

# Operational policy

SLM/2013/584  
PUX/952/120  
Version 2.02  
Aug 2018

## Eligibility to hold land

### Purpose

This policy provides guidance on eligibility to acquire and hold land under the *Land Act 1994* (Land Act).

This policy does not address eligibility for:

- A trustee of trust land, refer to Policy - Creation of Trust Land (SLM/2013/479); or
- A public utility provider for a public utility easement, refer to Policy - Easement (SLM/2013/410).

### Rationale

Land under the Land Act may only be held by a person which includes an incorporated body. An unincorporated association does not constitute a person.

In addition to the specific provisions of eligibility, a person should also be appropriate to acquire or hold land under the Land Act, particularly for the purpose for which the land is used. Some community benefit may have also been afforded to the person.

### Policy

#### Appropriate persons to hold land

Section 142 of the Land Act stipulates that a person is eligible to apply for, buy or hold land only if they are an adult (aged 18 years or older).

Under section 322 of the Land Act, a lease, licence or sublease may only be transferred to a person who is eligible to hold the lease, licence or sublease.

Examples of a person that would be appropriate to acquire or hold land for specific purposes, whether through allocation (grant) or transfer, include -

- a lease for telecommunication purposes to provide for a commercial telecommunications network should be held by a carrier e.g. Telstra, Optus, or a person authorised to undertake property management for the telecommunications carrier e.g. Crown Castle. A carrier needs to be licensed under Commonwealth legislation to provide these services.
- a lease to a sporting club or charity should be held by the particular club or charity. These leases should not be held by an individual, or another body, as the leases have been issued for the specific use and benefit of the club or charity who may also be afforded the community benefits of the "concessional" rent provisions of the Land Act and the Land Regulation 2009 for sporting and charitable organisations.

## Associations

An association that desires to hold a lease, licence or permit to occupy, a sublease, trustee lease or other secondary interest in land (e.g. an easement) must be incorporated.

A certified copy of the Certificate of Incorporation must be lodged with the department before any interest in land will be granted.

## Officers of the Department administering the Land Act

When land is made available, section 143 of the Land Act states that an officer of the department administering the Land Act is only eligible to acquire land with the Minister's approval.

If an officer has had direct influence on the reserve price or reserve cash premium, or the sale or lease process for unallocated state land, a potential or apparent conflict of interest could occur. Therefore, approval for an officer to acquire land may be given (by another officer with the required delegation) except where the officer –

- has/had responsibility for the setting of conditions of sale, auction, or lease or otherwise for disposal of the subject land; and
- is/was in a position of influence over the outcome of the process of disposal; or
- otherwise breaches the Code of Conduct of the Department administering the Land Act in relation to the disposal.

## Legislation

*Land Act 1994*

Land Regulation 2009

## Related documents

“Policy - Creation of Trust Land (SLM/2013/479 = PUX/901/207”

“Policy - Easement (SLM/2013/410 = PUX/901/527)”

## Approval

Position	Name	Date
Executive Director Land and Native Title Services	Graham Nicholas	01/08/2018

## Version history

Version	Effective Date	Comments
1.00	19/08/2013	New DNRM template and inclusion of content from withdrawn PUX/952/044
2.00	12/06/2014	Updated to include amendments due to LOLA 2014 effective 01/07/2014
2.01	22/06/2016	Updated to new DNRM template
2.02	01/08/2018	Updated to new DNRME template and minor content edited

## Further information

- Contact your nearest business centre ([https://dnrme.qld.gov.au/?contact=state\\_land](https://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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