prior tenures that can be considered to have extinguished Native Title, then the options for the continuation of a Western Lands Lease on that land are limited to the extension of the term of the lease to the maximum 40 years, or if that maximum has been reached, the grant of a new lease subject to the same or less term and the same conditions as the original holding.

## Title

If an application to extend the term of the lease is approved, the leasehold title to the lands is amended to reflect this change. If the extension is to perpetuity, a parchment title will issue from the Department of Lands to the lessee or the entitled mortgagee.

## Cost

The application fee for an extension of term is currently \$186.00 and is payable on lodgement. If the application is approved, other costs may be payable for field inspection and reporting and for dealing lodgement at the Land and Property Division of the Department of Lands.

Authorised by Geoff Wise  
Western Lands Commissioner  
August 2004

## For more information

For more information on Western Division issues contact your local Department of Natural Resource office.

Far West Regional Office – Dubbo	(02) 6883 3000
Bourke	(02) 6872 2144
Broken Hill	(08) 8087 8400
Cobar	(02) 6836 1575
Condobolin	(02) 6895 2033
Walgett	(02) 6828 1272
Visit the DNR website:	<a href="http://www.dnr.nsw.gov.au">www.dnr.nsw.gov.au</a>

Note: This information does not constitute formal legal advice.

Published by NSW Department of Natural Resources

February 2006 DNR 06\_015