

Guideline

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Internal review of original decisions

Purpose

This guideline provides information to applicants when seeking an internal review of an original decision, as the first step in the appeal process against that decision under the *Land Act 1994* (the Land Act).

Rationale

The Minister and the Chief Executive have a number of powers to make decisions under the Land Act. Section 423 of the Land Act states that a person who has a right to appeal against an original decision may apply to the Minister for a review of the decision.

The Minister and Chief Executive have delegated their authority to departmental officers, as they relate to making decisions on the review of original decisions under the Land Act. A reference in this document to actions taken by the Minister or Chief Executive, relate to actions taken by a departmental officer delegated to make the decision.

Guideline

Original decisions which have a right of appeal through internal review are described in Schedule 2 of the Land Act.

A person who has the right to appeal against a decision under the provisions of the Land Act must be given written notice of that person's right to appeal.

An appeal against the decision (an 'original decision') is in the first instance an application for internal review.

The requirements for the application and decision process for appeals is as follows:

- 1) An application for a review of a decision must be made within 42 calendar days of the decision notice being given to the person applying for the review. The Minister may extend this time period if they see fit.
- 2) Applications for review must satisfy certain requirements to be considered a valid application. These requirements will generally be met if the application is:
 - a) made to the department on the appropriate form: "Application for internal review of an original decision" form Part B (LA14);
https://www.resources.qld.gov.au/_data/assets/pdf_file/0005/101795/state-land-form-la14.pdf; and
 - b) accompanied by the appropriate fee as prescribed under the Land Regulation 2020; and
 - c) in cases where there is a notification requirement, accompanied by a copy of the notice that

was given to each entity under the notification provision¹.

The Chief Executive **must** refuse to receive or process an application not made in accordance with the application requirements above².

The principle that underpins internal reviews is that an original decision should be reviewed by a person other than, and preferably senior to the original decision maker.

If the internal review application is accepted, the Minister (or delegate) must review the decision and make a further decision (the review decision) to:

1. confirm the original decision, or
2. amend the original decision, or
3. substitute a new decision.

The Chief Executive must immediately give a review notice of the decision by letter³. If the review decision is not acceptable to the applicant, they may appeal the review decision to the court within 42 calendar days after receiving the review notice.

Legislation

Sections 422- 426 of the Land Act - internal review of decision.

Schedule 2 of the Land Act (List of Original decisions).

Schedule 6 of the Land Act (Definition - original decisions).

Land Regulation 2020 (decision on purchase price).

Related documents

Internal review of original decisions - Procedure (*Internal*) (SLM/2017/3453)

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
Director, Land and Native Title Operations Policy	Anita Haenfler	31 March 2021

¹ Pursuant to section 420(C)(1)(e) of the *Land Act 1994*

² Pursuant to section 420C (3) of the *Land Act 1994*

³ Pursuant to section 426 of the *Land Act 1994*

Version history

Version	Date	Comments
1	12/04/1998	Endorsed
2	13/12/2007	Updated to reflect Land Act amendments.
2.05	21/06/2016	Minor amendment to review and insert text on new template
3.00	31/03/2021	Rewritten to provide applicant guideline (this document) and new internal procedure for staff (SLM/2017/3453)

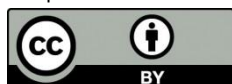
Further information

- Contact your nearest business centre (https://www.resources.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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