

Licences of Crown Land Policy

Version 1.0

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Defined term	Definition
Act	<i>Crown Lands Act 1992 (NT)</i>
Agency	Northern Territory Government agencies other than the Department.
Community Group	Community based, non-government organisations undertaking one of the following in the Northern Territory: <ul style="list-style-type: none"> • 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.
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 and reserved land.
Department	Department of Infrastructure, Planning and Logistics or any successor agency responsible for the administration of the Act.
Improvements	Any buildings, machinery, equipment or other improvements constructed on a Licensed Area.
Licence	A licence to occupy, access or use Crown land granted under the Act.
Licensed Activities	The activities permitted to be undertaken on a Licensed Area under a Licence.
Licensed Area	The land the subject of the Licence.
Minister	The Minister with administrative responsibility for the Act or their delegate (as applicable).

Defined Term	Definition
Native Title	<p>The communal, group or individual rights and interests of Aboriginal peoples or Torres Strait Islanders in relation to land or waters, where:</p> <ul style="list-style-type: none"> • the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal peoples or Torres Strait Islanders; and • the Aboriginal peoples or Torres Strait Islanders, by those laws and customs, have a connection with the land or waters; and • the rights and interests are recognised by the common law of Australia. <p>Note: refer definition in Section 223 of the <i>Native Title Act 1993</i> (Cth).</p>
Regulations	<i>Crown Lands Regulations 1992</i> (NT)
Reserved Land	Land reserved under Section 76 of the Act.
Stakeholders	Various authorities relevant to Crown land that is the subject of an application for a licence, including but not limited to internal Northern Territory Government agencies, government owned corporations and local government authorities.
Territory	Northern Territory of Australia
Valuer-General	The Valuer-General appointed under section 5 of the <i>Valuation of Land Act 1963</i> (NT).

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1. Introduction

This policy applies to the licensing of Crown land under the *Crown Lands Act 1992* (the Act).

This policy does not apply to licences granted for the use of the Frances Bay Marine Facilities. Information on how to access and use the Frances Bay Marine Facilities can be found here www.nt.gov.au/marine/for-all-harbour-and-boat-users/ramps,-wharves-and-moorings/wharves-and-moorings-in-frances-bay-darwin.

Where Crown land is set aside in the Government Land Register to an Agency other than the Department, the relevant Agency should be contacted directly to discuss licensing arrangements for the land and whether this policy applies. If you are unsure of which agency controls land that you may be interested in licensing, please contact the Department to enquire (contact details on last page). A licence granted by another Agency is still subject to the requirements of the Act.

For information about purchasing or the development of Crown land, please refer to the Release of Crown Land Policy and the Leases of Crown Land Policy. For information on low impact uses of vacant Crown land, please refer to the Usage of Vacant Crown Land Policy.

2. Aim

Promoting the appropriate licensing of Crown land in a way that is fair and consistent in accordance with the Act.

3. Guiding Principles for the Licensing of Crown Land

Licensing of Crown land under this policy must be carried out in accordance with the following principles:

- Crown land is a valuable public asset.
- The Territory supports the licensing of suitable Crown land for appropriate use.
- Compliance with applicable legislation is essential to the licensing of Crown land.
- All licences are granted for a specific term and purpose and will be subject to licence conditions in accordance with the Act and Regulations.
- Additional licence conditions will be determined on a case by case basis and will seek to minimise risk to the Territory related to the proposed use of Crown land under licence.
- Licences of Crown land may be subject to a licence fee at the discretion of the Minister.
- If an applicant proposes to erect improvements on Crown land, consideration should be given whether a lease or a licence would be appropriate to accommodate proposed land use.

4. Relevant Legislation

- *Crown Lands Act 1992*
- *Crown Lands Regulations 1992*
- *Planning Act 1999*
- *Native Title Act 1993 (Commonwealth)*

5. General Conditions for Licensing of Crown Land

The following conditions apply to the licensing of Crown land:

- Vacant Crown land, land held as freehold title to the Territory and Reserved Land can be licensed under the Act.
- Licences do not grant exclusive possession.
- Licences are issued subject to the exercise by Native Title holders of any Native Title rights and interests that may exist over the licensed area.
- Licensed land must be used in accordance with the licence purpose and conditions.
- Licensees are responsible for all costs associated with the licence including any costs related to approvals to use the licensed area.
- Licensees are responsible for ensuring compliance of their licensed activities with all relevant laws.
- Licensees may be required to obtain and maintain a policy of public risk insurance in relation to the licensed land.

6. Application Requirements

- An application for a licence must be submitted on the Crown Land Licence application, available from the Department.
- An application must include the following information:
 - applicant's name, address and contact details;
 - description of the Crown land and area applied for (whole or part of the parcel) including maps and drawings of the site where possible; and
 - specific information about the proposed use of the land and requested licence period;
 - suitability of the land use in relation to the land's zoning and neighbouring land uses;
 - whether or not any improvements would be required.
- As part of the application process the Minister may:
 - request further information from the person making the application;
 - return the application to the person and request that they amend the application;
 - grant the licence; or

- refuse to grant the licence.
- As part of the assessment of an application, details of the application may be circulated to stakeholders (for example Power and Water Corporation or other service providers, local government, Northern Territory Government agencies relevant to the proposed land use) for comment and any comments received may inform the conditions of a licence.
- Public comment may also be sought in respect of a licence application depending on the location, proposed use and/or level of intended impact to the surrounding area. Applicants will be provided prior notice of any intent to seek public comment prior and be given an opportunity to respond.

7. Considerations for Grant of a Licence

- Under the Act, the Minister may grant a licence over Crown land for any lawful purpose.
- When determining whether to grant a licence, the Minister may consider the following:
 - whether the Crown land under application is of strategic, ecological or social value to the Territory;
 - whether there are any other applications or interests over the land;
 - whether the proposed use is consistent with use of adjoining land and the locality overall;
 - whether the proposed use is consistent with the zoning of the land, the Territory's strategic plans and the planning framework applicable to the land;
 - the level of potential impact on the land, vegetation and fauna;
 - whether the proposed use is of a commercial nature; and
 - any other matters considered relevant.
- When assessing an application for a licence, consideration will be given to any impacts on fair and open competition and competitive neutrality.

8. Licence Period and Extensions

- Licences may be issued for a short term, such as a day (for example, to hold a function or perform specific works) or for a longer term (for example, to locate air quality monitoring equipment).
- As a general guidance, licences will be granted for a period of up to 10 years unless special circumstances can be demonstrated.
- Where a licence is granted for a period in excess of 12 years (including all extension periods) subdivision under the *Planning Act 1999* may be required. Where subdivision is required, licensees or applicants will be responsible for undertaking the subdivision.
- A licensee can apply for an extension to the term of a licence. An application for an extension does not constitute a right to an extension and the grant of an extension is at the sole discretion of the Minister.

- Compliance with licence conditions and the considerations under Section 7 of this policy will be considered in assessing an extension request.

9. Licence Fee and Royalties

- The Minister may determine that a licence fee and/or a royalty is payable. Licence fees apply to the use of the land, royalties apply where a licence permits the collection of resources from a licensed area.
- In determining a licence fee the following may be taken to consideration:
 - the licence purpose;
 - whether the requested licence for an individual, community group or for commercial use;
 - the level of impact the proposed activity may have on the land; and
 - what, if any, improvements are on or proposed to be erected on the land.
- For longer term licences, the Minister may determine that a licence fee and/or royalty is subject to annual indexation and/or periodic review.
- Licence fees may be reduced or not apply in certain circumstances (e.g. where the applicant is a community group undertaking and/or is undertaking non-commercial or low impact licensed activities).
- Licence fees will be based on the proposed use of the land and may take into consideration constraints or requirements imposed by the Territory as part of the licensing process.
- Where required, valuations will be sought from independent valuers with Certified Practising Valuers accreditation or from the Valuer-General.
- Generally, a royalty will apply where a licence permits the collection of resources from a licensed area.

10. Variations to Licence Conditions

- The Act prescribes conditions for all licences. These conditions cannot be waived or varied.
- The Regulations prescribe further conditions for a licence or for a specific class of licences. The conditions contained in the Regulations are able to be waived or varied at the discretion of the Minister when warranted.
- A licensee may apply to vary the conditions of an existing licence (with the exception of those conditions prescribed in the Act).
- An application for a variation does not constitute a right to a variation.
- An application to vary licence conditions must be in writing and accompanied by detailed information on the reason the variation is required.
- Where a variation request would require significant changes to the existing Licence including a material variation to the licensed activities, consideration may be given to the grant of a new licence over the land, subject to Ministerial approval, to ensure licence conditions remain relevant, clear and easy to understand.

11. Improvements

- Unless the licensee has the approval of the Minister, the licensee must not:
 - make any improvements to the licensed area; and/or
 - store any fittings, machinery, equipment or other chattels on the Licensed Area.
- Any request for approval for improvements:
 - must be related to and required for the licensed activities; and
 - should only include improvements that can be removed from the licensed area at the end of the licence term noting that remediation of the licensed area may be required.
- Ministerial approval for improvements may be provided in the form of a condition in the Licence or as a separate written approval.
- At the end of the term of a licence, the licensee must remove any infrastructure, machinery or other equipment from the licensed area and make good any damage which may have occurred through use of the site (e.g. contamination or removal or damage to vegetation).
- No compensation is payable for improvements or any costs relating to the installation or removal of improvements or any remediation required to be undertaken by the licence holder.

12. Transfer, Assignment and Sub-licensing of Licences

- Licensees must not transfer, assign, sub-licence or in any way deal with a licence without prior Ministerial approval.
- Sub-licensing is only supported in limited circumstances (e.g. additional telecommunications equipment where installation is consistent with the licensed activities).
- Requests for transfer, assignment or sub-licensing of licences will be considered on a case by case basis and will be determined at the Minister's sole discretion.

13. Surrender, Expiry and Cancellation of Licences

- Licences may be cancelled by the Minister or surrendered by the licensee during the term of the licence.
- Any fees payable to the Territory upon cancellation, expiry or surrender of the licence remain a debt to the Territory.

14. Where to get Additional Information

For further information in relation to the Licences of Crown Land Policy, please contact the Crown Land Estate Unit in your region.

DARWIN 5 th Floor, Energy House 18-20 Cavenagh Street DARWIN NT 0801 Ph: 08 8999 6886	KATHERINE 1 st Floor, Big Rivers Government Centre First Street KATHERINE NT 0850 Ph: 08 8973 8924	ALICE SPRINGS Ground Floor, Green Well 50 Bath Street ALICE SPRINGS NT 0870 Ph: 08 8951 9235
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