

## POLICY BRIEF

### **Issue Assets - 6 : Land arrangements under Division 3 of the *Crown Lands Act* and Part 4 of the *Pastoral Lands Act***

#### **Issue :**

What is the accounting treatment for land arrangements under Division 3 of the *Crown Lands Act* and Part 4 of the *Pastoral Lands Act*?

#### **Background :**

- There are essentially 4 categories of land arrangements made under the above legislation requiring consideration:
  1. Perpetual Pastoral Lease;
  2. Perpetual Crown Lease;
  3. Crown Lease; and
  4. Occupation Licences.
- There is a further type of arrangement, a Special Purposes Lease. However, these are mainly a superseded form of tenure and are being converted to Perpetual Crown Leases or Freehold . They are only used in relation to reserved land, being the only form of tenure that can be granted over reserved land.
- Vacant Crown land is the property of the Northern Territory of Australia. The Minister for Lands and Planning alienates Crown land by entering into “lease” arrangements with individuals or organisations. Such land becomes held under Pastoral Lease (henceforth pastoral land) or Crown Lease. In such cases the word “lease” does not equate to the meaning under accounting definitions and does not necessarily reflect the economic substance of the arrangements. The lease involves a transfer of ownership rights to varying extents to the lessor.
- Where the use of Crown land is granted to an individual or organisation under a Licence, no ownership rights transfer to the holder of the licence.
- Treasurer’s Directions Sections A2.1 and A2.2 outline the accounting treatment for assets.
- Treasurer’s Direction Section A3.6 and Australian Accounting Standard 17 outline the accounting treatment for leases and define a lease as:

“an agreement conveying the right from a lessor to a lessee to use an asset for a stated period of time in return for payment by the lessee to the lessor”.
- Leases are required for accounting purposes to be classified into two types: operating or finance. Classification is based on the economic substance of the transaction.

## Policy :

- The *Crown Lands Act* and *Pastoral Lands Act* provide for “lease” arrangements. The term lease is not based on accounting definitions. In determining the appropriate accounting treatment for the land arrangements outlined above, the economic substance rather than the form of the transaction has been applied. This is consistent with Statement of Accounting Concepts 4 – Definition and Recognition of the Elements of Financial Statements and the Australian Accounting Standards.
- Assessment of the arrangements outlined above under the *Crown Lands Act* and *Pastoral Lands Act*, with the exception of occupation licences, is that they represent a sale (or gift) of land rather than a lease arrangement in accounting terms.
  - Land assets are transferred for an up-front payment at market value.
  - The new owner holds the title to the land in its name (title is not in the name of the Northern Territory of Australia) and can deal with the land in ways that are consistent with ownership (eg erecting improvements, selling, using as security).
  - The new owner holds the land in perpetuity or the title is converted from a term Crown lease to freehold following the completion of certain commitments. Pastoral lease arrangements do not provide for forfeiture while Crown lease arrangements are such that forfeiture is only a remote possibility.
  - Periodic payments, where they are payable, are in the nature of fees to cover administration costs or penalties. The period payments are not paid for the use of an asset nor are they a financing charge. Arrangements for pastoral land tie the periodic payments to 2% of the unimproved capital value of the land and are used to administer the terms of the arrangement. Where Crown lease payments occur, they are payable upon default of a condition of the arrangements (eg by not complying with a development plan).
- Occupation licenses issued under the *Crown Lands Act* represent a lease arrangement in accounting terms.
  - Land assets remain the property of the Northern Territory of Australia.
  - Licenses are issued for short periods.
  - Period payments are made for the right to use the land in accordance with the licence.

- A summary of the land arrangements and their accounting treatment is provided in the table below.

<b>Type of Land Arrangements</b>	<b>Economic Substance</b>	<b>Lease for the purposes of TD 3.6 and AAS 17</b>	<b>Accounting Treatment</b>	<b>Land Asset recorded in NTG books</b>
Perpetual Pastoral	<ul style="list-style-type: none"> <li>• Initial Transaction - Sale of Land</li> <li>• Periodic Payment – Fee</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>	<ul style="list-style-type: none"> <li>• Initial transaction – Sale of asset</li> <li>• Periodic Payment – Revenue</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>
Perpetual Crown	<ul style="list-style-type: none"> <li>• Initial Transaction - Gift of Land</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>	<ul style="list-style-type: none"> <li>• Initial transaction – Gift of asset</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>
Crown	<ul style="list-style-type: none"> <li>• Initial Transaction – Sale of Land</li> <li>• Periodic Payment – Penalty for default</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>	<ul style="list-style-type: none"> <li>• Initial Transaction – Sale of asset</li> <li>• Periodic Payment – Revenue</li> </ul>	<ul style="list-style-type: none"> <li>• No</li> </ul>
Occupation Licence	<ul style="list-style-type: none"> <li>• Periodic Payment – Operating lease</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>	<ul style="list-style-type: none"> <li>• Periodic Payment – Lease Revenue</li> </ul>	<ul style="list-style-type: none"> <li>• Yes</li> </ul>

Attachment : Analysis the 4 categories of land arrangements

## PERPETUAL PASTORAL LEASE

Legislation:	<i>Pastoral Lands Act</i>
Key features:	<ul style="list-style-type: none"><li>• Purchased up-front for the market value of the land. Northern Territory of Australia is no longer the owner of the land.</li><li>• Granted in perpetuity [s.48] (there are some pastoral leases that have been granted for fixed terms, but advice is that they are progressively being converted to perpetual terms or another form of tenure such as Crown Lease).</li><li>• Annual payments used for administration costs incurred in monitoring the terms of the Title (eg checking stock levels, reviewing land management, etc). No rates are paid on the property. No financing component.</li><li>• Transferable (ie capable of being bought and sold) with consent of the Minister [s.68]. In practice consent is not denied.</li><li>• May be used as security (eg mortgage).</li><li>• No forfeiture provisions for a perpetual pastoral lease (prior to removal of forfeiture provisions from the Act only 1 had been forfeited) [s.40].</li></ul>
Title held by:	Pastoralist
Restrictions/ Conditions:	<ul style="list-style-type: none"><li>• To be used for a specific purpose – pastoral [s.31].</li><li>• Manage the property in a sustainable manner [s.39].</li></ul>
Economic Substance / Nature of Transaction:	<p>The Pastoralist acquires the pastoral lease at the market value of the land. The Pastoralist would not have paid market value for the pastoral lease if it did not believe it was obtaining substantially all the risks and benefits of ownership. The economic substance of the transaction is a sale of land.</p> <p>The annual payments received from the pastoralist are akin to administration fees such as council rates. The annual payments are used to monitor the terms of the title and no rates are paid on the properties.</p>
Accounting Treatment:	
Initial Transaction	Sale of Asset DR Cash at Bank CR    Asset
Periodic Payments	Revenue (recognised when due and payable) DR Receivable CR    Revenue

## CROWN LEASE

Legislation:

*Crown Lands Act*

Key features:

- Purchased up-front for the market value of the land. Northern Territory of Australia is no longer the owner of the land.
- Granted for a fixed term for development to take place (usually 2-6 years) [s.26]. Converted to freehold on satisfactory completion of development.
- Forfeiture provisions if in default of the conditions of the title (eg unsatisfactory completion of development). Advice is that they are rarely used.
- Annual payments deferred and only imposed if in default (eg have not completed agreed developments at a satisfactory point in time).
- Transferable (ie capable of being bought and sold) with consent of the Minister [s.46]. In practice consent is not denied.
- May be used as security (eg mortgage) with consent of the Minister [s.46]. In practice consent is not denied.

Title held by:

Developer

Restrictions/ Conditions:

- To be used for a specific purpose.
- Specific conditions in relation to the development of the land.

Economic Substance / Nature of Transaction:

The Developer acquires the Crown lease at the market value of the land. The Developer would not have paid market value for the Crown lease if it did not believe it was obtaining substantially all the risks and benefits of ownership. The economic substance of the transaction is a sale of land.

The payments received from the Developer, if at all, are the nature of penalties for not meeting a term or condition of the transaction (eg not completing agreed developments at a point in time).

Accounting Treatment:

Initial Transaction

Sale of Asset

DR Cash at Bank

CR Land

Periodic Payments

Revenue (recognised when due and payable)

DR Receivable

CR Revenue

## PERPETUAL CROWN LEASE

Legislation:	<i>Crown Lands Act</i>
Key features:	<ul style="list-style-type: none"><li>• Granted to non-profit organisations for community purposes. Northern Territory of Australia is no longer the owner of the land.</li><li>• No payments received (initial or annual).</li><li>• Granted in perpetuity on satisfactory completion of development (only to be used for purpose of grant) [s.26].</li><li>• May be used as security (eg mortgage) with consent [s.46].</li><li>• Special Purposes Lease used in past (<i>Special Purposes Lease Act</i>) being converted to Perpetual Crown Leases. Now only granted over reserved land.</li></ul>
Title held by:	Non-profit organisation
Restrictions/ Conditions:	<ul style="list-style-type: none"><li>• To be used for a specific purpose.</li><li>• Usual conditions associated with owning land (eg pay rates, maintain property, etc)</li></ul>
Economic Substance / Nature of Transaction:	The land is being used, occupied and managed by the non-profit organisation. The non-profit organisation has substantially all the risks and benefits associated with ownership. The economic substance of the transaction is that the land has been given away.
Accounting Treatment:	
Initial Transaction	Gift of Asset <sup>1</sup> DR Expense (Gift) CR     Asset
Periodic Payments	N/A

1. Approval for the gift is provided by the *Crown Lands Act*.

## OCCUPATION LICENCE

Legislation:	<i>Crown Lands Act</i>
Key features: (vary depending on the form of licence)	<ul style="list-style-type: none"><li>• The lease is cancellable by either party without significant cost.</li><li>• Granted for a short term (usually 12 months).</li><li>• Possession is not necessarily exclusive.</li><li>• Licensee is not entitled to erect improvements without consent.</li></ul>
Title held by:	Northern Territory of Australia
Restrictions/ Conditions:	<ul style="list-style-type: none"><li>• Specific to particular occupation licence issued.</li></ul>
Legislation:	<i>Crown Lands Act</i>
Economic Substance / Nature of Transaction:	The licensee does not obtain substantially all the risks and benefits associated with ownership. The economic substance of the transaction is the granting of a right to use an asset, an operating lease.
Accounting Treatment:	
Initial Transaction	N/A
Periodic Payments	Operating lease (recognised when due and payable) DR Receivable CR     Revenue