



# **RELEASE OF CROWN LAND POLICY**

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Version 5.0

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## Definitions

Community Groups	Community based, non-government organisations undertaking one of the following in the Northern Territory:  activities relating to a religious, educational, benevolent or charitable purpose; or  promotion or encouragement of literature, science, art or a cultural activity; or  activities relating to sport and recreation.
Community Infrastructure	Facilities, items or services used by the community. Community Infrastructure may generate income for Community Groups but will not be commercial in nature.
Crown lease	Leases of Crown land granted under the <i>Crown Lands Act</i> where an entity leases land owned by the Crown.
Crown lease for a term	Crown lease granted for a term of years. These will generally contain conditions and covenants requiring development. Sometimes referred to as “Crown Lease Term” or “CLT”
Crown lease in perpetuity	Crown lease granted in perpetuity (being a lease that continues indefinitely). Sometimes referred to as “Crown Lease Perpetual” or “CLP”
Department	Department of Infrastructure, Planning and Logistics
Prescribed property	This term has the meaning given in the <i>Associations Act</i> .
Local Government Council	This term has the meaning given in the <i>Local Government Act</i> .
Minister	Minister responsible for the administration of <i>Crown Lands Act</i> .
Remnant Parcel	A parcel of Crown land unsuitable or undesirable for development or utilisation as a separate unit by reason of location, size, shape, or other characteristics.
Road	Proclaimed, dedicated, resumed or otherwise established as a public street, road or thoroughfare
Territory	Northern Territory of Australia
Crown Land	All lands of the Territory, including the bed of the sea within territorial limits of the Northern Territory, and including an estate in fee simple in the name of the Territory but does not include reserved or dedicated land.

# 1 Aim

Promoting appropriate release and development of Crown land in a way that is fair, consistent and transparent in accordance with the *Crown Lands Act*.

## 2 Guiding Principles for the Release of Crown Land

Every release of Crown land must be carried out in accordance with the following principles:

- Crown land is a valuable public asset.
- The Territory supports release of land for appropriate development and use.
- To ensure fairness and transparency, the Territory uses public and competitive processes when it releases Crown land for sale or lease.
- The Territory will only accept Direct Applications in special circumstances.
- Compliance with legislation and probity considerations are essential to all releases of Crown land. All release processes, whether competitive or by direct application, must be fair, open and impartial.
- Development requirements and contractual terms will be determined on a case by case basis and will aim to maximise the benefits of Crown land releases and minimise risk to the Territory.
- Current market valuations will be used to determine the Territory's expectations in relation to rental and purchase prices.
- Valuations will be conducted on the basis of highest and best use of the land and will account for particular constraints or requirements imposed by the Territory as part of the release.
- Valuations will be sought from independent Valuers with Certified Practising Valuers (CPV) accreditation or from the Valuer General.
- The Territory supports development of Community Infrastructure by making appropriate Crown land available to eligible Community Groups and Local Government Councils.

## 3 Relevant Legislation

- *Crown Lands Act*
- *Land Titles Act*
- *Planning Act*
- *Associations Act*
- *Native Title Act*
- *Stamp Duty Act*
- *Control of Roads Act*

## 4 Release of Crown Land

To ensure fairness and transparency, the Territory's policy preference is to use public and competitive processes when it releases land for sale or lease.

The type of process will depend on Government's objectives for the land and are identified in the *Crown Lands Act*. The methods are:

### 4.1 Call for Expressions of Interest (EOI)

- The Territory asks appropriate parties to submit information for assessment which will not of itself give rise to any contractual obligations.
- An EOI may be the first or only stage of a process and may be described differently (e.g. Request for Proposals, invitation to treat).
- Proponents will be assessed against criteria that will (at a minimum) include consideration of financial capacity and relevant experience. Criteria which need to be addressed by proponents will be detailed in the EOI documents.
- If the EOI is part of a staged process, proponents may be shortlisted based on their response to the EOI. Further stages are likely to require more detailed information which will undergo further assessment. Whether a process is staged will depend on the complexity of the Territory's objectives and the land itself.
- Assessments of information provided by proponents will be carried out by an assessment panel. The panel will assess responses against stated criteria and prepare a report with recommendations for the Chief Executive of the Department. The Department will provide a brief to the Minister that includes the panel's report.
- The Minister will consider the Department's brief when making a decision and there may be other considerations which the Minister needs to account for in making a decision as to how to proceed.
- Outcomes of this type of process may include:
  - proceed with preferred proponent without further negotiation;
  - undertake further negotiation with preferred proponent/s; or
  - termination of the process.
- If the Minister approves negotiations, a negotiation period is likely to be identified (noting this may be extended) and negotiation parameters may or may not be set.

### 4.2 Auction

- The most common method for release of small or single use sites where development outcomes can generally be controlled through the planning process.
- Requires payment of a deposit with balance payable at settlement.
- A reserve price will be fixed having regard to valuation and recommendations from the Department on the market conditions.
- If the reserve price is not reached at auction, the land will be 'passed in' and the Department may choose to negotiate for a period with the highest bidder in an effort to achieve the reserve price. If the reserve price is not achieved, the land will be placed back on the market or removed from the market.

### 4.3 Ballot

This process is not commonly used but can be used as an alternative to auction.

## 5 Direct Applications

- Applications made directly to the Territory outside of a public and competitive process will only be accepted and considered in relation to a particular parcel of land in limited circumstances.
- Applications made directly will be considered where:
  - the applicant owns a Crown lease or freehold interest in adjoining land (see section 5.1) and the subject land is considered a remnant parcel;
  - the proposed development is of a scale or nature which would make it of strategic, economic or social benefit to the Territory (see section 5.2);
  - there are other circumstances which indicate a public and competitive process is unlikely to deliver the Territory's objectives for the land (see section 5.3); or
  - the applicant is the holder of an eligible legacy Crown lease term granted prior to the year 2000 (see section 5.4).
- In general, applications will not be considered where:
  - there is an existing application by another entity over the same parcel of land.
- Like all Crown land releases, due process and accountability are essential. To that end, direct negotiations must:
  - be fair and impartial;
  - seek to maximise benefits and minimise risk to the Territory; and
  - recognise that Crown land is an important public asset.
- Crown land granted outside of a public and competitive process will usually be granted as one of the following:
  - Crown leases for a term of years with no conversion;
  - Crown leases for a term convertible to freehold title;
  - Crown leases for a term convertible to a further Crown lease for a term; or
  - Freehold title (where section 5.4 applies – note under the *Crown Lands Act* freehold title cannot be granted over land parcels in excess of 150 km<sup>2</sup>).
- Requirements in relation to delivery of the Territory's objectives may be included in a development agreement with the Territory. If required by the Territory, execution of a development agreement will be a precondition of any grant.
- Conditions in leases and development agreements will be determined on a case by case basis and will aim to maximise the benefits of the land release and minimise risk to the Territory.
- The Territory can require provision of a performance security to secure obligations under a lease or development agreement. Normally, the Territory will require this be provided by way of unconditional and irrevocable bank guarantee with no expiry date

## 5.1 Adjoining Landowners

Adjoining owners can apply to purchase or lease where the adjoining Crown land is:

- not suitable for release for standalone development; or
- required for the successful development of the adjoining parcel.

In addition, adjoining land owners may be able to tender for the opportunity to purchase Territory roads which have closed or are proposed for closure under the *Control of Roads Act*. If adjoining owners don't pursue the *Control of Roads Act* processes, they are able to make an application to purchase or lease that land in the future.

## 5.2 Nature of the Proposed Development

Applications for sale or lease of Crown land may be considered where the proposed development is of particular significance to the Territory.

## 5.3 Other Circumstances

The Territory may also consider a Direct Application in relation to particular parcels of Crown land in other situations. These are:

- current market value of the land is low relative to the cost of conducting a competitive process;
- competitive process or processes have not produced a satisfactory outcome; or
- the proposed lease is for the purpose of carrying out investigations and does not include any right to convert the lease to freehold or further leasehold.

## 5.4 Legacy Crown Leases

The Territory recognises that there is a small number of older Crown leases term where development has not been able to be completed in line with the lease conditions due largely to factors outside the control of the lessee. These factors may include matters such as market conditions, lack of availability of supporting trunk services or land capability issues. These factors do not include matters relating to the financial or other capacity of the lessee to undertake the works.

A Direct Application for Crown land held under a legacy lease may be considered where:

- the applicant is the current lessee;
- the lease is a Crown lease term issued prior to the year 2000;
- the lease was not granted free of charge under the Community Land Grant Scheme or another mechanism;
- the lessee can demonstrate that over the term of the lease it has investigated options for the development of the land but has been unable to complete development due to factors outside its control such as market conditions; and
- the lessee can demonstrate that there are current factors outside of its control that restrict the development of the land in the near future.

Prior to making an application under this section it is recommended that applicants meet with a Departmental officer to assess eligibility for application and discuss application requirements.

Sections 5.5 and 5.6 below do not apply to applications under section 5.4. However; applications under this section:

- must address the matters set out above;
- must provide confirmation that the person submitting the application is appropriately authorised to do so;
- will be subject to an application fee. Invoices will be issued upon submission; and
- no action will be taken in relation to an application until payment of the application fee is received.

The purchase price for a Direct Application under this section will be based on the current market value of the subject land as freehold title on the basis of highest and best use minus the adjusted purchase price paid by the lessee using the following formula:

adjusted purchase price = original purchase price x A/B

A = Darwin All Groups CPI Index at the quarter immediately preceding the current date

B = Darwin All Groups CPI Index at the quarter immediately preceding the original purchase date

## 5.5 Direct Application Requirements

Applications to lease or purchase Crown land must provide evidence in relation to the following:

- Eligibility to make a Direct Application by addressing matters set out in 5.1, 5.2, or 5.3 above
- The Applicant's ability to complete the proposed development including (at a minimum) evidence of financial capacity and relevant expertise to complete the proposed development within a defined period.
- Corporate information in relation to the Applicant including details as to the entity proposed as the leaseholder and, if that entity is not the Applicant, that entity's relationship with the Applicant.
- Details of the development including site plans and staging (if any).
- Timelines for delivery of the development and how these will be achieved.
- Confirmation that the development complies with the Northern Territory Planning Scheme and/or promotes best practice land use planning principles (especially where a Planning Scheme amendment (rezoning) is proposed.
- Confirmation that the person submitting the application is appropriately authorised to do so.

## 5.6 Making a Direct Application

- Prior to making an application it is recommended that applicants meet with a Departmental officer to assess eligibility for application and discuss application requirements.
- Applications will only be able to be submitted if all items identified in section 5.5 have been provided.
- All applications submitted will be subject to an application fee. Invoices will be issued upon submission.



- No action will be taken in relation to an application until payment of the application fee is received.
- Applications over land for which there is an existing application by another entity will generally not proceed and if this is the case the application fee (if paid) will be refunded.
- Once submitted, applications will be:
  - Advertised in a local newspaper.
  - Circulated to local government, relevant Northern Territory Government agencies and relevant service authorities for comment.

## 5.7 Assessment of Direct Applications

The Department will assess applications and make recommendations to the Minister in relation to applications made directly. Departmental assessments will take into account:

- Information provided by the applicant in their application (noting that the Department may, but is not obliged to, contact applicants to provide further information).
- Submissions made following advertisement of the application.
- Comments or submissions made by local government, relevant Northern Territory Government agencies and relevant service authorities.

Decisions in relation to direct applications are made by the Minister.

## 6 Grants for Community Infrastructure

- The Territory supports development of Community Infrastructure by making appropriate Crown land available to eligible Community Groups at reduced or no rental.
- To be eligible, a Community Group must be an incorporated not-for-profit Community Group based in the Northern Territory.
- Leases for Community Infrastructure may be available by public and competitive process or direct application.
- Where a Direct Application is made, the application must clearly address the matters set out in section 5.5 insofar as they apply to the relevant Community Group and Community Infrastructure.
- In order to maximise use and community benefit of Crown land as well as minimising costs, the Territory encourages Community Groups to share facilities where possible and appropriate.
- Rent payable or purchase price for grants for Community Infrastructure may be reduced (and may be nil depending on the circumstances).
- Community Groups seeking the grant for a purpose other than Community Infrastructure or which is predominantly commercial in nature should seek a grant through a public and competitive or Direct Application process.
- Reference to Community Groups in this document can be read as applying to Local Government Councils where a Local Government Council seeks the grant of a Crown lease for the development of Community Infrastructure that is principally non-commercial in nature and for community benefit.

## 7 Offers

- Before an offer can be made by the Territory in relation to the sale or lease of Crown land, the Minister must be satisfied that:
  - The application has been made in the manner prescribed.
  - Appropriate public notice and opportunity for public comment has been given (with the exception of applications under section 5.4).
- Offers will be made by the Minister in writing and will require:
  - Written acceptance of the offer. In some circumstances acceptance of the offer will be done by way of execution of a development agreement on terms which have been negotiated between the Territory and the applicant.
  - Payment of a deposit. If the applicant does not complete the purchase the deposit is forfeited to the Territory. A deposit may be waived or returned in certain circumstances.
- Offers must be accepted within 28 calendar days. This timeline can be extended in writing by the Minister but cannot be extended beyond six months after the date of the initial offer being made.
- Unless clearly stated as an offer, correspondence from the Minister which indicates in principle or conditional support for a proposal or which discusses how a particular development is to be delivered should not be considered to be an offer capable of acceptance by an applicant.

## 8 Notes About Lease Terms and Development Agreements

- Grants will be subject to lease conditions as well as the requirements of the *Crown Lands Act*.
- Development conditions may be contained in the lease conditions or in a development agreement to be entered alongside the lease.
- Conditions in leases and development agreements will be determined on a case by case basis and will aim to maximise the benefits of the land release and minimise risk to the Territory.
- The Territory can require provision of a performance security to secure obligations under a lease or development agreement. Normally, the Territory will require this be provided by way of unconditional and irrevocable bank guarantee with no expiry date.
- Failure to comply with conditions of a lease (including failure to pay rent) can lead to forfeiture of that lease.
- Leases granted for a period of 12 years or more may require a subdivision under the *Planning Act*. Where subdivision is required, applicants (other than applicants for the grant of land for community infrastructure) will be required to pay costs associated with that subdivision.
- Crown leases cannot include option periods but they can be renewed or extended by the Minister on application during the term.
- Crown leases for which a purchase price has been paid will contain a condition that rent will be waived if the development timeframes detailed in the lease conditions are achieved.

- Applicants are responsible for payment of stamp duty (when applicable). It is a lessee's responsibility to make sure they understand and pay any amounts due.
- Lessees are responsible for all costs associated with the lease including (but not limited to) any costs related to approvals to use or develop the land, survey costs and the like.
- Lessees are responsible for ensuring compliance of their activities with all relevant laws.
- Lessees must not transfer, mortgage, sublet, grant licences over or in any way deal with the lease without the written consent of the Minister.
- The Territory may require annual reporting in relation to leases for Community Infrastructure or other leases which have been granted at reduced rental (including leases granted to Community Infrastructure). Reporting requirements will include information required to assess whether actual circumstances justify ongoing rental reductions. Leases may include provision for rent to be imposed or increased where circumstances have changed.

## 9 Corporate Information

*Approved by:*

*Date approved:*

*Commencement date:*

*Review date:*

*Legislation*                      [Crown Lands Act, Land Titles Act, Planning Act, Associations Act, Native Title Act, Stamp Duty Act, Control of Roads Act](#)

*Related documents:*

### 9.1 Where to Get Additional Information

For further information about the Release of Crown Land Policy contact the Crown Land Estate Unit in your region or visit the NTG Central website: <a href="https://nt.gov.au/property/land/crown-sales">https://nt.gov.au/property/land/crown-sales</a>		
<p><b>DARWIN</b> Ground Floor, Arnhemica 16 Parap Road PARAP NT 0820 Ph: 8999 6886</p>	<p><b>KATHERINE</b> 1<sup>st</sup> Floor, Government Centre First Street KATHERINE NT 0850 Ph: 8973 8924</p>	<p><b>ALICE SPRINGS</b> Ground Floor, Green Well 50 Bath Street ALICE SPRINGS NT 0870 Ph: 8951 9235</p>