

# Operational policy

SLM/2013/397  
Formerly PUX/952/121  
Version 5.00  
4 November 2020

## Conversion of leasehold tenure

### Purpose

This policy provides advice on matters to be considered when deciding applications to convert term leases and perpetual leases to a more secure tenure.

### Rationale

Leasehold land under the *Land Act 1994* (Land Act) may be converted to a more secure tenure. Section 167 of the Land Act sets out the mandatory requirements when considering an application for conversion. The tenure should be consistent with the most appropriate use of the land and the provisions of the Land Act.

There are additional matters that should also be considered, where relevant, when deciding an application for conversion.

### Policy

#### Preferred tenure

The lessee may apply to convert a:

- perpetual lease to freehold
- term lease to freehold
- term lease to a perpetual lease, only if the
  - lease is for pastoral purposes; or
  - lease is for tourism purposes on a regulated island.

While conversion of a term lease for pastoral purposes to a perpetual lease is an available option to lessees, freehold is the state's preferred tenure where appropriate.

### Survey

The leased land must be in a surveyed state for the issue of a deed of grant or freeholding lease.

## Access

Dedicated access (not necessarily formed or constructed) should be available before any lease is converted to freehold tenure. If this is not possible, the following options are acceptable:

- Easement access to be arranged over adjoining land with dedicated access where the adjoining land is freehold, a perpetual lease, a rolling term lease or a freeholding lease (but not a term lease) or a reserve, however, consideration must be given to Operational Policy – Easement (SLM/2013/410).

Easement access over a reserve should only be considered where there is a high level of certainty of the reserve remaining in existence and there is unlikely to be a material impact on the reserve.

- Grant by the Supreme Court in terms of the *Property Law Act 1974* of a statutory right of user order for an access right in perpetuity imposed upon servient land (freehold only) and registered.
- A covenant under section 373A of the Land Act and/or section 97A of the *Land Title Act 1994* to "tie" the deed of grant to be issued (or freeholding lease) to provide for no separate transfers. The covenant must tie to adjoining freehold, a perpetual lease, a rolling term lease or a freeholding lease with dedicated access, which is owned or leased by the lessee of the lease being converted.

## Stock route network

The conversion of leasehold tenure should ensure no material impact on Queensland's stock route network. Where the land adjoins or is intersected by a stock route, the application for conversion of tenure will be supported subject to the relevant stock route(s) having a width that is consistent with the 'Land dealings affecting the stock route network' operational policy (SLM/2013/363) and with the surrounding stock routes of the same classification.

## Roads off Alignment

If a road off alignment has been identified within the lease, the dedicated alignment of the road must be addressed to correct the constructed alignment as part of the conversion.

## Native title

The conversion of leasehold tenure requires native title to be extinguished, surrendered or determined not to exist.

## Commercial timber

Commercial timber is the property of the state. Where commercial timber is present on the leased land, advice must be sought from the agency responsible for the *Forestry Act 1959* as to how the commercial timber is to be dealt with before the conversion of leasehold tenure.

## Compliance with conditions of the lease

The lessee's compliance with existing lease conditions and the Land Act is required to be considered when assessing a conversion application. However, lack of compliance, will not in itself, be a ground to refuse a conversion application where the condition/s is:

- contrary to sustainable land use;
- one relating to fencing that has not been satisfied in some minor respect; or
- one from which the lessee had previously been exempted.

## Legislation

*Land Act 1994*

*Native Title Act 1993 (Cth)*

## Human rights

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

## Related documents

"Operational Policy - Easement (SLM/2013/410)"

"Operational Policy - Land dealings affecting the stock route network (SLM/2013/363)"

## Approval

Position	Name	Date
Executive Director, South Region	Heidi Roberts	4 November 2020

## Version history

Version	Effective Date	Comments
1.00	13/09/2013	New DNRM template and inclusion of content withdrawn from PUX/901/334, PUX/952/113 and PUX/952/115
2.00	27/06/2014	Updated to include amendments due to LOLA 2014
3.00	05/09/2014	Amended to exclude the option for freeholding leases
3.01	21/10/2014	Minor amendment to correct error in calculation of instalment example
4.00	24/05/2016	Amended to include changes to native title requirements
4.01	12/09/2019	Updated for corporate branding only

4.02	23/06/2020	Amended interest charged for instalments
5.00	04/11/2020	Reviewed as per Operational Policy CHB/2018/4177. Restructure of information into Operational Policy and a new 'Procedure – Conversion of leasehold tenure'. Includes a new section about referral of an application.

## Further information

- Contact your nearest business centre (<https://www.dnrm.qld.gov.au/our-department/contact-us/state-land-lodgement-offices>), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

This publication has been compiled by Land Services, Lands Division, Department of Natural Resources, Mines and Energy.

© State of Queensland, 2020



For more information on this licence, visit <https://creativecommons.org/licenses/by/4.0/>.

The information contained herein is subject to change without notice. The Queensland Government shall not be liable for technical or other errors or omissions contained herein. The reader/user accepts all risks and responsibility for losses, damages, costs and other consequences resulting directly or indirectly from using this information.