

Questions and answers for trustees Leasing of subsidised housing

Legislative reforms introduced in 2008 provide for home ownership on Indigenous land by enabling trustees to grant 99 year leases for private residential purposes.

This fact sheet provides answers to questions that trustees may ask about private residential leasing where there is a dwelling on the land.

Who is eligible to obtain a 99 year lease for private residential purposes where there is a subsidised dwelling?

Persons eligible for a 99 year lease for private residential purposes include: an Indigenous person, the spouse of an Indigenous person, the former spouse of an Indigenous person, or the former spouse of an Indigenous person who is deceased. A 99 year lease for private residential purposes may also be obtained by a person in support of a lease for a commercial purpose.

Are all existing dwellings available for long term lease?

While many dwellings on Indigenous land will be available for a 99 year lease for private residential purposes, in some circumstances the Department of Communities may decide to retain a dwelling for social housing. Within 28 days of being advised by a trustee that a person has expressed interest in acquiring a 99 year lease for private residential purposes of a dwelling, the Department of Communities will confirm whether a dwelling has been subsidised and whether it approves the grant of a lease.

Are 99 year leases for private residential purposes available in all Indigenous communities?

Initially, 99 year leases for private residential purposes will be available for land and dwellings on all Indigenous trust lands, except Aurukun and Mornington Island. Further legislative amendments will be required before 99 year leases for private residential purposes can be offered on these two communities.

Does an applicant have to be currently living in a house to acquire a 99 year lease for private residential purposes of the property? Can someone obtain a lease for the land where a house on that land is occupied by another household?

An eligible person can express interest in acquiring a 99 year lease for private residential purposes of land and purchase of the any dwellings on that land in an Indigenous community. They are not required to be living in the house on the land they seek to lease and it may be vacant or occupied by another household.

However, the Department of Communities is unlikely to agree to a lease where a social housing dwelling is occupied by another household unless alternative accommodation is found for them to live in. In this case, the trustee will be required to advise the Department of Communities what alternative accommodation is available for the tenant who may need to move out.

Can a person acquire more than one 99 year lease for private residential purposes?

An eligible person can acquire more than one 99 year lease for private residential purposes. While lessees are not able to sub-lease, they are able to rent any dwelling on the land to others using a residential tenancy agreement.

How is the value of land and dwellings determined? Who arranges for valuations, and who pays for the valuations?

Before a 99 year lease for private residential purposes is granted, the value of both land and any subsidised housing on the land must be decided.

Where subsidised housing is located on the land, the dwelling must be valued by a certified practicing valuer using a methodology agreed by the Director-General of the Department of Communities. The Department of Communities supports the use of depreciated replacement cost as the valuation methodology.

The trustee can arrange for the valuation of a dwelling or request the Department of Communities to arrange this valuation on its behalf.

The Department of Communities will pay the costs for the valuation of a subsidised dwelling that an eligible person has expressed interest in leasing. Where the valuation of the dwelling has been arranged by the trustee, the trustee should arrange for the valuation report and the valuer's invoice to be sent to the department for payment. This should be sent to the:

Home Ownership Contact Officer
Northern Regional Office
Department of Communities (Housing and Homelessness Services)
PO Box 2556, Cairns QLD 4870

How does an applicant for a 99 year lease for private residential purposes obtain finance to pay for the lease of land and dwellings?

Applicants for a 99 year lease for private residential purposes may be able to obtain finance from Indigenous Business Australia. Those interested in obtaining finance should telephone Indigenous Business Australia on 1800 107 107.

In the future, it is possible that other financial institutions may also offer a loan product for such leases.

Is there a standard lease document for a 99 year lease for private residential purposes?

A standard lease document will be used for all 99 year leases for private residential purposes. To receive a copy of the standard lease, contact the Department of Environment and Natural Resources (northern region) on 1800 067 615.

Is the trustee required to report to the Department of Communities on the sale of a 99 year lease for private residential purposes? If so, what information is required?

If a trustee grants a lease, it must, within 28 days after the lease is registered, give the Director-General of the Department of Communities a written notice stating the day the lease was registered and the names of the parties to the lease. It is also required to provide evidence showing that an amount equal to the value of the dwelling and the value of the leased land was paid to the trustee.

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