

Operational policy

SLM/2013/425
Formerly PUX/901/333
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Additional purpose of a lease

Purpose

This operational policy provides advice on when:

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- the purpose of a Special Lease issued under the repealed *Land Act 1962* may be changed.

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.

Rationale

A lease, licence or permit to occupy must only be used for the purpose for which it was issued. There is increasing demand from leaseholders to utilise their leases for purposes other than the purpose for which the lease was issued. There is no provision under the *Land Act 1994* (Land Act) to change the purpose of a lease, licence or permit to occupy, other than through section 477 which allows a lessee to apply to change the purpose of a Special Lease issued under the repealed *Land Act*² 1962.

However in certain cases a lessee (not a licensee or permittee) may make an application to use a lease for additional or fewer purposes.

Policy

Additional purposes

An additional purpose for a lease may only be granted:

1. Where the additional purpose is:
 - a. complimentary to the purpose for which the lease was originally issued, and
 - b. does not interfere with the purpose for which the lease was originally issued.

For these conditions to be satisfied:

- i. it must have a positive material effect on the primary original purpose; for example it could contribute to the economic viability and/or ecological sustainability of the purpose; and
- ii. any generation of additional funds from a complementary activity must be used to support the primary original purpose; and

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

² s. 477 of the Land Act Change of purpose for special lease

- iii. it must be of sufficiently small scale to ensure that it does not become the dominant or principal activity; and
- iv. it should not interfere with the state's rights in regard to vegetation and quarry materials under the *Forestry Act 1959*.

OR

- 2. Where the additional purpose relates to the production of energy from a renewable source.³

Sub-leasing of an area associated with the additional purpose is generally not supported to limit the risk of an additional use becoming a business entity in its own right (i.e. an activity being operated and managed in isolation from the balance of the lease) and therefore not "complementary" to the lease purpose.

An additional purpose should not result in a significant change, such as a "lesser" purpose or an upgrade of the lease. It would need to be assessed in accordance with the provisions of the Land Act, particularly whether it satisfies the objects of the Act, and any requirements of the local government.

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.

Although section 477 of the Land Act provides for an application to be made to change the purpose of a lease, this section does not stand alone. The decision to amend the purpose will be subject to addressing the objects of the Act (section 4), a most appropriate use (section 16) assessment and the public interest.

Additionally, where Special Leases were originally issued for the purposes of manufacturing, industrial, residential or business, the purpose will need to be changed to the actual purpose for which the lease is being used.

Alternatively, action could proceed under section 154 of the Land Act for the lease to be used for fewer purposes.

Native Title

The requirements of the *Native Title Act 1993* will need to be satisfactorily addressed before approving any additional purpose.

Legislation

Land Act 1962 (repealed Land Act)

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

Land Regulation 2009 (Regulation)

Native Title Act 1993

³ s. 154 (2)(b) of the Land Act

Related documents

Guideline – Additional purpose of a lease (SLM/2019/5110)

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 Sept 2019

Version history

Version	Effective Date	Comments
2.00	24 Dec 1997	Endorsed
3.00	24 Dec 2007	Updated to reflect Land Act amendments
3.01	14 Jul 2010	Updated to include Land Regulation 2009 amendments
4.00	5 Sep 2019	Content revised for clarity, accuracy and format; new associated Guideline created

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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