

## **FENCING REQUIREMENTS – WESTERN LANDS LEASES**

Practitioners acting in transfers involving Western Lands Leases should be aware of the fencing requirements of the lease and the provision of Section 18A of the Western Lands Act 1901

( <http://www.legislation.nsw.gov.au/viewtop/inforce/act+70+1901+FIRST+0+N/> ).

These provisions require the holder of the lease to maintain all boundary fences in a stock-proof condition and minimum boundary fencing requirements have been set depending upon the type of livestock de-pastured on the lease.

Following lodgment of application for consent to transfer, Departmental officers carry out a property inspection to ensure that all lease conditions including fencing requirements have been complied with. If it is considered that the boundary fence is not up to standard the consent to transfer might only be given subject to the purchaser furnishing an undertaking that within a specified period after completion of the purchase the fencing will be brought up to the required standard. If that party considers this requirement to be too onerous or beyond that party's financial means then he/she could seek to rescind the contract pursuant to clause 27.5 of the standard contract.

It is therefore recommended that prior to exchange of contracts the question of the condition of boundary fences be addressed and if deemed necessary insert an appropriate additional condition in the contract.