

# Retaining shacks as part of vibrant holiday communities

## Guidelines for applying for longer tenure for shacks on Crown land



Government  
of South Australia  
Department for  
Environment and Water

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# Guidelines for applying for longer tenure for shacks on Crown land

The South Australian Government is committed to creating new opportunities for shack lessees on Crown land and in national parks to retain their shacks. This opportunity is for people who hold life-tenure leases or fixed-term tenure leases for 'Holiday Accommodation' purposes, where this is no existing arrangement for longer tenure or relocation.

Part of this commitment required amendments to the *Crown Land Management Act 2009* (CLMA) to enable Section 78B life-tenure shack lessees on Crown land to retain their shacks by applying for longer tenure and meeting the requirements outlined by the Minister for Environment and Water. The amended legislation came into effect on 28 January 2020.

This means **lessees of shacks on Crown land in South Australia** are now able to apply for longer tenure.

These guidelines will help applicants prepare their application for longer tenure, understand the requirements determined by the Minister for Environment and Water and understand the assessment process that will be undertaken by the Department for Environment and Water (DEW) before longer tenure may be granted.

Read these guidelines in conjunction with the material provided in the Application Pack **before you begin the application process**.

## 1. Understanding the opportunity

As a lessee of a shack site on Crown land on a life-tenure or a fixed-term lease for 'Holiday Accommodation' purposes, where there is no existing arrangement for longer tenure or relocation, you are now eligible to apply for longer tenure for their shack sites.

This means that subject to tenure eligibility, you can now begin the process to apply for longer tenure, **in the form of either:**

- an initial 5-year lease followed by an option to purchase (freehold) the site
- an initial 5-year lease followed by a right for a long-term lease for a maximum of 50 years (including the initial 5-year lease)

### **Important note:**

- If the conditions of the lease are not met within 5 years, the lease will expire and no new lease will be granted at the end of the 5-year term.

In your Application pack, you will have received information about your particular shack site. Refer to this site-specific information factsheet for further information about the type of longer tenure that you can apply for (i.e. freehold or lease).

### **Important notes:**

- This opportunity is not relevant to shack lessees that have previously been granted a deed of freehold from a previous assessment or freehold title and that may have requirements arising under a Land Management Agreement.

- Shack leases under other arrangements, such as head leases or shacks in national parks (issued under the *National Parks and Wildlife Act 1972*) are not affected by the amended legislation and therefore are not eligible for longer tenure at this stage.
- This opportunity is not available for shack leases that have been terminated or for sites where shacks have been demolished, as the new legislation does not apply retrospectively.

## 2. Before you apply

Before starting the application process, DEW strongly recommends that you:

### 1. Read these guidelines

You are encouraged to read all sections of these guidelines before you begin your application, so that you understand the process and the requirements that need to be met. Ensure that you also read the Application Terms, in the Annexure on Page 18.

### 2. Read the information sheet about your shack site

The Application Pack includes information about your shack site to help you understand the requirements for securing longer tenure.

This site-specific information sheet includes a summary of known works that have been undertaken at the settlement or site. It also includes an overview of previously identified issues, regulatory requirements, and the standards that will form the basis of the lease conditions that will need to be met before longer tenure will be granted.

This information also outlines the criteria that is required to be addressed in the Concept Proposal (See 3(c) below), the type of tenure that DEW considers may be possible (i.e. freehold or lease) and any supporting documentation that you may be required to submit during the application process.

Further information about the application process or lease agreements can be found on the DEW Website including a 'Frequently asked questions' page on the DEW website: [www.environment.sa.gov.au/topics/crown-land/retaining-shacks-commitment/frequently-asked-questions](http://www.environment.sa.gov.au/topics/crown-land/retaining-shacks-commitment/frequently-asked-questions).

### 3. Prepare supporting documents and information

The online application form **must be completed in one sitting**, as it cannot be saved part-way through. As such, it is important that you **prepare all supporting documents and information prior to starting** the online application form.

This may include preparing:

#### a) **an authorisation form**

You will need to fill out the 'Authority to surrender and apply' form (refer to Appendix 1 on Page 21). This authorises the surrender of the current lease and the application for longer tenure.

#### b) **'Reason for occupancy' documentation**

If you are not the existing lessee, you may be asked to provide additional information, depending on your circumstances:

- **Category 1:** If the existing lessee is alive and nominates a new lessee, no further information is required. Nomination is captured through the Surrender and Application forms.
- **Category 2:** If all existing lessees are deceased, you need to provide additional information to support your application (refer to 'Reason for occupancy' section in Appendix 1 on Page 22).

#### **Important notes:**

- Life-tenure (78B leases) are in existence until the death of the last registered lessee. It should be noted that where all lessees are deceased or a lease site has been determined as abandoned there is no active lease for the site. This means these shack sites may be un-alienated Crown land and are no longer considered a '78B lease'. Applications of this type will be classified as Category 2 and further regulatory and assessment requirements will apply.
- Category 2 applicants may be asked to provide additional information in order for DEW to assess their application for a new lease.

**c) a Concept Proposal**

The site-specific information sheet that you received in your Application Pack provides an overview of the criteria that you need to address for your site.

You are required to prepare a Concept Proposal to explain to DEW how you propose to meet these criteria to secure longer tenure.

You can use the Concept Proposal template (provided in Appendix 2 on Page 23) to prepare your proposal. Or you can use an alternative format, but you must ensure it contains sufficient detail to enable the merits and issues of the proposal to be adequately considered by the DEW Shacks Team.

**Important notes:**

- Submitting a Concept Proposal as part your application does not guarantee approval. For questions regarding the Concept Proposal, contact the DEW Shacks Team.
- Works outlined in your Concept Proposal must not commence during the application process. It may only begin if the application is approved, the surrender of the existing lease has occurred, and a new 5-year lease is granted. The works contemplated under the new lease must be completed within the 5-year lease term.

### 3. Applying for longer tenure

#### 1. Overview of the application process

The process for applying for longer tenure for your shack on Crown land is as follows:

Step	Process	Approximate Timeframes
1	Lessee completes and submits an application	From July 2020
2	Suitability assessment is undertaken by DEW. Minister for Environment and Water determines whether to grant greater tenure	10 to 14 weeks*
3	Applicant is advised of the outcome of their application	1 to 2 weeks
4	Applicant accepts or rejects the 'Offer to Lease'	12 weeks
5	Conveyancing process is actioned to: <ul style="list-style-type: none"> <li>• Formally surrender the existing lease</li> <li>• Issue a 5-year lease</li> </ul>	8 to 12 weeks**
6	Lessee meets the terms and conditions of their lease and provides evidence to DEW	Up to 5 years
7	Conveyancing process is actioned for long-term tenure	12 to 16 weeks

\*The time taken to assess an application can be highly variable and depends on its complexity, degree of consultation required, and the number of lease applications being assessed. Land Services SA timeframes for

processing and registering documents can be variable and time must also be allowed for the creation and processing of application documents.

\*\* The time taken for the conveyancing process is an estimate only and assumes there are no complications on the lessee's behalf with executing the documents.

## 2. Applying

The Application Pack contains a link to the online Shacks Application Portal page <https://myportal.environment.sa.gov.au/shacks> which includes the online Application Form.

Once you have read these guidelines – particularly '**Section 2: Before you apply**' on Page 4) – you are ready to apply.

To complete your application online:

1. Go to the Shacks Application Portal page: <https://myportal.environment.sa.gov.au/shacks>.
2. Click on the 'Start application' button and follow the prompts.
3. Enter all information in relation to the Current Lease details.
4. Enter all information in relation to the application for longer tenure.
5. Upload any required documents that you had prepared earlier.
6. Review the information that you have submitted and make any necessary amendments by clicking back to the previous pages.
7. Once you are happy with the application, click the submit button.
8. Once you click 'submit' you will be directed to the payment page to pay the application fee. Enter all required information and click 'checkout'.
9. The 'checkout' button will automatically redirect you to a secure Bpoint payment page managed through the Commonwealth Bank, where you will need to enter your Visa or Mastercard credit card details. Note: DEW will not be able to access the details you enter on this page.
10. Follow the steps to process the payment. A copy of the payment receipt will be emailed to the address that you nominate.

### Important notes:

- Online application forms **must be completed in one sitting and cannot be saved part-way through** the application submission. For this reason, it is recommended that all supporting information is gathered before beginning the application form.
- Hard-copy application forms can be provided upon request by contacting the DEW Shacks Team. Details about how to return hard-copy application forms and payment of application fees will be provided on the form.
- If you encounter any problems while completing and submitting an application, contact the DEW Shacks Team.
- If there is a mistake in your application after you have submitted it, contact the DEW Shacks Team.
- An application can be withdrawn at any point of the application process, and lessees can continue with their current lease arrangements instead.
- In the case of a withdrawn application, other than in limited circumstances, the application fee is non-refundable.

## 3. Application closing dates

Complete and accurate application forms must be submitted by **30 June 2021**.

Applicants will be contacted if forms are not complete, if information is missing or if further information is required. These instances may result in delays in processing.

#### 4. Fees and charges

When applying for longer tenure for a shack on Crown land, the following fees and charges will apply:

- A non-refundable application fee, in accordance with Schedule 1 (4a) of the *Crown Land Management (Fees) Notice 2020*. The application fee covers the costs associated with the assessment process.
- Charges for processing activities including (but not limited to) the negotiation and preparation of documents for execution, and the costs of document lodgement with Lands Services SA.

The approximate fees that will be required to be paid to DEW throughout the process are:

On submission of an application	Fees*
Application fee	\$454.00
Following the acceptance of the Minister's 'Letter of Offer (issue of a 5-year lease)	
Surrender of 78B lease	\$360.00
Document preparation fee (issue of new 5-year lease)	\$303.00
Additional costs that may also apply	
Request for title (freeholding only)	\$303.00
Freeholding purchase price and associated costs	For applications that are eligible for freehold, the market value of the shack site will be obtained by a professional valuer consistent with the International Valuation Standards 2020, as part of the application assessment process.

\**Crown Land Management (Fees) Notice 2020* as at the 2020-21 financial year.

#### Important notes:

- These fees do not include fees associated with alterations to lease certificates, such as notation of death or change of name due to marriage/divorce and other such requests.
- All other costs associated with the application process such as legal advice, conveyancer needs, survey requirements, stamp duty etc. will be required to be met by the applicants.

#### 4. The suitability assessment process

Once an application has been submitted, the DEW Shacks Team will conduct an initial suitability assessment to determine the following:

- verification that everyone named on the lease consents to the application
- verification that all parties have completed the required forms correctly (including all nomination criteria)
- verification of reason for occupancy (where applicable)
- verification that the Concept Proposal contains sufficient and appropriate information to enable assessment
- verification that all outstanding debts in relation to rent on the current lease are paid

The DEW Shacks Team will assess the information provided as part of the application to determine whether it is adequate and complete.

If it is considered inadequate, the DEW Shacks Team may contact you to request additional information.

Any application that does not meet the requirements or is inadequate may not be considered in the same timeframes as contemplated in these guidelines.

Following assessment of the application, a recommendation by the DEW Shacks Team is provided to the Minister for Environment and Water. The Minister will determine whether to consent to the application to surrender the current shack lease and to grant longer tenure.

## 5. Receiving an 'Offer to Lease'

If your application for longer tenure is successful, you will receive an 'Offer to Lease' prior to formally entering into the new lease.

The 'Offer to Lease' will be for one of these lease types:

Lease type	Description
5-year lease followed by an option to purchase (freehold)	Eligible applicants are offered a 5-year lease with the option to purchase at the end of the 5-year lease term. Freehold will be granted only when all conditions have been met within the 5-year term.
5-year lease followed by for a right of a new long-term lease for a maximum of 50 years (including the initial 5-year lease)	Eligible applicants are offered a 5-year lease with the right for a new long-term lease for a maximum of 50 years (including the initial 5-year lease). A long-term lease will be granted only when all conditions have been met within the 5-year term.

The 'Offer to Lease' will set out the terms and conditions of the lease that the Minister is willing to offer. It will include two sections: Part 1 to reflect the initial 5-year lease term and Part 2 to reflect the subsequent longer tenure.

## 6. Surrendering the existing lease and accepting the 'Offer to Lease'

If you decide to accept the 'Offer to Lease' you will first need to surrender your existing lease. The process is:

1. The Minister for Environment and Water will issue you with a document to surrender the existing lease, as well as the proposed new lease agreement form.
2. You need to review both documents, particularly the lease agreement, agree to the terms, arrange for the relevant entities to sign the surrender and the lease and mail both back to the DEW Shacks Team. By returning a signed lease agreement, you are accepting the 'Offer to Lease' the shack site on the terms and conditions contained in the new lease.
3. When both parties (you and the Minister for Environment and Water) have signed the new lease the conveyancing process to surrender the old lease and issue the new lease will occur. When the conveyancing process is complete the parties will be legally bound to the terms outlined in the lease agreement.
4. New lessees will then get a copy of the signed lease agreement.

### Important notes:

- It is highly recommended that before proceeding with surrendering your existing lease and accepting the 'Offer to Lease' you should seek appropriate legal and financial advice.
- There is no obligation to accept the 'Offer to Lease'. If you do not accept the 'Offer to Lease', the existing life-tenure lease arrangements will not be surrendered and will continue with the current lessee/s.
- Once you accept the 'Offer to Lease' you will be responsible as the shack lessees for meeting all terms and conditions of the lease including specific requirements for your site which may be listed in a schedule of the lease. Therefore it is highly recommended that you understand the work, costs and approvals required before accepting the 'Offer to Lease'.
- It will be a condition of the lease that all required works are to be completed and the Minister is satisfied that this has occurred within the 5-year term. Section 41 of the *Crown Land Management Act 2009* stipulates that the lease may be cancelled if the lease terms and conditions are breached or have not been met during the term of the lease.
- Lease agreements are important legal documents. Everyone who signs the new lease agreement will receive a copy of the new lease. You should keep your copies in a safe place to refer to as needed.

## 7. Requirements for making upgrades and providing evidence

The terms and conditions of your 5-year lease agreement will set out a number of requirements that **must be met to secure longer tenure** (refer to Page 11 for full details).

Failure to meet these terms and conditions within the 5-year timeframe may be viewed as a breach of the lease agreement and could result in the cancellation of your lease.

### 1. Making upgrades

Within 5 years of entering into the lease agreement, you need to:

- meet the terms and conditions of the 5-year lease agreement (including those listed in a schedule)
- ensure any outstanding rent is paid in full
- report to DEW when the conditions of the 5-year lease have been met and provide appropriate supporting evidence

### 2. Providing evidence

Within 5 years of entering into the five-year lease agreement, you must provide evidence that the terms and conditions of the lease agreement (including those listed in a schedule) have been met.

You may use the 'Formal audit and consideration for longer tenure request' form (see Appendix 3 on Page 26) to document how you have met these terms and conditions, and attach any supporting documentation.

Note: The DEW Shacks Team will monitor and review your shack site during the 5-year period and, where required, will contact you to conduct site visits to evaluate your progress.

### Important notes:

- It is only after you have provided evidence that you have met the necessary standards that the Minister for Environment and Water can consider issuing longer tenure or freehold.
- If you have completed your upgrades early within the 5-year period, this process can also begin earlier.

### 3. Assessing the evidence and upgrades

After you have provided evidence that you have met the terms and conditions of the 5-year lease, the DEW Shacks Team will assess this information. If necessary, the team will also inspect the site or be in contact with you to request additional information.

The DEW Shacks Team will then make a recommendation to the Minister for Environment and Water about - whether the terms and conditions of the 5-year lease have been met.

**Important note:**

- Contact the DEW Shacks Team if you have any questions about the assessment of evidence. The DEW Shacks Team can accept evidence by post if lessees do not have access to email.

## 8. Obtaining longer tenure

If the DEW Shacks Team has made a recommendation to the Minister for Environment and Water for longer tenure and the Minister considers that the terms and conditions of the 5-year lease have been met, you will be granted either a long-term lease or freehold, depending on which option is included in your lease terms.

### 1. Long-term lease

A long-term shack lease (for Holiday Accommodation Purposes only) is granted for a maximum of 50 years. This means you have the right to occupy the shack site for 50 years, including the initial 5-year lease.

The long-term lease agreement needs to be signed by you and the Minister for Environment and Water.

**Important notes:**

- All leases are subject to terms and conditions that will outline your duties and responsibilities in respect to the land.
- You are required to comply with your lease conditions in accordance with the CLMA.

### 2. Freehold

If you are offered freehold of your shack site, you will be provided with information that will detail the mechanism used to determine the purchase price and associated costs.

If you wish to purchase the land, you must exercise the option in accordance with its terms.

**Important notes:**

- The CLMA requires that the Minister for Environment and Water must not dispose of land (freehold) for less than the market value of the Crown's interest in the land. The Crown's interest does not include any improvements that you have made. Additional fees may also apply.

## 9. Useful information

### 1. Preparing a Concept Proposal

Developing a Concept Proposal is a fundamental step in securing longer tenure. It should detail how a potential applicant proposes to meet the requirements to secure longer tenure outlined in your site-specific information sheet.

You must understand the necessary approvals, extent of work, associated costs and the likelihood of implementing your Concept Proposal within 5 years (should a lease be granted) before you begin the application process.

The Concept Proposal Template (see Appendix 2) is intended to:

- ensure consistency of procedure and information required from shack lessees/applicants
- assist applicants to prepare Concept Proposals for the DEW Shacks Team assessment
- assist the DEW Shacks Team to consider the merits of the Concept Proposal
- prevent unnecessary work on detailed Concept Proposals that cannot proceed (or need to be significantly modified) due to funding, planning, technical or other reasons

## 2. Providing 'Reason for occupancy' evidence from non-lessees

As outlined in 'Before you apply' on Page 4, If you not the current lessee of a shack site or a nominee of a current lessee, you may be asked to provide additional information, particularly where an application is submitted by someone other than the existing lessee.

If you fall into Category 2 (refer to 'Preparing supporting documents and information' on Page 4), you may need to include:

- evidence of financial management of the shack (e.g. payment of annual rent, council rates, fees and charges costs associated with property maintenance) pre-dating the death of the last lessee on the previous life tenure lease or ongoing for a minimum period of 5 years
- a written record, contract or other legal documentation that shows the intent of the previous lessee to allow the applicant to utilise the property on an ongoing basis
- any additional information required to ensure that unalienated Crown land is allocated in a manner which is consistent with the objects of the CLMA

Once your application is received, DEW will advise you if any additional information is required.

## 3. Meeting the standards

If through this process you are successful in gaining an 'Offer to Lease' you will be required to meet a number of conditions that comply with the 'standards' (outlined in the table below).

These conditions will:

- need to be met in order for the 5-year lease to be granted
- be included in the 5-year lease and will need to be met before longer tenure will be granted

(Note: To better understand your individual requirements and the information you will need to provide, refer to the site-specific information sheet provided to you in your Application Pack.)

A summary of each 'standard' is included in the table below, and then explored in further detail on the pages that follow.

<b>Standards to secure longer tenure</b>	
<b>Waterfront</b>	<p>Unrestricted public access to the waterfront is required. For sites that have immediate waterfront access lessees should demonstrate how unrestricted public access will be maintained/made available.</p> <p>If the Minister for Environment and Water proposes to lease or dispose of land which includes or abuts the high water mark on the seashore, or the edge of any other navigable waterway or navigable body of water in the state, the Minister must advertise this intention and invite members of the public to make written submissions in relation to the proposal within 21 days or more of the advertisement. This is a requirement in accordance with Division 4, section 59 of the CLMA.</p>
<b>Survey</b>	<p>An adequate definition of the boundaries of a shack site is mandatory for freeholding and for leasing Crown land.</p>

	<p><b>Survey data:</b> If the current plan does not include sufficient survey data to enable a longer term lease or freeholding, an uncertified or certified survey respectively may be required to be completed by a licensed surveyor.</p> <p><b>Legally identified land parcel:</b></p> <ul style="list-style-type: none"> <li>• In order to freehold, the shack site (land parcel) must be identified in a survey plan with sufficient data. A land division will be required where survey data is insufficient.</li> <li>• To enable a Crown lease to be issued by Land Services SA, the described leased area must be uniquely identified to Land Services SA satisfaction.</li> </ul> <p><b>Legal and practical access:</b></p> <ul style="list-style-type: none"> <li>• Access will be a consideration when assessing applications for longer term leases.</li> <li>• Freehold will require legal access.</li> </ul> <p><b>Common property:</b> Common property may exist in the shack settlement and approval, authority or a permit may need to be obtained before longer tenure is approved.</p> <p><b>Encroachments:</b> All encroachments must be resolved prior to securing longer tenure.</p> <p>*Applicants will be responsible for arranging and meeting all tenure requirements and any associated costs.</p>
<p><b>Native Title</b></p>	<p>Native Title rights may exist on Crown land and must be considered by the Minister for Environment and Water before being able to grant future land tenure.</p> <p>The Native Title status of the land is not just applicable to each lease, some blocks (or surrounding properties) may have unconfirmed Native Title status, which may be required to be resolved during the application assessment process. Where sites are subject to Native Title rights, further processes and investigations will be required.</p> <p>Further information will be provided to applicants.</p>
<p><b>Wastewater</b></p>	<p>All shack lessees will be required to provide evidence that wastewater systems comply with current public health standards. Applicants will be responsible for meeting any costs incurred associated with wastewater in meeting obligations or regulations relating to wastewater.</p>

#### 4. Standard 1 – Waterfront

Ongoing public ownership and public access to the waterfront has been a South Australian Government policy position since the founding of South Australia.

Some shack sites are located within or abutting the defined waterfront land. This means that upon receiving an application for longer tenure, DEW may need to undertake the public consultation process envisaged under section 59 of the CLMA.

***Intention of this standard***

To ensure the Minister for Environment and Water satisfies section 59 of the CLMA and that public consultation has been conducted for all applications for longer tenure where the shack sites located within or abutting waterfront land.

***Eligibility***

This standard will apply to any shack site which meets the definition of waterfront land under the CLMA.

***Evidence***

To the extent the Minister for Environment and Water proposes to lease or dispose of waterfront, DEW will commence the consultation process for relevant shack settlement areas. Applicants will be formally advised that this process is being undertaken.

Where consultation is required for the grant of a 5-year lease and/or the grant of an option to purchase, there could be delays in the processing of the application request.

**5. Standard 2 – Survey**

An adequate definition of the boundaries of a shack site is mandatory for freeholding and for leasing Crown land.

A survey is required to ensure your leased area is legally identifiable, and ensure that all shack structures are within the lease/freehold area and can be depicted on mapping and property data.

You will be responsible for arranging and meeting all land parcel identification requirements and any associated costs. Adequate survey data may already be available for some shack sites.

DEW will provide a summary of known information (extracted from DEW's information systems) on the following:

- survey data
- legally identified parcel
- formal access (including if roads around the current shack sites are/are not legally gazetted)
- common property
- encroachments

Survey instructions will be sent to all lessees where it has been identified a new survey is required. Lessees cannot initiate a survey until specific instructions from DEW have been issued.

Lessees located within the same settlement are encouraged to partner with other lessees to contract a surveyor to survey multiple parcels at the same time. Having multiple parcels surveyed at once may substantially reduce the cost to individual lessees.

***Intention of this standard***

To ensure that there are adequate definition of the boundaries of the shack sites.

***Eligibility***

This standard applies to all shack sites applying for longer tenure.

***Evidence***

Lessees will need to provide the following evidence:

### **Survey data**

- A survey is required to ensure your leased area is legally identifiable, and can be depicted on mapping and property data. A longer term lease requires an uncertified survey by a licensed surveyor.
- Freeholding will require a fully certified survey by a licensed surveyor.

Where existing structures are not located within the current lease boundaries, some adjustments may be made at the time of the survey to try and include them in the final shack lease area boundary.

The final shack lease boundary will be established during the survey according to instructions issued by DEW.

Where necessary, DEW will instruct the surveyor to adjust the parcel boundaries to capture unresolved encroachments.

Further 'shifting' may be permitted to capture other ancillary structures or sewage systems, however there is the potential that some ancillary structures or sewage systems may remain off lot.

Where ancillary structures are not included in the leased area, you will be required to discuss other arrangements to authorise those structures.

### **Legally identified parcel**

In order to freehold, the shack site (land parcel) must be legally identified in a survey plan with sufficient data to freehold.

If not, the proposed shack site must meet the land division requirements of the Development Plan – note that depending on the type of division, that exemption to the Development Act 1993 (Crown division of 5 or less parcels) may exist.

To enable a Crown lease to be issued by Land Services SA, the described leased area must be uniquely identified to their satisfaction.

Where an allotment needs to be created in order to freehold, the proposed allotment needs to meet the land division and allotment requirements in the relevant Development Plan (i.e. Development approval is required).

### **Access**

Legal and/or practical access will be a consideration when assessing applications for longer term leases.

Freehold tenure will require legal access by public road reserve or equivalent. A long-term lease requires practical access, which will need the approval of the owner of the land through which access is required. This may be in the form of a formal letter, permit or licence where practical access exists over Crown land (un-alienated or dedicated).

### **Common property**

Common property may exist in the shack settlement and may be a consideration when securing longer tenure. Approval for common property, such as walking paths or seawalls, may need to be provided.

DEW will assist in identifying what is common property or part of an individual lot and work with settlements to identify the best approach for ensuring common property is maintained.

Where the common property provides a substantial private benefit, the cost of ongoing maintenance will be the responsibility of beneficiaries involved.

### **Encroachments**

All encroachments must be resolved prior to securing longer tenure.

DEW will assess survey data to determine if there are any remaining off-site structures. During the assessment all previously approved structures will be included within the final shack site boundary – whether they were located on the existing site or not.

Other types of structures, including non-approved structures, sewage systems or ancillary structures that remain outside the leased boundary site may need to be licensed, relocated or removed.

DEW will provide specific direction about the need to relocate or remove any structures after DEW has reviewed your survey as part of the application assessment process.

## **6. Standard 3 – Native Title**

Native Title rights may continue to exist on Crown land and must be considered by the Minister for Environment and Water before being able to grant future land tenure.

The Native Title status of the land adjacent to each shack site may be subject to, or potentially subject to, Native Title rights.

### ***Intention***

To ensure that any Native Title obligations are complied with and Native Title rights are not infringed by any act relating to the surrender of existing leases and the grant of any new interests and rights in relation to the site.

### ***Eligibility***

Where adjacent sites are subject to, or potentially subject to, Native Title rights, DEW will provide further information to applicants.

It is important to note that any unresolved Native Title claims on land adjacent to an applicant's shack site may result in the application being rejected.

### ***Who is the relevant authority?***

DEW is not responsible for the negotiation of Native Title rights but is committed to managing Crown land consistently with the *Commonwealth Native Title Act 1993* and is a fundamental consideration when assessing applications for Crown land tenure or permitting any activity on Crown land.

For more information about Native Title, visit the National Native Title Tribunal.

## **7. Standard 4 – Wastewater**

The safe collection, treatment and disposal or reuse of wastewater is necessary to safeguard the health of the community and protect the environment.

Wastewater is governed by the legislative base and technical information relating to wastewater systems in South Australia:

- *South Australian Public Health Act 2011*
- *South Australian Public Health (Wastewater) Regulations 2013* and its prescribed codes:
  - the On-site Wastewater Systems Code
  - Community Wastewater Management Code

### ***Intention***

To ensure that existing and new wastewater systems comply with current public health standards.

### ***Eligibility***

The eligibility requirement relates to all shack sites, in that wastewater systems comply with current public health standards as outlined in the Public Health (Wastewater) Act 2011.

### Evidence

To qualify for longer tenure, it is your responsibility to ensure a wastewater system is installed in accordance with all regulatory conditions. You must demonstrate that the wastewater system is compliant through:

1. wastewater works approval (Local Council or SA Health) where required, and
2. certificate of compliance Pursuant to Regulation 11 of the *SA Public Health (Wastewater) Regulations*, the licensed person, council or private certifier must provide a Certificate of Compliance following installation of an approved system that the existing system is compliant

### 8. Complying with regulatory requirements

In addition to the standards listed above, there are other general laws and regulations that you may need to comply with.

The table below provides a starting point of what you may need to take into account when scoping proposals and undertaking upgrades.

It is recommended that you undertake appropriate checks to identify all approvals necessary to complete the works required for your site to achieve longer tenure. Many requirements can be identified by liaising with your district council.

<b>Development</b>	<p>The development potential of a shack site may be constrained by the zoning and other requirements in the relevant development plan. Refer to the Local Councils Development Plan for further information.</p> <p>Where any development is proposed pursuant to the <i>Development Act 1993</i> or <i>Planning, Development and Infrastructure Act 2016</i> approval from the relevant planning authority may be required. This is the responsibility of the shack lessee.</p> <p>*Note the Planning, Development and Infrastructure Act 2016 changes to be implemented may affect the zoning for shack areas.</p>
<b>Referral to prescribed bodies</b>	<p>Under the Development Act and Regulations, the relevant planning authority must refer certain developments to prescribed bodies (e.g. Coast Protection Board, Country Fire Service etc.) for advice, concurrence or direction.</p>
<b>Built environment</b>	<p>Describes any known information about the built environment, including:</p> <ul style="list-style-type: none"><li>• bushfire safety</li><li>• stormwater management</li><li>• asbestos removal</li></ul> <p><b>Building fire safety</b> The density of shacks may pose a fire risk. Review your building fire safety requirements.</p> <p><b>Stormwater management</b> Appropriate stormwater and drainage management should be considered in any development. Consider the stormwater requirements of your local council.</p> <p><b>Asbestos materials</b> If you're thinking of renovating your shack, seek advice from councils and other building advisory organisations before commencing.</p>

	Households removing and transporting asbestos for disposal must comply with their General Environmental Duty not to pollute. Further information is available at <a href="http://www.asbestos.sa.gov.au">www.asbestos.sa.gov.au</a>
<b>Natural environment</b>	<p>Describes any known information about the natural environment, including:</p> <ul style="list-style-type: none"> <li>• bushfire management</li> <li>• coastal flooding, erosion and sand dune drift</li> <li>• native vegetation protection</li> <li>• coastal concerns</li> </ul> <p><b>Bushfire management</b> Where there is a risk of bushfire, but development is not proposed, you should prepare and enact a Bushfire Survival Plan.</p> <p><b>Riverine flooding, bank slumping and erosion</b> Settlements may be regularly impacted by environmental, access and liability matters relative to flooding.</p> <p><b>Coastal flooding, erosion and sand dune drift</b> Settlements may be regularly impacted by tidal influence and storm surges. Sea-level rise will significantly compound existing coastal flooding and erosion hazard risks. Consultation with the Coast Protection Board will be required to develop a coastal hazard adaption strategy.</p>

## 9. Information privacy

Any personal information you provide will be collected, stored, used and disclosed in accordance with the Government of South Australia's Information Privacy Principles Instruction (PC012) and will be used for purposes related to this process.

The Department for Environment and Water will not disclose your personal information to anybody else unless authorised by law.

The provision of this information is voluntary or required to be supplied. If you choose not to provide the requested information we may not be able to process the application or respond to any questions.

## **Annexure – Application Terms and Conditions**

### **Clarification during the Guidelines Process**

The Applicant may raise a query or seek clarification by emailing [DEWshacks@sa.gov.au](mailto:DEWshacks@sa.gov.au) or by telephone at (08) 8204 1218 or in writing at Retaining Shacks Project, GPO Box 1047, ADELAIDE 5001

### **Updates**

Information in relation to the Guidelines is available at the Website:

<https://www.environment.sa.gov.au/topics/crown-land/retaining-shacks-commitment> .

It is the Applicant's responsibility to regularly review the Website for any 'updates' to these Guidelines.

### **Reservation of Rights**

The Minister for Environment and Water (through DEW) may:

- extend the any timeframes envisaged under these Guidelines (time or date)
- amend these Guidelines at any time and will give notice of such amendment via the Website and all such variations will be binding on each Applicant
- ask any Applicant to clarify any ambiguity or provide additional information in support of an application
- perform financial, criminal record, reference and character checks in relation to the Applicant and/or nominee and any parties related to it
- make any enquiries of any person, company, organisation, or matter related to the Applicant including confirmation of any information provided by the Applicant
- change the structure or timing of the processes envisaged under the Guidelines process or the basis on which applications are required, evaluated or accepted
- seek advice of external consultants to assist in the evaluation or review of applications
- elect not to consider or accept any Submission which does not comply with the terms of these Guidelines

### **Applicants Response costs**

Any and all costs incurred by Applicants in lodging an application shall be the sole responsibility of that Applicant.

### **Publicity and confidentiality**

Information supplied by or on behalf of the Minister by DEW is confidential to the Minister and each Applicant is obliged to maintain confidentiality.

Although DEW understands the need to keep commercial matters confidential, the Minister (through DEW) reserves the right to disclose some or all of the contents of any application:

- to any consultant or advisor as part of DEW's consideration of the application
- as a consequence of a constitutional convention in order that the relevant Minister may answer questions raised in the South Australian Parliament; keep Parliament informed or otherwise discharge the Minister's duties and obligations to Parliament and to advise the Governor; Parliament and/or the Government of South Australia, or if required to do so by law. Any condition in these Guidelines that purports to prohibit or restrict the Minister's right to make such disclosures cannot be accepted.

An Applicant must not make any news releases or respond to media enquiries pertaining to these Guidelines without DEW's prior written approval.

If an Applicant acts contrary to these expectations, DEW may exclude such Applicants from the process.

### **Copyright and intellectual property**

By lodging an application the Applicant licenses the Minister and the State Government to reproduce for the purpose of the Guidelines process the whole or any portion of the application, despite any copyright or other intellectual property right that may exist in the application.

### **Non-binding nature of Guidelines**

#### **These Guidelines are NOT:**

- an offer to sell or lease of any kind and do not necessarily indicate an intention by the Minister to enter into legal relations with the Applicant or any party
- to be interpreted as creating a binding contract (including a process contract) as between the Minister and any Applicant or giving rise to any:
  - contractual, quasi-contractual, restitutionary or promissory estoppel rights; or
  - expectations as to the manner in which an Applicant will be treated in the assessment of an application.
- No legal or other obligations will arise until parties execute formal documentation.
- The Minister is not obliged to proceed with, or negotiate, in respect of any application.

### **Disclaimer**

The information set out in these Guidelines or the Website are not intended to be exhaustive and Applicants should make their own enquiries regarding:

- the contents of these Guidelines
- the suitability of their shack site or shack settlements for any form of development

Neither the Minister, the State Government, DEW, the Shacks Team nor any employee, agent or contractor of DEW or the State Government provides any warranty or makes any representation, expressed or implied, as to the completeness or accuracy of the information either contained in or in connection with these Guidelines or the Website.

An Applicant must undertake their own enquiries and satisfy themselves in respect of all matters contained in any information provided to them.

### **Acknowledgments**

Each Applicant agrees and acknowledges that:

- they have fully informed themselves of all conditions and matters relating to the Guidelines
- they have sought and examined all necessary information which is obtainable by making reasonable enquiries relevant to the risks, contingencies and other circumstances
- they do not rely on any expressed or implied statement, warranty, representation, whether oral, written or otherwise, made by or on behalf of the Minister, DEW, the Shacks Team or any employee, agent or contractor of DEW
- they have relied on their own investigations and enquiries in lodging an application

- the Minister, DEW, the Shacks Team or and any employee, agent or contractor of DEW are not liable for any incorrect or misleading information or failure to disclose information whether in connection with these Guidelines or any document attached or related to it including any information on the Website.

## Appendix 1 – Required documentation

The table below provides an outline of required documentation you may be asked to provide as part of the application for longer tenure.

Activity	Intent	Required Documentation	Further Information	Who requires this documentation?
<b>Authorities to surrender and apply</b>	Authorises the surrender and application for longer tenure.	<p><b>Authority to Surrender 78B Lease and Authority to Apply for longer tenure</b></p> <p><b>Online applications:</b></p> <p>An authority form is required to be completed.</p> <p>(Because online processes do not capture signatures, a separate form is required)</p> <p><b>Hardcopy applications:</b></p> <p>Signatures in hardcopy applications provide the authority to surrender and apply.</p>	<p>Authority forms (for online applications only) are available with the application form and at:</p> <p><a href="https://www.environment.sa.gov.au/topics/crown-land/retaining-shacks-commitment">https://www.environment.sa.gov.au/topics/crown-land/retaining-shacks-commitment</a></p>	DEW
<b>Verify identity</b>	<p>To prove identity of lessees and applicants.</p> <p>Note: Where any current lessees have changed their legal name, an application to note the change/correction of the name is required to be submitted to Land Services SA.</p> <p><b>DEW is unable to submit this application on your behalf.</b></p>	<p><b>Identification</b></p> <p>Conveyancer/s are required to formally verify the identification of all parties in order to transact the surrender of the lease and any new lease.</p>	Speak to your conveyancer for further information.	Land Services SA
<b>Deceased estate</b>	Proof of death of any existing lessee.	<p><b>Proof of death</b></p> <p>Death certificates are registered in the state/country of death.</p> <p>To obtain certified copies of death certificates an application within the</p>	<p><a href="https://www.sa.gov.au/topics/family-and-community/births-deaths-and-">https://www.sa.gov.au/topics/family-and-community/births-deaths-and-</a></p>	Land Services SA

		<p>state/country of registration of the death will be required.</p> <p>There are limitations as to who can apply for a death certificate.</p> <p>Death certificates are a formal requirement for conveyancing purposes to surrender the 78B lease or to transfer a lease.</p> <p>DEW has no authority to apply for death certificates on a lessees behalf.</p>	<p><a href="#">marriages/certificates/death-certificates#whatyouneed</a></p> <p>Or speak to your conveyancer for further information.</p>	
<b>Concept proposal</b>	Demonstrate intent and actions that you will take to meet requirements within 5-year timeframe.	Applicant/s must submit a conceptual proposal indicating how they broadly propose to meet the requirements within the 5-year lease term.	A template is available in Appendix 2 to assist in completing this requirement if required.	
<b>Reason for occupancy</b>	Provide a reason for DEW to consider approving granting occupancy rights to someone other than the existing lessee/s.	<p><b>Category 1:</b> Existing lessee/s is/are still alive and nominates new lessees. No further information is required as section 38A of the CLMA allows nomination. Nomination is captured in Surrender and Application forms.</p> <p><b>Category 2:</b> Deceased Estate category (where <b>all</b> lessees are deceased) – the applicant needs to prove a valid connection to the site. Evidence must include evidence of financial management of the shack (e.g. Payment of shack rent, utility bills, rates, other maintenance costs) additional evidence can include a letter from a deceased lessee.</p>	Refer to Section 2 of these guidelines for further information.	DEW

## Appendix 2 – Concept Proposal template

New shack lease applicants will need to provide information as to how they broadly propose to meet the suitability assessment requirements and standards as detailed in this guideline. This template may be used.

Existing lease details	
Shack lease number(s)	
Lessee name/s	
Nominated key contact	
Local council area	
Shack settlement area (location)	
Longer tenure option	
Group name and contact details	
<i>Complete this section only where several shacks submit a single concept proposal</i>	
Nominated key contact	
Phone number	
Email address	
Concept proposal description	
<i>Complete sections where applicable, where not applicable enter 'NA'</i>	
<b>Details of work that has been recently undertaken on the site (within past 10 years, which DEW may not have record of)</b> <i>Attach relevant drawings, plans, designs and/or photos if applicable</i>	
<b>Details of proposed works to secure longer tenure</b> <i>Attach relevant concept drawings, plans, designs and/or photos if applicable</i>	
Addressing the standards	
<i>Provide details of how applicants intend to meet the required standards to secure longer tenure. Where the standard does not apply to your shack site leave this section blank.</i>	

<p><b>Waterfront</b>  <i>If applicable, provide details of how unrestricted public access will be maintained/made available.</i></p>	
<p><b>Survey</b>  <i>An adequate definition of the boundaries of a shack site is mandatory for freeholding and for leasing Crown land</i>  <i>*Applicants will be responsible for arranging and meeting all tenure requirements and any associated costs.</i>  <i>*Some tenure data may already be available for some shack sites. The DEW Shacks Team can provide further information.</i></p>	
<p><b>Survey data</b>  <i>To enable a longer term lease an uncertified survey by a licensed surveyor may be required. To enable freeholding a fully certified survey by a licensed surveyor is required.</i></p>	
<p><b>Legally identified parcel</b>  <i>If applicable, provide details about how the proposed allotment will meet the land division and allotment requirements in the relevant development plan (freehold only)</i></p>	
<p><b>Legal access</b>  <i>Formal access may be a consideration when assessing applications for longer term leases.</i>  <i>If applicable, provide details about how any roads will need to be formalised and required standards met (freehold only).</i></p>	
<p><b>Common property</b>  <i>If applicable, provide details of any common property that may exist in the shack settlement and may need to be considered when securing longer tenure.</i></p>	

<p><b>Encroachments:</b>  <i>If applicable, provide details of how encroachments will be resolved prior to securing longer tenure.</i></p>	
<p><b>Native Title</b>  <i>Native Title rights may exist on Crown land and must be considered by the Minister for Environment and Water before being able to grant future land tenure. Some blocks have unconfirmed Native Title status which must be resolved during the application assessment process (such as adjacent land). Where adjacent sites are subject to Native Title rights, applicants will be provided with further information. Applicants do not need to provide further information as part of the concept proposal.</i></p>	
<p><b>Wastewater</b>  <i>All shack lessee/s will be required to provide evidence that wastewater systems comply with current public health standards. Applicants will be responsible for meeting any costs associated with wastewater. Provide details of current or proposed wastewater management.</i></p>	
<p><b>Proposal issues/risks</b>  <i>Provide details of known potential issues/risks associated with the proposal e.g. environmental, ongoing maintenance, other users</i></p>	
<p><b>Proposal timeline</b>  <i>Detail proposed timelines for proposal development and finalisation</i></p>	
<p><b>Additional information</b>  <i>Attach any additional information relevant to this concept proposal in an attachment e.g. plans, pictures</i></p>	

## Appendix 3 – ‘Formal audit and consideration for longer tenure request’ form

This form must be submitted once all required works are completed and the applicant/lessee wishes the lease to be considered for conversion to longer tenure.

LEASE DETAILS	
Lease number:	
Name/s on existing lease:	
Postal address	

LAND DETAILS (REFER TO SITE-SPECIFIC INFORMATION FACTSHEET)	
Crown record/volume and folio:	
Property address:	

### DECLARATION

- I/We the shack lessee/s have completed our work to meet the eligibility requirements as outlined below and request that our shack site be assessed to determine our eligibility status for longer tenure.

Name of shack lessee submitting request:

\_\_\_\_\_

**Eligibility checklist. Check that all have been completed (where applicable).**

**Completed    Not Applicable**

- |                          |                          |   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Waterfront:</b> Public consultation undertaken             |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Survey:</b> Survey data adequate                           |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Survey:</b> Legally identified parcel                      |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Survey:</b> Any access matters resolved                    |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Survey:</b> Any common property matters resolved           |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Survey:</b> All encroachments resolved                     |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Native Title:</b> Any Native Title matters resolved        |
| <input type="checkbox"/> | <input type="checkbox"/> | <b>Wastewater:</b> Wastewater systems are compliant           |
| <input type="checkbox"/> |                          | <b>Financial:</b> All debts owing to the Crown have been paid |

Please submit this completed form and any attachments to [DEWshacks@sa.gov.au](mailto:DEWshacks@sa.gov.au)

## More information

For enquiries, contact the DEW Shacks team:

**Email:** [DEWshacks@sa.gov.au](mailto:DEWshacks@sa.gov.au)

**Phone:** (08) 8204 1218

**Post:** Retaining Shacks Project

GPO Box 1047

ADELAIDE 5001

**Website:** [www.environment.sa.gov.au/topics/crown-land/retaining-shacks-commitment](http://www.environment.sa.gov.au/topics/crown-land/retaining-shacks-commitment)



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**Government  
of South Australia**

Department for  
Environment and Water