



NQ Dry Tropics
Being Delbessie ready

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Being Delbessie ready

A summary of available information on the Delbessie Agreement, for graziers operating on state rural leasehold land whose lease is approaching renewal.

This is your step-by-step guide through the process.



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Delbessie ready: Your Lease Renewal Process

NQ Dry Tropics is a not for profit organisation that works together with people who live in the Burdekin dry tropics to make land and water use more sustainable. We are helping graziers to prepare for their upcoming lease renewal under the Delbessie Agreement.

The Burdekin dry tropics covers an area of 133,432km² or 8% of Queensland.

Ninety-six percent of this region is used for grazing which is mostly on rural leasehold land.

This guide has been produced in response to feedback from graziers who identified the need for a simplified version of the Delbessie process.

Understanding tenure in Queensland

Land in Queensland is categorised into two broad tenures; freehold and non-freehold.

Freehold land has been purchased outright by individuals from the Queensland Government, although the State may withhold certain rights e.g. to minerals or petroleum.

Non-freehold land is administered by the state of Queensland but may be subject to a lease, permit or licence for an agreed period.

Over two thirds (69.3%) of the area of Queensland is **state land** and the vast majority of this is currently under leases, which are either:

- tenured - pastoral holding, grazing homestead perpetual lease or term lease (45.2%, 11.74% and 5.7% of the state respectively) or
- freeholding - mostly grazing homestead freeholding leases (2.44% of the state).

All rural leases are issued as 'term' leases. Most leases in north Queensland are between

50-53 years. Since 1986, the maximum renewal term is now set at 30 years.

How does the State Government manage rural leasehold land?

The State Government administers and manages rural leasehold land under the terms of *The Land Act, 1994*.

The main purpose of this Act is to provide guidelines for the appropriate use of state land.

A twelve member, independent advisory committee has been appointed to give scientific, technical and policy advice to the Minister relating to the management and use of rural leasehold land.

This advisory committee also advises on the land condition assessment guidelines and the implementation of the Delbessie Agreement.

Note: Definition of underlined terms can be found in the glossary at the end of the document.

The Delbessie Process

What is the Delbessie Agreement?

The Delbessie Agreement was formerly known as the State Rural Leasehold Land Strategy. It is an amendment to the *Land Act, 1994* and its purpose is to ensure that rural leasehold land is productively and sustainably managed over the long term.

This Agreement applies to rural leases with terms of **20 years or more** and an area of **100 hectares or more**, and as such is only a part of the overall lease renewal process. Of the 25,631 existing freehold and tenure based leases in Queensland, 1788 rural leases are affected by the Delbessie Agreement.

The Delbessie Agreement is an incentive based land management strategy. It aims to encourage land managers to balance the profitable use of leased land while maintaining healthy land condition, and adapt grazing practices to changing conditions and future challenges.

It uses a framework of incentives and statutory requirements to achieve benefits to all parties by:

- providing security of tenure through longer lease terms

- clarifying the duty of care of leaseholders
- assessing the condition of lease land using scientifically validated methods
- developing land management agreements to guide future management planning
- promoting voluntary conservation agreements and indigenous access and use
- clarifying what will happen if land is identified as having significant environmental values that should be conserved in protected areas (e.g. future national parks).

How can I extend my lease term?

Many families have lived on lease land for generations and it is their home.

Demonstrating healthy land condition and good management can lead to longer lease terms

Under the Delbessie Agreement (the *Land Act 1994*, section 155), lease terms can be extended to ensure security of tenure. This can help with property and succession planning.

For the majority of rural leases in the Burdekin dry tropics, 30 years is now the standard lease term. Where your land is assessed as being

in good condition you can be eligible for a 10 year term extension (40 year lease).

If your land is assessed as being in good condition and you have entered into both of the following agreements (where the Minister responsible for administering the *Land Act 1994* considers these appropriate), you can apply for a 20 year extension (50 year lease):

- Indigenous access and use agreement and
- a conservation agreement (described below) or covenant.

If leasehold land does not contain any significant natural or cultural values, you may still be eligible for a 20 year extension providing the other requirements are met.

Leases that are not in good condition may be granted a term equal to the pre-existing one or up to 30 years.

Leases found to be not in good condition may be granted for a term equal to the pre-existing one or up to 30 years. After a minimum period of five years from the start of the new lease, you are able to apply for an extension if you have complied with your Land Management Plan and your land is found to be in good condition. If land condition response is slower, you have until 80% of the lease term has expired to apply for an extension.

If your property was found to be in poor condition, you will be able to apply for an

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extension after a minimum of 5 years from the start of the new lease provided your land is considered to be in good condition and you have complied with your Land Management Agreement.

If you do not agree with a land condition assessment that describes your lease as not in good condition, you will have the opportunity to apply for a review of the decision.

What is my duty of care?

Queensland legislation has extended the pre-existing common law 'duty of care' by adding specific requirements that are referred to as 'statutory duty of care'.

Two examples are the *Environmental Protection Act, 1994*, which states that no Queenslanders are allowed to cause environmental harm, and under the *Aboriginal Cultural Heritage Act, 2003*, land managers must ensure they do not harm Aboriginal cultural heritage.

The Delbessie Agreement clarifies the duty of care under the *Land Act 1994* is to take all reasonable steps to:

- Maintain pastures dominated by 3P (Perennial, Productive and Palatable) grasses
- Keep native grasslands free from encroachment from woody vegetation
- Protect riparian vegetation
- Control declared pests
- Avoid causing or contributing to salinity
- Conserve soil, water resources and biodiversity

What can I do to show duty of care?

- Prepare, implement and review a comprehensive property plan
- Regularly monitor the condition of natural resources

- Keep records of activities and the results of monitoring
- Use farm management systems or best management practices across the property.

What is a land condition assessment?

To benchmark the condition of leasehold land, the Delbessie Agreement has introduced Land Condition Assessments (LCA's). These assessments are carried out by trained officers from the Department of Environment and Resource Management (DERM), in full consultation with you.

The LCA of your property describes the condition of your land at that particular point in time.

The assessment is based on three key elements; soil, pasture and biodiversity. Water quality, declared pests, riparian health, and salinity are also considered. LCA's take into account variations in land types, regional climatic conditions and the purpose of the lease.

What is a Land Management Agreement?

The agreement is a negotiated document between the lessee and DERM. This agreement will provide guidance to secure productive and sustainable use of the leased land.

DERM staff will assist you to develop the agreement, based on the results of the land condition assessment. A Land Management Agreement (LMA) is registered on the lease title. It is binding to the property where a lease is transferred.

These agreements have no fixed term and are reviewed by DERM approximately every ten years. You will be asked to undertake an LMA self-assessment after five years, to assess the effectiveness of the agreed actions and resulting impacts.



To save time and paper work, your Delbessie LMA can be submitted for accreditation as an Environmental Risk Management Plan (ERMP) rather than completing the ERMP template. For more information go to www.reefwisefarming.qld.gov.au

An ERMP is a property management plan to minimise the risk of sediment, herbicide and nutrient run-off affecting the health of the Great Barrier Reef while keeping land in optimum productive condition. ERMP's are a part of the Queensland Government's Reef Protection Package.

Graziers with over 2000 hectares of land in the Burdekin catchment are required to submit an ERMP.

What are Voluntary Agreements?

To extend the term of your lease, you can enter into voluntary agreements to protect the cultural and natural heritage of your leased land.

Indigenous access and use agreement

Native title is taken into consideration in all pastoral land transactions where native title has not been determined.

While the right of Indigenous people to access state rural leasehold land can be unclear until native title is determined, reaching a mutually negotiated agreement can be a win-win situation.

Indigenous access and use agreements between you and Indigenous people are agreements that allow access for traditional activities to be carried out on your lease land.

These activities may include recording and monitoring cultural heritage, camping, fishing, hunting or gathering, performing rites or other ceremonies and visiting sites of significance.

Voluntary Conservation Agreement

The steps to establishing a voluntary conservation agreement usually involves creating a nature reserve to protect significant natural or cultural values on leased land. This agreement is formalised between you and DERM.

Establishing a nature reserve can mean you gain longer lease terms, financial incentives and the ability to market products under a conservation label in the future.

What is land required for Protected Area?

Queensland's national park area has grown over time, when Crown land is either set aside or land is identified as having significant conservation value.

Occasionally, lease land is identified by the Queensland Government as necessary to be included in the protected area estate.

As the acquisition of land at lease renewal time may adversely affect the agricultural or grazing enterprise involved, the Delbessie Agreement clarifies the process of how such land can be acquired by the state government for conservation purposes. This is different to when a leaseholder protects an area through a conservation agreement or covenant.

In the event that the government wishes to acquire identified leasehold land, it will negotiate the purchase of all or part of the

lease with the leaseholder at market value including improvements, before the lease expires. If negotiations are not completed before the lease expires, the lease will be renewed and the required land will be reserved as a 'future conservation area' under the terms of the renewed lease.

During the term of the renewed lease, the government and leaseholder can negotiate the purchase of the reserved land at any time before the next lease expiry. The price will be based on residual market value and any improvements.

If negotiations are not completed by the end of the following renewed lease, the subsequent lease will not be issued over the reserved area. Compensation will be paid at the market value of any improvements on the day the lease expires.

Your detailed step-by-step guide to being Delbessie ready

1. Apply for a renewal of your lease.

The lease renewal process can take about two years from application date to completion. So it is recommended you apply for lease renewal after 80% of your existing lease term has been reached.

The Department of Environment Resource Management will send a letter out inviting you to apply for your renewal at least two years before the lease expiry date.

The Delbessie team suggest applicants apply upon receiving the letter unless personal circumstances make it necessary to apply earlier.

2. Your Land Condition Assessment.

This assessment process begins with a comprehensive pre-visit desktop investigation

by DERM officers. This includes the preparation of maps and related information needed for the on-ground assessment.

A satellite image of the property will be sent to you, so you can mark in access tracks, fences, paddock names, watering points, developed areas and land types.

This map is then returned to DERM and they will transfer the satellite image information to create a detailed property map. This is produced to help make decisions on where assessment sites are best located.

Assessment sites must be more than 300 metres from watering points, stockyards or buildings, at least 100 metres from gates and 25 metres from any road, track or fence. A GIS program is used to randomly generate the number of suitable sites for the size of the lease within these parameters.

The final detailed map will show the location of assessment sites, cadastral boundaries, land types, remnant vegetation, infrastructure, watercourses, areas of possible land degradation and areas of significant natural values.

An officer from DERM will contact you to arrange a mutually agreeable time to carry out the on-ground assessment.

The office of DERM will invite you to accompany these people while they record





land condition at each site. You will meet two trained assessment officers during the property visit.

Each land type score will be calculated and averaged by stratum to form the basis for the overall score for the lease.

This score is then used to determine the condition of the lease. Depending on the size of the property, the process may take between several days or up to a week to complete.

3. Developing a Land Management Agreement (LMA).

After the condition of the land has been assessed, a LMA is then developed between you and the State Government.

This uses a template created to ensure all legislative and other requirements are met.

DERM staff will work with you to complete this agreement.

The LMA will:

- record the agreed condition of the lease land at a given time
- identify any land degradation issues
- contain agreed management activities that will improve or maintain the leased land in good condition
- establish agreed outcomes for any identified issues and options to address them
- identify ways to protect any significant environmental, indigenous and other cultural heritage values
- establish a monitoring and reporting program
- provide commitments for a lease extension where leases are managed or returned in good condition
- provide a dispute resolution and review process to maintain the effectiveness of the agreement.

4. Your lease renewal

The lease conditions are decided by the Minister through their departmental representative, generally the Manager of the State Land Asset Management section of DERM in the region the lease occurs.


This decision determines the most appropriate use of the land and the term of that use is part of the decision to grant a new lease.

A decision to renew a lease is based on consideration required by the Land Act 1994. These considerations include:

- determining that the most appropriate long term land tenure is leasehold for the purpose of grazing, agriculture or pastoral industry
- the interest of the leaseholder
- whether the public interest could be negatively affected
- whether part of the lease should be set aside as State forest or for conservation purposes
- the extent to which the lease suffers from/is at risk of land degradation
- the leaseholder's performance in regard to compliance with the conditions of the lease
- whether part of the lease is needed for public purposes.

All rural leases subject to the Delbessie Agreement are likely to be renewed if they comply with the statutory requirements, except if a future conservation area is declared over part or the entire lease. In this case, that land will be transferred to the protected area estate and a subsequent lease cannot be granted.

The term of the extended lease can be reduced if the LMA conditions have not been met e.g.



land assessed as being in good condition no longer is, or an Indigenous access and use agreement is no longer in effect.

The term of lease reduction may not be more than the original extension. Failure to comply with land management agreements can lead to remedial action including a financial penalty, a remedial action order or additional lease conditions.

Your Checklist

Before lease renewal

- Read through "Being Delbessie Ready"
- Implement management strategies to improve or maintain land condition.
- Prepare for a nature reserve or Indigenous access and use agreement if you wish to extend your lease. DERM will help develop these agreements if required.
- Pay any outstanding rent on current lease before applying for lease renewal

Lease renewal

- Obtain property maps from DERM or other provider
- Accurately mark in property infrastructure and return map to DERM
- Obtain rural lease renewal forms by contacting DERM or visiting their website: http://derm.qld.gov.au/land/state/application_forms.html
- You can request forms to be posted to you or fill them out online. You will need lease renewal forms - Part A and Part B
- Complete application forms, collate required information and sign

- Post forms, attachments and application fee (\$213 non-refundable) to DERM
- Participate in land condition assessment of property by DERM
- Participate in Land Management Agreement development in conjunction with DERM
- When you are offered a new lease, you will be asked to pay the first year's rent upfront, if you accept.

After lease renewal

- Set up monitoring sites and annual monitoring program in preparation for the required 5 year self assessment
- Implement your land management agreement

Glossary

Duty of care:

common law duty of care states that all Queenslanders have a responsibility to use their best efforts to cause no harm to others, their property or the natural environment.

Good condition:

land is assessed as being in good condition when its overall pasture, soil and biodiversity attributes are all found to be in good condition.

Land degradation:

land degradation includes any of these conditions - soil erosion, salinity or scalding; loss of soil structure, fertility or organic matter; decline in perennial grasses, pasture composition or density and low ground cover

Pastoral term lease:

a term lease issued for a specified number of years for grazing, agriculture or pastoral

activities. Pastoral is defined as concerned with the production of stock.

Perpetual lease:

a lease held over State land by lessee in perpetuity (forever, not for 99 years as commonly believed) for a specific purpose e.g. agriculture.

Protected area estate:

land reserved under the *Nature Conservation Act, 1992*, for example National Parks, conservation parks, nature refuges and wilderness areas

Rural leasehold land:

state land that is leased for agriculture or grazing.

Stratum:

a spatial category each part of a lease is assigned to, e.g. land types, alluvial, mechanically disturbed.

Important Disclaimer:

The information contained in this report has been compiled in good faith from sources NQ Dry Tropics Limited trading as NQ Dry Tropics believes to be reliable.

The reliance upon and/or use of any information contained this report shall be at the reader's own risk and no liability will be accepted for any consequences which may arise directly or indirectly as a result.

For further information about the Delbessie Agreement, contact DERM on 13 QGOV (13 74 68) from 8:30 am to 4:30 pm Monday to Friday - public holidays excepted.





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