

Guideline

SLM/2013/417
Formerly PUX/952/086
Version 3.06
18 Sep 2019

Freeholding of reserve/vested land held by Queensland Rail

Background

Please note that the following does not apply to Aurizon (formerly QR National).

On 5 February 2004, the Under Treasurer informed the Department of Natural Resources, Mines and Energy (the department) that in relation to reserve land held by Queensland Rail (QR), QR had been instructed to record its reserve land on its asset register as an owned asset. In addition, the Treasurer had approved that QR has the opportunity to convert their reserve land property assets to freehold, if required, at nil consideration.

Further, QR's vested land is not considered an administered asset of the department and as such the department has no interest in the land, nor does it require to account financially for the land should a decision be made to allocate the land in freehold to QR.

Vested (QR) land is land vested in QR for an estate in fee simple that was-

- acquired for or on behalf of QR (primarily under a Railways Act);
- taken under the authority of any Act authorising the taking of land for railway purposes;
- comprised in a road or part of a road closed under a Railways Act (not the *Land Act 1994*).

Consequently, any application requesting the issue of a deed of grant over vested (QR) land must be accompanied by a statement advising the means by which the land became vested land.

Note also the definition of freehold land under Schedule 6 Dictionary of the *Land Act 1994* (Land Act) means-

- a) land recorded in the freehold land register; and
- b) other land that has been granted or vested in fee simple.

The issue of a freehold title over QR vested land therefore is in effect to provide "formal" title for "freehold" land already in the "ownership" of QR.

Requirements

Should QR request the grant of freehold title over its reserve and vested land, dealings with the land will be similar to practices employed for granting freehold title under the Land Act (and as documented in [Allocation of land to state government departments and constructing authorities SLM/2013/418 = PUX/952/088](#) for operational reserve land held by the electricity entities.

1. For a **reserve held for a public [operational] purpose (other than a "Community Purpose" as defined in Schedule 1 of the Land Act, which we now refer to as an operational reserve) by QR** as trustee, the Treasurer granted approval on 5 February 2004 for these reserves to be made available to QR as a deed of grant at nil consideration - a section 16 assessment is first required, and action to progress the issue of a deed of grant may proceed under section 33(1)(c) and sections 122 and 123(c) of the Land Act.
2. In regards to QR's vested land, QR must provide a statement advising the means by which the land became vested land, and surrender its interest in the land to the State in order that the deed of grant may issue. To facilitate the surrender a Form 1 Transfer document is required to be lodged for registration with the department. For the issue of the deed of grant, QR is considered to have held a significant interest in the land before it became unallocated State land under section 123(c) of the Land Act, and the deed may issue under sections 14 and 122 of that Act (or if applicable, section 358).

[Note: as mentioned, the surrendered vested area was owned by QR and needs to be surrendered only to enable a "formal" title to issue. On that basis, and as QR is not a constructing authority i.e. QR is unable to acquire land under the *Acquisition of Land Act 1967* (ALA), it is considered that the surrendered vested area for the purposes of issue of a deed of grant to QR is not required for a public purpose (being defined, in part, under the Land Act as a purpose for which land may be taken under the ALA)].

3. If QR has obtained approval from the Commissioner, in terms of the *Duties Act 2001*, to waive payment of Stamp Duty; or is exempt under the Duties Act, a copy of this advice must be provided to the department. Otherwise, the application to obtain freehold tenure over the reserve or vested land must be accompanied by a recent market valuation of the land and the offer of the deed must include payment of Stamp Duty calculated on this market valuation.
4. In addition, QR is required to –
 - for a reserve, be the registered trustee on the current title for the reserve; and
 - for a reserve and vested land, provide the department with a native title assessment of the land, in accordance with government's Native Title Work Procedures, that concludes that native title has been adequately dealt with to support the issue of a deed of grant; and
 - for a reserve and vested land, make payment of any regulatory fees and charges (i.e. issue of a Deed of Grant, any survey costs).

Please note that the above information does not apply to Aurizon (formerly QR National).

Legislation

Land Act 1994

Acquisition of Land Act 1967

Approval

Position	Name	Date
A/Director, Land Services	Roslyn Hooper	18 Sep 2019

Version history

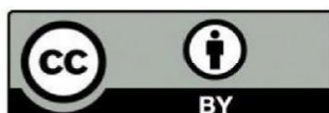
Version	Effective Date	Comments
1	27/08/2004	Endorsed
1.1	29/06/2005	Conversion Project - New WORD/XML template
2	19/11/2008	Updated and reviewed
2.1	11/02/2009	Amended status of Notification from "NRW only" to "Public access"
3	26/03/2009	Amended to delete Appendix A and change the requirement for a Deed of Surrender to a Form 1 Transfer
3.1	03/06/2010	Minor amendment to change QR deed of grant process
3.2	13/06/2013	Minor MOG changes and advice re Aurizon
3.3	18/06/2013	Minor amendments to reflect changes
3.04	02/04/2014	Updated to the new DNRM template
3.05	22/06/2016	Updated to the new DNRM template
3.06	18/09/2019	Updated for corporate branding only

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).

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

© State of Queensland, 2019



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.