

Guideline

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Additional purpose of a lease

Purpose

This guideline provides advice on:

- when a lease may be used for additional or fewer purposes¹
- when the purpose of a Special Lease issued under the repealed *Land Act 1962* may be changed
- having a residence on a lease for grazing purposes.

It supports the operational policy 'Additional purpose of a lease' (SLM/2013/425). For leases that may be used for agricultural purposes, refer to the operational policy and guideline for 'Diversification of leases for agricultural purposes', SLM/2013/575 and SLM/2017/3856.

Guideline

Additional purposes

When an additional purpose is added to a lease the imposed conditions will also need to be changed² to address and reflect the additional purposes for which the lease is to be used. Any such change to the imposed conditions should ensure that the lease conditions also reflect the department's present requirements for conditions e.g. regulated conditions, indemnity, removal of conditions or clearing of timber.

If the effect of the additional purpose would result in the need for a rental category change for the lease, this would not be considered as an appropriate additional purpose under the *Land Act 1994* (Land Act).

However a change in a rental sub-category (e.g. the operations of a sporting club being changed to a new sub-category for rental purposes) would not be regarded as an additional purpose.

An application for an additional purpose is to be accompanied by the written consent of all persons with a registered interest in the lease.

¹ s. 154 of the Land Act – Minister may approve additional purposes

² s. 210 of Land Act - Power to change imposed condition of lease, licence or permit by agreement

Change of purpose of a Special Lease issued under the repealed *Land Act 1962*

A Special Lease (issued under the repealed *Land Act 1962*) may have been granted to a lessee without competition (in priority) for a particular purpose. Therefore, consent to change the purpose of the lease without any other considerations may not be equitable.

The purpose of a Special Lease under the repealed *Land Act 1962* may be changed under s477 of the Land Act only if:

1. the change is in accordance with the objects of the Land Act³; and
2. the proposed new purpose is the most appropriate use under the Land Act⁴ including that the purpose conforms to or is consistent with sound land use planning techniques; and
3. the lessee would satisfy the criteria for the issue of a lease for the proposed new purpose – refer [‘Allocation of land in priority in terms of the *Land Act 1994*’ \(SLM/2013/499\)](#) and
4. the change does not represent a significant change (i.e. to a “lesser” purpose or an upgrade) to the lease.

Residential dwellings on grazing leases

State land is usually leased for grazing purposes only to enable consideration to be given to land planning and the highest and best use for the land at the expiry of such leases. It is not envisaged that the land could, or would be used for residential purposes. Lessees who have constructed dwellings on such land without approval would be considered to be in breach of the purpose condition restricting the use of the land to grazing only.

Where a lease, including a Special Lease, has been issued for grazing purposes only (including a Special Lease issued for manufacturing, industrial, residential or business purposes categorised for grazing) and it is not subject to a condition restricting the erection of structural improvements, approval will only be given to erect a residential dwelling to enable conduct of the business of grazing if:

1. the leased land is not required by the state for another purpose at expiry; and
2. the dwelling is essential for the management of the grazing enterprise carried out on the leased land only. If the leased land is used in conjunction with another grazing property or properties, any required residence should be located on the other property; and
3. erection of the dwelling is not in conflict with local authority town planning laws or local laws.

A residence would be inappropriate where a lessee holds a small leased area which could not be regarded as a "stand alone" grazing enterprise for the district or locality.

Term Leases require the conditions of lease to be reviewed to ensure that the considerations in the operational policy are met. This may require new conditions to be included that restrict the construction of improvements on the land if the current lease is not subject to such a condition.

³ s4 of the Land Act

⁴ s16 of the Land Act

Seeking approval for an additional purpose

Details on applying for additional (or fewer) purposes are provided on the Queensland Government website at <https://www.qld.gov.au/environment/land/state/leases/changing>

Legislation

Land Act 1962 (repealed Land Act)

Land Act 1994 (Land Act) – Sections 154, 162, 172, 199A, 210 and 447

Land Regulation 2009 (Regulation)

Related documents

Operational Policy –Additional Purpose of a lease (SLM/2013/425 = PUX/901/333)

Operational Policy - Diversification of leases for agricultural purposes (SLM/2013/575 = PUX/901/337)

Guideline - Diversification of leases for agricultural purposes (SLM/2017/3856)

Allocation of land in priority in terms of the *Land Act 1994* (SLM/2013/499 = PUX/901/316)

Approval

Position	Name	Date
Executive Director, Land and Native Title Services	Graham Nicholas	5 September 2019

Version history

Version	Effective Date	Comments
1.00	5 Sep 2019	New document (using content from old Policy SLM/2013/425)

Further information

- Contact your nearest business centre (https://www.dnrme.qld.gov.au/?contact=state_land), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

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