



AUSTRALIAN CAPITAL TERRITORY

LAND (PLANNING AND ENVIRONMENT) ACT 1991

DETERMINATION OF CONDITIONS

INSTRUMENT NO. 23 OF 1998

Under subsection 171A(2) of the *Land (Planning and Environment) Act 1991* (the Act) I determine the fee for , and prescribe the conditions subject to which, the Executive shall grant a further rural lease in accordance with subsection 171A(1).

1. The Executive shall grant the lessee a further lease for rural purposes subject to the following conditions:

- a) the Lessee pays the fee determined under section 287 of the Act;
- b) the term of the further lease shall be determined in accordance with the Rural Lease Term Plan No. 1041/97 set out in Schedule 1, and the provisions to be included in that lease shall be determined according to the Rural Lease Policy Guidelines October 1993 (Edited to October 1996) set out in Schedule 2;
- c) the further lease shall be a rural lease and shall limit the number of dwellings on the land to existing dwellings;
- d) rent payable under the further lease shall be determined in accordance with the Rural Lease Policy Guidelines October 1993 (Edited to October 1996) set out in Schedule 2, and shall apply from the date of commencement of the further lease;
- e) a Property Management Agreement and Environmental Survey shall be prepared by the Lessee and approved by the Territory in writing prior to the grant of the further lease;
- f) if a further lease includes land that lies within an area of land which may be required in future for public purposes, the further lease may be granted subject

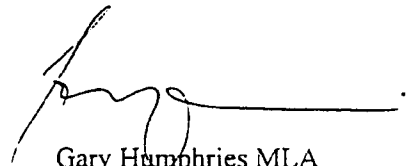
to a provision relating to the withdrawal of all or part of that land by the Territory;

- g) all rent and additional rent payable under the lease is paid up to the date of surrender of the existing lease.
- h) where the further lease is to be granted for a term greater than twenty years, the Lessee shall, at the time the further lease is granted, be required to purchase all government owned improvements, except timber treatment; and

2. In this instrument:

“government owned improvements” means any improvements on the land to which subparagraph 173(1A)(a)(i) or (ii) applies at the date of surrender of the existing lease.

Dated this 14th day of January 1998



Gary Humphries MLA
Minister for the Environment,
Land and Planning



██████████ Lease termination date 2045.
██████████ Lease termination dates as shown
station.act.gov.au
██████████ Urban area



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ACT Government

SCHEDULE 2



ACT Government

PLANNING AND LAND MANAGEMENT

RURAL LEASE POLICY GUIDELINES

OCTOBER 1993
(Edited to October 1996)

RURAL LEASE POLICY

1. RURAL LAND

Rural land subject to the Government's Rural Lease Policy is identified on the Rural Lease Term Plan (attached).

The land in question covers:

- land that is presently leased
- land presently held under licence for agistment
- unleased/unoccupied Territory Land in rural areas

Planning policies for designated National Land in rural areas are controlled by the Commonwealth Government's National Capital Planning Authority. These blocks are subject to similar policies.

2. MAIN ELEMENTS OF THE RURAL LEASE POLICY

Under the new arrangements, the Government has identified land which may continue to be used for rural purposes in the long term, and land which may be required for urban-related purposes in the short term.

Lease Terms

This new Rural Lease Policy provides more certainty for rural landholders.

The Rural Lease Term Plan has been divided into areas available for long term leases (21-50 years) and short term leases (up to 20 years). The Plan shows an expiry date for all short term leases within a given district and a date, part way through that lease term, when planning intentions will be reviewed.

Pialligo

The area of Pialligo bounded by the Molonglo River and Pialligo Avenue has special, additional policies. As a rural area, this is designated long term. However, a number of lessees here are conducting small businesses, within the terms of their rural lease, and they have the option of seeking a 99 year lease under the Land Act in recognition of the commercial nature of these activities.

Assets and Improvements

The purchase of Territory-owned capital improvements (such as dwellings, outbuildings, dams, fences and pasture improvement) will be a pre-condition of sale for any new long term lease and is a condition for the extension or renewal of

existing leases in long term areas. Lessees will then own, and have full responsibility for, these assets.

Subject to the *Land (Planning and Environment) Act 1991*, compensation for approved improvements will be payable on termination or expiry of the lease. In the event the Territory requires the land for a public purpose it will be acquired under the provisions of the *Lands Acquisition Act 1994*.

The Territory will retain ownership of its capital improvements on short term leases. However, lessees in this category may wish to negotiate their purchase of these improvements.

Timber Clearance:

It should be noted that in respect of both short and long term leases the Territory will retain ownership of the timber clearance. The purchase of this improvement will not be open to negotiation.

Land Management

The Rural Lease Policy emphasises the management of land in an ecologically sustainable manner and there are three management tools for achieving this:

- (i) the lessee will be required to conduct an Environmental Survey of the property prior to the sale of a lease or the negotiation of a new lease term. In the case of a sale, the purchaser will also be required to conduct the Survey;
 - a format for the Environmental Survey is included in this Policy
- (ii) the Survey will take account of the Water Catchment Plan for that district;
- (iii) the Survey and the Catchment Plan will form the basis of a Property Management Agreement (a type of "farm plan") entered into by all rural lessees;
 - an outline of the Property Management Agreement is included in this Policy.

More details are available from officers of the Department's Conservation and Land Management Branch.

All lessees are required, subject to a range of Territory legislation, to minimise any adverse impacts of their activities, both on adjoining leases and on the water catchment area relevant to their lease.

Under the Land Act and Nature Conservation Act, the Government can direct a lessee to take certain action in relation to management of a lease. This is discussed in more detail under the heading **NEW RURAL LEASES AND LEASE MANAGEMENT**.

The Government wishes to foster viable rural holdings in the ACT. In some instances small holdings may be viable for a particular rural use; in other cases they may be better amalgamated as larger units.

This amalgamation could be achieved by the addition of land presently held under agistment licence or, where possible, by consolidation of adjoining leases. This process is discussed below.

3. HOW UNLEASED LAND WILL BE SOLD

Unleased land may be:

- agistment land held under licence
- unleased Territory land
- rural land which becomes available as a result of a lease surrender or termination, or where a lease expires and is not renewed

The opportunity to acquire a rural lease will be offered to those who meet the criteria for management of the land and opportunities will not be restricted solely to those who currently lease or occupy rural land, except where the viability of an existing lease is dependant on the lessee acquiring that adjoining land.

Direct grants

The Land Act allows for the direct grant to a parcel of rural land and the criteria for this are set out in Appendix 1.

While a direct grant can be made to applicants who are either the current occupant of the land (they may hold an agistment licence) or the lessee/occupant of an adjoining parcel of rural land, the criteria in Appendix 1 must be applied. All prospective lessees must be able to demonstrate technical, financial and management capacities to manage the lease in accordance with the Property Management Agreement.

Applicants must apply in writing and pay the prescribed fee.

Restricted auction and restricted tender

Restricted auction will be used to sell *unleased land*.

Restricted tender will be used where *more than one lessee meets the Government's criteria for eligibility and each person appears to have similar claims to the one parcel of land*.

Prior to the sale, prospective lessees must first qualify under the criteria for the transfer of a rural lease - Appendix 2.

Lease variation

In some cases, a rural lessee may already hold an agistment licence over the new area, and management of the lease and the agistment area together achieves more viable and sustainable management. A variation to the lease may then be sought to add the agistment land, providing the Department is satisfied that issues of equity have been satisfied.

The lessee will need to meet the relevant criteria for land care and financial ability, and the process is subject to Part VI of the Land Act, including the payment of the prescribed application fee, any survey costs, and the conduct of a public consultation over the proposal. All land rent must be fully paid before a lease variation can be accepted, and an increased rent, reflecting the value of the additional land, can be expected.

4. THE STATUS OF CURRENT LEASES

Sale (transfer) of an existing lease

Existing lessees wishing to sell their leases, and therefore transfer the lease to the purchaser, retain the right to choose restricted auction or restricted tender as the method of sale. However, the Land Act requires Government approval **PRIOR** to this transfer of the lease or to any sublease or assignment of any part of the lease.

The proposed transferee, sublessee or assignee must meet the criteria in Appendix 2. A formal application for transfer form (available from the Land Titles Office), and the payment of the determined fee, is required.

Lessees wishing to sell, and intending purchasers, must discuss details of the transaction with the Department prior to the sale in order to "pre qualify" in accordance with the Land Act.

An appeal may be made to the new Planning and Land Appeals Board to review any decision to reject a request to transfer, sublease or assign.

Extension of a lease term

The Land Act is currently being amended to provide explicitly for the extension of the term of a rural lease. The Department will give effect to a lease extension under this policy by means of the surrender of existing leases and the grant of new ones. It will be a condition of offer that these new leases will incorporate the management requirements outlined in this paper and the new rental formulation. The lease will

also specify the new lease term and review date, according to the dates assigned to that area.

Renewal of expired leases

Expired leases will be dealt with as direct grants of a new lease to the former lessee, providing the terms of the Property Management Agreement have been met successfully.

5. VALUATION ISSUES

The Australian Valuation Office advises the Department on the value of land, including establishing unimproved values, asset values and land rent levels.

Intending purchasers of rural leases should obtain their own independent valuation advice. The Department is not at liberty to disclose details of a lessee's land rent and any valuation of improvements without their consent. This information should be sought from the lessee or may be obtained from the Department with the explicit written agreement of the lessee.

6. NEW RURAL LEASES AND THEIR MANAGEMENT

Lease term

The current tenure system provides for long term leases (21-50 years) and short term leases (up to 20 years) and leases within a given area are assigned a common expiry and review date.

Withdrawal of land

With one qualification the *Lands Acquisition Act 1994* removes the need for withdrawal clauses in both short and long term leases. Instead, the compensation provisions of that Act will take account of the differences between the two categories of lease term.

The exception to this rule relates to the inclusion of withdrawal clauses over any part(s) of a lease identified as 'public land' or where it is known that the land will be required for future public use (eg stormwater control).

Compensation for lessee-owned improvements

All leases issued under this policy are subject to the compensation provisions of the *Land (Planning and Environment) Act 1991*. The Act is currently being amended to provide for compensation to be paid not only in respect of approved buildings and structures owned by the lessee but also 'other improvements to the land reasonably undertaken in connection with the lease purpose'. This provision recognises the

unique nature of rural leases and the range of improvements such as pasture improvement, fences, dams and the like for which compensation should ordinarily be payable.

For compensation to be payable for building works on a lease any approvals required under Territory legislation must have been obtained. Prior approval of the Territory for other categories of lessee improvements reasonably undertaken in connection with the purpose will not be required.

Compensation for improvements where the land is acquired by the Territory is payable in accordance with the provisions of the *Lands Acquisition Act 1994*.

Land rent

Land rent for leases issued under this policy is based on 3% of the tenure adjusted Unimproved Value of the land, as assessed by the Australian Valuation Office. In addition, where the Territory owns the capital improvements lessees will be required to pay an extra 3% of the value of the non residential improvements and 6% of the value of the residential improvements.

Rent for rural leases is payable in equal quarterly instalments and will be reviewed every three years.

Pre paying land rent

Lessees in long term areas who accept a lease under this rural policy will also be given the option of pre-paying their land rent, i.e. making a once only lump sum payment eliminating the requirement to pay land rent for the duration of the lease term.

7. FUTURE REVIEW OF RURAL LEASE POLICY

The Rural Lease Policy, the lease term map and the documents which give effect to the Policy are currently under review by the Government. These policy guidelines will be revised and reissued to reflect any changes to policy arising out of this review.

Further information on rural lease policy may be obtained from the Rural and Lease Services Section of the Planning and Land Management Group.

RURAL LAND - DIRECT GRANTS OF CROWN LEASES

Under the *Land (Planning and Environment) Act 1991* a Crown Lease for rural purposes may be granted as a direct grant in accordance with the following criteria:

The applicant must:

- complete and sign an application for the lease in the required form, giving details of -
 - name of the proposed lessee;
 - form of tenancy, stating shares, if relevant;
 - address for service of notices;
 - proof of company particulars, i.e. directors, shares, etc. (if applicable)
- be the current occupant holding a licence or other formal contract over the land the subject of the application, or the lessee or person holding a licence or other formal contract over the land adjacent to the land the subject of the application;
- demonstrate the capacity to manage the land in accordance with the proposed terms of the lease;
- pay the land rent determined by the Territory;
- manage the land in accordance with the Property Management Agreement agreed to with the appropriate Territory agency; and
- pay the fees and charges for the time being notified by the Minister as being applicable.

ELIGIBILITY CRITERIA FOR RURAL LEASES

Under the Land (Planning and Environment) Act 1991, a Crown Lease for rural purposes may be granted as a direct grant in accordance with the following criteria:

The applicant must:

- complete and sign an application for the lease in the required form, giving details of -
 - name of the proposed lessee;
 - form of tenancy, stating shares if relevant;
 - address for service of notices;
 - proof of company particulars, i.e. directors, shares, etc. (if applicable)
- demonstrate the capacity to manage the land in accordance with the proposed terms of the lease;
- pay the land rent determined by the Territory;
- manage the land in accordance with the agreement; and
- pay the fees and charges applicable.

REQUIREMENTS FOR A PROPERTY MANAGEMENT AGREEMENT AT LEASE TRANSFER OR RENEGOTIATION

The introduction of the ACT Rural Policy and enactment of a Lands Acquisition Act in early 1994 will improve land values and opportunities for rural lessees. The revised tenure arrangements will generally provide security for future planning, bank support and sound management.

The provision of a better operational environment for lease management will require all involved to assume more responsibility for managing land in a sustainable manner.

The purpose of a Property Management Agreement (PMA) is to ensure that rural land in the ACT is managed in a sustainable manner and preserved for future generations. A prospective rural lessee has an obligation to fully consider the state of a lease and determine broad intentions for the future economic and ecological management of the land.

The PMA should address the matters identified in the Property Survey (Environmental Audit) relating to the productive potential of the lease and any forms of environmental degradation present. Any broader Catchment Management issues should also be addressed in the PMA and how off-site environmental impacts could be minimised.

A Risk Management strategy is an important component of the PMA and it is recognised that many risk management decisions are already in place. A proponent should indicate in the PMA an awareness of risk management and convey the processes rather than detail on how risk management is to be addressed.

Generally in presenting a PMA, the text need not be exhaustive but informative. An explanation of requirements is set out in Attachment A.

The Rural Services Section of the Conservation and Land Management Branch will provide advice if required in preparation of the Agreement.

Rural Services personnel will be responsible for discussing the Agreement with each lessee and approving the final document.

REQUIREMENTS FOR A PROPERTY MANAGEMENT AGREEMENT

It is essential to express each component of the proposed farm operation in terms of sustainability.

- A.
 - (i) A description of the enterprise(s) to be adopted, e.g. merino sheet, and cattle.
 - (ii) Proposed stocking rate and possible changes in stocking rate associated with property development.
- B.
 - (i) A description of intended pasture/crop development and management.
 - (ii) Intentions in regard to structures (buildings, sheds, fences and yards) and the level of capitalisation likely.
 - (iii) Proposed paddock tree/shrub planting.
 - (iv) Intended stock/irrigation watering provision/requirement.
- C. A proponent is required specifically to demonstrate a risk management approach in relation to the following:
 - (i) A financial capability to implement the Agreement. A statement is required from a financial institution or accountant on the financial capability to meet the intentions outlined in the Agreement.
 - (ii) A credible approach to accommodating drought. Consider, for example, strategic destocking, fodder reserves, financial reserves, off-farm investment or agistment and using climatic prediction data.
 - (iii) A credible approach to reducing wildfire risk. Consider a hazard reduction plan for the lease or in conjunction with others. Is insurance appropriate?
 - (iv) A capability for financial management. Do you have in place a financial recording system and/or cash flow budgeting capability. Do you own a computer?

- (v) An awareness of off-farm investment opportunity. It appears to be essential to have alternative income to remain economically viable on a farm. Have you addressed this situation?
- (vi) Resource degradation. To achieve ecological sustainability it is necessary to recognise and restore existing degradation and avoid actions with untoward results.

Property Survey

A property inspection report is necessary to meet the requirements of a Property Management Agreement. It will be necessary in the report to specify the assessed productive potential of the land and any form of environmental degradation requiring attention.

The Property Survey need not contain the same level of detail required for your own Property Management Plan. However, there is a need for you to identify the productive potential of your lease and the requirements and constraints for optimum sustainable production.

Production Considerations

Ask these fundamental questions:

- What is the productive state of the property?
- Is the production sustainable?
- Is there scope for application of additional resources to improve productivity and address any degradation?
- Is there adequate infrastructure?

Environmental Considerations

Environmental factors involve the health of soil, water and vegetation and the influence of pest plants, pest animals and commercial stock on these natural resources.

Soil factors

Are there any forms of erosion evident?

(sheet, rill, gully, stream bank, stream bedload movement)

Are there other factors, e.g. salinity, water logging, soil acidity, low organic matter or plant nutrient deficiencies?

Vegetation

Are pastures providing adequate ground cover?
Can the available native pasture be better utilised?
Is there a place for introduced perennial species?
Can pasture management be improved?

Trees and Shrubs

Is there adequate tree and shrub cover to provide for: stock shade and shelter, water table control, crop and pasture protection, stream, protection, habitat for wildlife, firewood and timber?
Is there adequate tree and shrub cover provide landscape appeal and amenity?
Is there scope for providing vegetation corridors linking treed areas, particularly along waterways?

Water

Is there any contamination of waterways from stock yards, dip sites, sedimentation, fertiliser or chemical use?
Is there adequate water for domestic and stock use?
Is the water of adequate quality?

Pest plants and animals

What pest plants are present and the extent of the problem?
What pest animals are present and the damage they cause?

Landform

Are there areas suitable for development?
Are there areas which should be fenced out?
Do you recognise different classes of land on the lease which may require different management?