

# Operational policy

SLM/2013/479  
Formerly PUX/901/207  
Version 3.07  
14 June 2022

## Creation of trust land

### Purpose

This policy addresses the issues of grant or dedication of trust land (i.e. reserves or deeds of grant in trust) under the *Land Act 1994* (Land Act), the appointment of trustees of trust land and access requirements for trust land.

### Rationale

Following an assessment of the most appropriate tenure and use, an area of unallocated state land (USL) may be dedicated as a reserve or granted in trust (i.e. a deed of grant in trust) under the Land Act for a community purpose as defined under Schedule 1 of the Land Act, and a person (a trustee) appointed to manage the trust land.

However, the issue of a deed of grant in trust is not supported.

A deed of grant in trust was issued under the repealed *Land Act 1962* (repealed Act) generally only to enable the trustee to mortgage the trust land (a trustee was and is still unable to mortgage a reserve) to raise funds for the enhancement of the trust land.

Also, trust land could be granted for an operational purpose under the repealed Act.

Although the Land Act provides for the issue of a deed of grant in trust, a deed of grant in trust first issued under the Land Act may not be mortgaged, and trust land may now be only for a community purpose.

Therefore, it is now considered that any area required for a community purpose is more appropriately managed under a reserve.

For a person to be appointed as a trustee, that person must have some particular association or expertise with the trust land and its purpose, or with the local community and may be the following:

- a) the state
- b) a statutory body (includes a local government)
- c) an incorporated body
- d) a named individual.

Appointment of a single entity may provide for more effective decision making.

Incorporation provides increased protection for individual trustees from personal liability.

As a trustee is taken to be the owner of the trust land for legal proceedings, the trustee should have public liability insurance.

A suitable plan of the land is required to clearly identify the trust land in accordance with existing survey requirements.

An area may be shown as public use land on a plan of subdivision of freehold land, with the intent that the public use land is to be dedicated as a reserve for a community purpose, however a suitable trustee is required.

As public use land is generally for the benefit of the public, access is required. Access is also required to enable the trustee to manage and maintain the trust land.

## Policy

A reserve is considered the most appropriate tenure for an area of USL that is required for a community purpose - a deed of grant in trust is not to be considered.

The Department of Resources' preferred position is for a trustee (other than state authorities or local governments) to be a single entity and that the trustee be an incorporated body.

The trustee must have some particular association or expertise with the trust land and its purpose, or with the local community.

The trustee being appointed (apart from the state or a local government, both which have public liability insurance arrangements) is required to demonstrate that public liability insurance to the satisfaction of the department has been obtained and will be maintained.

The amount of the insurance needs to be at least twenty (20) million dollars.

In the case of urban land, or where structural improvements are to be erected, survey is required.

In other circumstances a suitable survey plan is required with the necessity for survey being determined having regard to the locality and any improvements proposed to be effected.

If a lot shown as public use land is identified as a community purpose under Schedule 1 of the Land Act, the area is dedicated as a reserve for that community purpose upon registration of the plan, provided the Minister has consented to the plan.

The Minister will only consent to the plan if a person suitable to the Minister, usually the local government, has accepted trusteeship of the proposed reserve.

In relation to freehold land, section 51A of the *Land Title Act 1994* (Land Title Act) requires that a plan of subdivision dedicating a lot as public use, other than a road, may be registered only if that lot has access by way of a road or public thoroughfare easement, or the Minister has approved that the plan may register without access to the lot being available.

The Minister would only approve a plan with a lot (as public use land) that is proposed to be a reserve and does not have access if that lot adjoins an existing:

- a) reserve for the same or similar community purpose and that reserve has access, and the same trustee
- or
- b) area of public use land that has access and is to be dedicated as a reserve for the same or similar community purpose and the same trustee is to be appointed.

Note: Section 290JB of the Land Act is similar to section 51A of the Land Title Act. A plan of subdivision under the Land Act though follows approval of an action under that Act, unless authorised under another Act e.g. the *Economic Development Act 2012*. Access requirements to the public use land will be considered as part of that approval.

## Legislation

*Economic Development Act 2012*

*Land Act 1962 (repealed)*

*Land Act 1994*

*Land Title Act 1994*

## Related documents

Guideline - [Deciding the most appropriate tenure of state land \(SLM/2014/1012 = PUX/952/106\)](#)

Operational policy – [Land allocation: Deciding most appropriate use, tenure and management \(SLM/2013/481 = PUX/901/101\)](#)

Standard – [Cadastral survey requirements \(SIG/2021/5792\)](#)

## 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.

## Approval

Position	Name	Effective Date
A/Director, Land Services	Roslyn Hooper	12 Sep 2019

## Version history

Version	Date	Comments
2	24/12/1997	Endorsed
2.1	01/07/2005	Conversion Project – New WORD/XML
3.0	13/12/2007	Updated to reflect Land Act amendments. Endorsed by Scott Spencer, Director-General, Department of Natural Resources and Water
3.1	11/11/2008	Minor amendment to change public liability insurance amount
3.2	09/02/2011	Updated to DERM
3.3	26/10/2012	Minor updates to reflect department name change to DNRM

Version	Date	Comments
3.4	15/10/2013	New DNRM template
3.05	20/06/2016	Minor amendment to review and insert text on new template
3.06	12/09/2019	Updated for corporate branding only
3.07	14/06/2022	Updated template and department name to Department of Resources

## Further information

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- Refer to <https://www.qld.gov.au/environment/land/state>, or
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