

February 2009

Perpetual leases and crown roads

On 1 July 2004, the NSW Government introduced changes to the administration of Perpetual Leases and Crown Roads (including Enclosure Permits).

These reforms are likely to result in significant savings to landholders.

Under the current legislation the reforms only apply for a limited time and once that time expires the Government intends to charge "market rents" on all Perpetual Leases and Crown Roads.

Perpetual leases

The reforms are trying to encourage the holders to lodge an application to convert their leasehold land to freehold land and purchase the freehold title at a concessional price.

On 19 August 2008, the NSW Minister for Lands, Mr Tony Kelly, approved an extension of the concession until **9 March 2009**.

What happens if you do not lodge an application?

After 9 March 2009, landowners who have not lodged an application will be charged a market based rent for their perpetual leases rather than the current low Crown rent.

What is market based rent?

Market based rents are yet to be finalised. They will be determined once the Department of Lands concludes its market based rent investigations. The new rents will be based on a combination of the value of the crown land, the usage, the area and other factors deemed appropriate.

The minimum rent will be \$396 per annum plus CPI adjustments. The Department of Lands has indicated that in many cases the new annual market based rents are likely to be significantly higher than the cost of buying the freehold land.

Can all perpetual leases be converted and purchased at the concessional price?

No. Leases subject to periodic rent determination can not be purchased at the concessional price. Holders of perpetual leasehold land that is subject to periodic rent determination can apply to purchase the freehold; however, the purchase price will be the market value of the land. The reforms do not apply in the Western Division of NSW.

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How long is the conversion process?

The Department of Lands is not able to indicate a timeframe for the conversion process. However, once an application is lodged the purchase price is established and the landholder will not have to pay market based rent.

What does it cost to convert the leasehold to freehold?

There is a non-refundable application fee of \$398. Any outstanding rent on the land must be paid before lodging the application.

The special purchase price is the lesser of:

1. the Notified Capital Value as recorded by the NSW Department of Lands; or
2. 3% of the current land value based on the valuation by the NSW Valuer General.

The Notified Capital value is the value of the land at the date the lease was originally granted plus quarterly CPI adjustments from 1 May 1990.

The special purchase price is determined at the date the application is lodged.

In addition to the purchase price other costs that may apply are survey costs, stamp duty, search fees and, possibly, GST depending on the nature and use of the land involved.

You continue to pay rent at the current, concessional level while the application is being processed provided that the application is submitted before **9 March 2009**.

Crown roads and enclosure permits

The majority of Crown Roads have never been constructed; they exist as a result of early land surveys in NSW and were designed to provide legal access to landholdings.

An enclosure permit allows a property owner to fence in a Crown Road within their property and use it for grazing in exchange for an annual rent.

The 2004 reforms simplified and lowered the cost of applying to close crown roads and purchase the land.

Why close and purchase a crown road?

An Enclosure Permit does not give the landowner title to the land and only permits grazing.

The landowner must pay an annual rent for each Enclosure Permit on their land.

The general public has a right of access over crown roads even when they are enclosed within a landowner's property.

By closing a crown road and purchasing, the landholder gains freehold title to that land and stops paying annual rent.

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What rent do I pay now?

Currently the rent paid on enclosure permits is at the concession rate of \$350 for the three year period commencing in July 2007 and ending in the 2010/11 financial year.

What rent will I pay in the future?

At the end of the 2010/2011 financial year a review of enclosure permit rents will be carried out by the Department of Lands which is expected to result in increased rents for most enclosure permit holders.

The rent will be based on the market value of the enclosed land plus CPI increases, with the minimum rent \$350 per annum plus CPI.

Can I cancel an enclosure permit?

Yes. However, this requires the road to be fenced out of the landowner's property at their own expense.

It is likely that the cost of fencing would far outweigh the savings in rent and the landowner would be left with a strip of land running through their property.

What does it cost?

The main government fees are:

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| 1. | Application fee to close the road | \$475 |
| 2. | Road Purchase application fee | \$220 |
| 3. | Plan (if required) | \$250 |

Other fees payable will depend on the land being purchased.

More information regarding the fees and the process, including application forms, can be obtained from the NSW Department of Lands.

Any legal fees are in addition to the above government fees.

The purchase price of the land will be based on the Valuer General's determination of the value of the adjoining land.

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