

# Operational policy

SLM/2013/434  
Formerly PUX/901/222  
Version 2.07  
14 June 2022

## Mortgage of a Deed of Grant in Trust

### Purpose

To provide guidelines as to when approval will be given to mortgage land granted in trust.

### Rationale

Land granted in trust is public land and careful consideration needs to be given to the desirability of mortgaging the land and the trustee's ability to repay the loan.

Should a trustee default, the mortgagee may sell the trust land free of the trust, and the state may lose a valuable community resource.

Further, a trustee, in the capacity as trustee, is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*.

**IMPORTANT:** A DOGIT that is first issued under the *Land Act 1994* (Land Act) cannot be mortgaged (see section 67(1) of the Land Act).

### Policy

Deeds of grant in trust (DOGITs) that issued under the repealed *Land Act 1962* were continued as DOGITs by section 451 of the Land Act.

As part of that continuation, existing DOGITs that were originally issued under the provisions of the *Land Act 1962 (repealed)* have retained the ability to be mortgaged with the approval of the chief executive.

In addition, a DOGIT may be mortgaged in the following circumstances:

1. The DOGIT was surrendered under section 358 of the Land Act and was issued before the commencement of the Land Act; or
2. The DOGIT was issued under Section 493 of the Land Act.

However, consideration will be given to an application to mortgage applicable land which was granted in trust as outlined above, provided that:

- The proposed mortgagor is the trustee/s as appointed (exactly) on the DOGIT.
- Evidence of approval of (or intention to approve) the proposed loan detailing the reason for the loan, as well as a copy of the proposed mortgage document must have been received from the proposed mortgagee.

- The proposed mortgagee and terms and conditions of the proposed mortgage must be acceptable, including that the terms and conditions of the proposed mortgage are consistent with the provisions of the Land Act, and do not affect the state's interests in the DOGIT.
- The funds of the loan must be used on the trust land for the purpose for which the trust was granted as required under section 67(6) of the Land Act.
- An assessment by the Department of Resources of the trustee's financial ability to repay the proposed loan must be undertaken.
- A suitable land management plan must be in place/been lodged for the DOGIT.
- A condition of the chief executive's approval to mortgage is that the mortgage must be registered (in the Land Registry).

The approval from the Treasurer to the borrowings as required under section 35(3)(a) of the *Statutory Bodies Financial Arrangements Act 1982* will also be required.

## Legislation

*Land Act 1962 (repealed)*

*Land Act 1994*

*Statutory Bodies Financial Arrangements Act 1982*

## Related documents

Operational policy – [Creation of trust land \(SLM/2013/479 = PUX/901/207\)](#)

Guideline – [Land management planning for trust land \(SLM/2021/5632\)](#)

## 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
Acting Director, Land Services, Land and Native Title Services	Roslyn Hooper	26/08/2019

## Version history

Version	Date	Comments
1	24/12/1997	Endorsed
1.1	01/07/2005	Conversion Project - New WORD/XML template

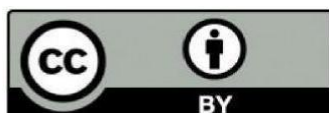
2	13/12/2007	Updated to reflect Land Act amendments. Endorsed by Scott Spencer, Director-General, Department of Natural Resources and Water
2.1	09/03/2011	Minor updates to reflect departmental name change to DERM
2.2	07/09/2012	Minor updates to reflect departmental name change to DNRM
2.3	13/03/2013	Updated to change government logo
2.04	12/03/2014	Updated to new DNRM template
2.05	22/06/2016	Minor amendment to review and insert text on new template
2.06	26/08/2019	Updated to reflect amendments to Land Act.
2.07	14/06/2022	Updated template and department name to Department of Resources

## Further information

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

This publication has been compiled by Land Operations Support, Lands Policy and Support, Lands Division, Department of Resources.

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