

Term leases - landholder's responsibilities

What is a term lease?

A term lease is a tenure issued for a term of years by the Department of Environment and Resource Management (DERM) over State land in accordance with the *Land Act 1994*.

What is the landholder responsible for?

A landholder of a term lease is responsible for complying with the following:

Purpose—term leases are issued for a specific purpose, such as agricultural or commercial uses. The lease must only be used for the purpose for which it was originally issued.

The issue of a lease does not automatically imply it can be used for the purpose issued i.e. other authorities' approval may be required.

Conditions of lease—all term leases are subject to various conditions that landholders must comply with.

Statutory requirements—all term leases are subject to various statutory requirements:

- **Duty of care**—requires the landholder to maintain the land in good condition, e.g. implementation of good land management practices or preventing land degradation and/or contamination.
- **Tree clearing**—is not permitted, unless a tree clearing permit has been issued by DERM.
- **Quarry material and forest, mineral and petroleum products** on and below the surface are to be reserved in accordance with *Forestry Act 1959*, *Mineral Resources Act 1989* and the *Petroleum Act 1923*.

Rent—when a term lease is issued by DERM, the landholder is required to pay an annual rent to DERM (usually due 1 September each year).

The rent is based on the unimproved value of the land, multiplied by the rental category percentage rate assigned to the permit, however, a minimum rental applies (as prescribed in the *Land Regulation 2009*).

The unimproved value is assessed annually, therefore, the rent can vary from year to year. The rental calculation does not apply to a lease with a set rent. Penalty interest is charged for late payments.

What further actions can happen with a term lease?

A lease conversion application can be made and the same landholder may be offered a new freeholding lease

or deed of grant, refer to the fact sheet application for conversion of a lease.

Lease renewal application may be made at any time during the term of the lease before it expires. The same landholder may be offered a new term lease. Refer to the fact sheet application for renewal of a lease.

The decision will be based on considerations as specified in the Land Act and provided the leaseholder has complied with the condition, purpose and statutory requirements.

Transfer (sale)—subject to DERM's consent, term leases may be transferred to another person qualified to hold the lease.

Sublease—subject to DERM's consent, term leases may be subleased if the proposed purpose and conditions is consistent with the original lease.

For approval to transfer or sublease, an application must be lodged at any DERM business centre.

For a list of DERM business centres, visit DERM's website <www.derm.qld.gov.au> or contact the department on 13 QGOV (13 74 68).

Expiry of the lease

A term lease 'expires' at the end of the last day of the term of the lease. When a term lease expires, the landholder loses the right to possession of the land and any improvements located on the land, which become the property of the State, unless otherwise stated in the conditions of lease.

This is an automatic action, therefore, no advice from the lessee to DERM is required.

Cancellation

DERM can cancel a lease after giving reasonable notice if a leaseholder:

- breaches a condition or the purpose of a lease
- fails to comply with statutory requirements
- fails to pay rent by the due date.

Voluntary lease surrender

Term leases may be voluntarily surrendered to the State, provided rents have been paid in full. The landholder must notify DERM at least one year prior to surrendering the lease. The original lease document must also be lodged with DERM.



Other fees

Landholders are advised to contact their local council to enquire about any additional fees that may relate to term leases.

Further information

For more information on a term lease, contact a DERM business centre or visit DERM's website <www.derm.qld.gov.au>.

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**For general enquiries contact the
Queensland Government call centre 13 QGOV (13 74 68)
or visit www.derm.qld.gov.au**