

# Queensland Government Land Transaction Policy

August 2017



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# Contents

1. Introduction .....	4
1.1.Purpose.....	4
1.2.Governance Arrangements .....	4
1.3.Application .....	4
1.4.Property Information .....	5
2. Acquisitions.....	6
2.1 Open and accountable.....	6
2.2 Method of acquisition .....	6
3. Disposals .....	6
3.1 Open and accountable sale price.....	6
3.2 Divestment strategy .....	7
3.3 Joint agency disposals.....	7
3.4 Inter-agency transfers .....	8
3.5 In-priority disposals .....	9
4. Leases .....	10
4.1 Leasing of state-owned property.....	10
4.2 Subsidised leases .....	11
5. Strategic and Long-Term Holds .....	11
5.1 Identification and evaluation of secondary use .....	12
5.2 Secondary use arrangements.....	12
6. Administering the QGLTP .....	12
6.1 Review .....	12
6.2 Policy amendments.....	12
Annexe 1: Property principles.....	13
Annexe 2: Applicable entities .....	14
Glossary .....	15

# 1. Introduction

## 1.1. Purpose

The Queensland Government Land Transaction Policy (QGLTP) provides government agencies with a consistent set of guidelines for land and property transactions based on:

- openness and transparency
- defensibility
- streamlined decision making
- delivering best value for Queensland.

The QGLTP sits alongside the land and property transaction decision-making process of each individual agency and aims to reduce red tape while maintaining a high level of integrity for property transactions.

The QGLTP supports the Executive Government endorsed [Property Principles \(Annexe1\)](#).

## 1.2. Governance Arrangements

The Minister for State Development, Manufacturing, Infrastructure and Planning is the decision-maker responsible for implementing a strategic approach to government land transactions covered by the QGLTP.

Investment Transactions, within the Department of State Development, Manufacturing, Infrastructure and Planning, is responsible for:

- administering the QGLTP and monitoring its performance
- advising the Minister for State Development, Manufacturing, Infrastructure and Planning on major land-based strategies and policies related to ownership and management of the state property portfolio.

Agencies are still required to sell, acquire and lease property under their own delegations, and the owner-agency's chief executive officer (or delegate) is responsible for the appropriate application of those delegations.

## 1.3. Application

The QGLTP applies to all Agency property transactions, unless otherwise provided for:

- under the QGLTP or
- legislation governing the process.

The QGLTP applies to all Queensland Government departments and government entities as listed in **Annexe 2**.

Transactions exempt from the QGLTP should still have regard to the [Property Principles](#) provided at **Annexe 1**.

### Exemptions

The following transactions are exempt from the QGLTP:

- Actions undertaken in accordance with the Economic Development Act 2012
- Land Act 1994 acquisitions, leases and land dealings (resource allocation), such as road closures, conversion of Land Act 1994 leases to freehold and allocation or purchase of a reservation in title.

The QGLTP continues to apply for all disposals where land is taken out of the coverage of the Land Act 1994 by means of freehold grant, for example, the proactive disposal of surplus and underutilised land.

## 1.4. Property Information

The Government Land Register is the principal source of information for all Queensland Government owned property.

Complete and accurate property information for all Agency acquisitions, disposals, inter-agency transfers and state-owned property leases must be recorded and kept up to date on the **Government Land Register**, in accordance with the **Property Principles (Annexe 1)**.

### Registering surplus property

A property determined by an Agency to be surplus must be registered as such on the **Government Land Register**.

Surplus properties must be listed on the **Government Land Register** as surplus for 30 calendar days before marketing commences. This is to ensure that opportunities for inter-agency transfers, including transfers to local governments, are optimised.

#### Exemptions

The following is exempt from **being listed on the Government Land Register** as surplus for 30 calendar days before marketing commences:

- the transaction takes into account whole-of-government initiatives and is being progressed as either an in-priority dealing or an inter-agency transfer or
- government services will continue to be delivered from the site.

### Confirming an interest in surplus property

If an Agency or local government is interested in purchasing a surplus property, it has:

- 30 calendar days, from the date the property is listed as surplus on the Government Land Register, to notify the owner-agency of its interest
- Up to 60 calendar days, from the date the expression of interest is received by the owner-agency, to agree with the owner-agency on terms and conditions of disposal.

#### Exemptions

Properties developed for sale and properties disposed of to satisfy statutory obligations (Public Housing or Coordinator- General) are not surplus and are exempt from the requirement to be listed as such. However, the requirement to update the **Government Land Register\*** with sales information still exists.

*\*The Government Land Register is administered by the Department of Natural Resources, Mines and Energy.*

#### NOTE:

All transactions must be made in accordance with the Queensland Government Accounting Policy Guidelines and relevant Australian Accounting Standards Board (AASB) standards.

All property transactions should take native title legislation and the Queensland Government's native title assessment work procedures into consideration. When granting a right or interest in land, agencies should note that the action may impair any native title rights and interests in the land, which as a consequence may give rise to a claim for compensation by the native title holders.

In accordance with the current Financial and Performance Management Standards, each Agency is required to establish an asset management system that must provide for identifying and disposing of property assets.

## 2. Acquisitions

All acquisitions must:

- be consistent with the [Property Principles \(Annexe 1\)](#)
- support service delivery needs or strategic purposes, including any requirements identified in an Agency's Total Asset Management Plan.

Agencies are required to review the **Government Land Register** to determine if suitable properties are available prior to purchasing property on the open market. It is also expected agencies will have considered opportunities for sharing government resources through co-location.

### 2.1 Open and accountable

Acquisitions must be open, accountable, in the public benefit and ensure best value for Queensland.

Valuations are required to support an acquisition decision and must be a current market valuation (within six months of the proposed acquisition date) as determined by a Qualified Valuer.

### 2.2 Method of acquisition

Agencies should typically acquire land through inter-agency transfer or via the open market place by either public auction or private sale.

Any transfer of property between Agencies must be at Market Value, unless the Treasurer has given specific approval for transfer at less than Market Value or an exemption is provided for under the QGLTP.

## 3. Disposals

All disposals must:

- be consistent with the [Property Principles \(Annexe 1\)](#)
- achieve Market Value unless an exemption applies under the QGLTP or the transaction is approved by the Treasurer.

#### NOTE

Where endorsement from the Treasurer is required, agencies should consult with Queensland Treasury and seek approval via their own agencies.

### 3.1 Open and accountable sale price

Disposals should achieve Market Value and must be open, accountable, in the public benefit and ensure best value for Queensland.

A market valuation provides a consistent valuation base that is accountable and capable of being tested despite being essentially a matter of expert judgement. By using Market Value, the real cost of property ownership is taken into account during decision-making processes, consistent with a seller acting 'knowledgably, prudently and without compulsion'.

Valuations are required to support a disposal decision and must be at current Market Value (within six months of listing the property) as determined by a Qualified Valuer.

Agencies may use In-House Qualified Valuers for the valuation of low or nominal value parcels, usually where the value of the property is less than \$50,000, excluding in-priority disposals.

Qualified Valuers must be instructed to value the property at Market Value and include in the valuation report:

- their opinion as to the highest and best use for the property
- identification of any risks associated with the property.

## Exemptions

The following disposals below Market Value are exempt from **Treasurer approval** (but should still comply with the QGLTP):

- transactions approved by the Treasurer as part of a separate process or
- properties with a Market Value of \$250,000 or less or
- non-reciprocal equity transfers between agencies controlled by the State, such as transactions in accordance with Financial Reporting Requirements (FRR) 4F Equity, Contributions by Owners and Distribution to Owners. Refer to FRR 4F for the list of criteria to be met under this transfer arrangement or
- where a property is properly marketed and Market Value cannot be achieved, an Agency can decide to sell the property below Market Value, without Treasurer approval, where the Agency considers the sale price provides public benefit in consideration of continued holding costs and the costs of remarketing the property. This approach is the exception rather than the rule.

### REMINDER

Detailed property information must be recorded and kept up to date on the Government Land Register in accordance with the Property Principles and the GLR user guides.

## 3.2 Divestment strategy

A property's disposal should maximise financial return in line with a **constraints and opportunities assessment**. The manner of sale should ensure that all parties have the opportunity to purchase the property and that a full commercial return is obtained. Agencies may choose the appropriate divestment method, noting that each has different levels of probity. Strategies for disposal include:

- public auction – is typically more straightforward than other methods and is open to public scrutiny
- tender/expression of interest – open to public scrutiny and is preferred where:
  - it is uneconomical to proceed to public auction
  - the market for a particular property is limited or unknown
  - it is desired to identify varied or alternative use and purchase packages for unusual properties
  - the market for a particular property is statewide, nationwide or international
  - the objectives of the sale are complicated (e.g. one of the following is required: control over the future use, information on proponent credentials, protection of existing leases or involves development).
- listing – used where there is little demand for the land. Surplus properties may be listed with sole or multiple real estate agencies to gain exposure and allow for market participation before offers are considered.

## 3.3 Joint agency disposals

Disposals with potential to achieve a higher sale price where bundled with properties from other Agencies should be progressed jointly through both agencies' delegations.

Agencies jointly disposing of surplus property must agree to engage an Independent Qualified Valuer instructed, as per the above assumptions, to provide:

- a standalone valuation for each property
- a combined valuation for the bundle of properties
- a pro rata calculation for each Agency for the purpose of determining the distribution of the sale price and expenditure.

## 3.4 Inter-agency transfers

Transfers between Agencies, and disposals to statutory bodies, statutory authorities, government-owned corporations, local governments or the federal government, are to be given preference over disposals to the private sector.

Inter-agency transfers are to occur at Market Value and are not considered in-priority disposals.

Where properties are exchanged between Agencies, and the properties are not of equal value, the Agency releasing the higher-valued property should receive, in addition to the lesser-valued property, a financial sum that reflects the difference between the market values of the properties.

Each owner-agency is responsible for the contingent costs associated with the property being released and for ensuring compliance with the Queensland Government **Accounting Policy Guidelines** and relevant AASB standards.

Only one valuation is required to be prepared, jointly instructed and with costs equally shared. Arrangements for disposals to statutory bodies, statutory authorities, government-owned corporations, local governments and the federal government are as follows:

- both parties agree to engage a Qualified Valuer to prepare a single valuation, sharing the cost and agreeing to be bound by the valuation. Both parties are able to put forward information to assist the Qualified Valuer and to seek clarification from the Qualified Valuer on issues associated with the valuation or
- both parties engage Qualified Valuers of their choice and negotiate between themselves. The Valuer-General (or delegate) may act as the independent arbitrator and determine an appropriate level of value which is final. This may involve the Valuer-General (or delegate) making its own enquiries as necessary.

### NOTE

Where there are competing inter-agency interests Investment Transactions can assist Agencies to determine the best value outcome for government.

Investment Transactions can support Agencies with all aspects of the QGLTP, including interpretation, implementation, and identification of value uplift opportunities and assessing best value for Queensland. This includes advising Agencies, where requested, on property transactions outside of the QGLTP.

An example of a constraints and opportunities assessment is available at:

**[www.statedevelopment.qld.gov.au/economic-development/transaction-policy.html](http://www.statedevelopment.qld.gov.au/economic-development/transaction-policy.html)**

## Exemptions

Inter-agency transactions are exempt from **Treasurer approval** and from the **QGLTP** where:

- the owner agency can justify the transfer financially in demonstrated long-term cost savings in the maintenance and other costs associated with the land, or in the interest of public safety, or special reasons exist that would be in the best interests of the community
- the transfer is approved by the owner agency Director-General or its delegate once the delegate is satisfied that it meets these criteria  
**and (one of the following)**
- the owner agency at its discretion agrees to the transfer of land in trust to local government on the basis the land will be retained by the local government for a community use (for example a park, recreational or environmental use) and the owner agency is offered first right to purchase back at an agreed price  
**or**
- the property has a Market Value of \$250,000 or less and the land is to be retained for an existing community use.

## 3.5 In-priority disposals

An in-priority disposal occurs in the absence of any prior public competition. However, in-priority disposals are the exception rather than the rule; they are used in circumstances where it is practically necessary and/or commercially advantageous to the State and not contrary to the best interests of the community.

In-priority disposals may be appropriate in the following circumstances:

- disposal is to a sitting long-term tenant (greater than five years) and the projected net return to the State (i.e. purchase price less costs of sale) is equivalent to or greater than the anticipated net return from an open market sale
- disposal occurs as a consequence of a constructing authority acquiring more land than is needed for a scheme and the additional land is used to form part of a settlement package with another dispossessed owner affected by the same scheme
- there are no other practicable purchasers, e.g. there is no legal access to the land (land-locked), the land is insufficient in area for competitive sale, a portion of the land separates a property from the only means of practicable access
- the applicant has a significant interest in the property, e.g. owns substantial improvements on the property, holds a substantial easement over the property
- where sale by public competition has failed to attract a purchaser and it can be established that further efforts to dispose of the property by public competition are likely to fail
- where it is established no significant demand exists and the cost of public competition exceeds likely return
- the applicant is an organisation receiving funding support from an Agency:
  - which makes a substantial contribution towards the outputs of a state government Agency
  - whose contribution to the Agency's outputs would depend upon or be substantially enhanced by gaining priority to a particular property
  - whose application for priority has the support of the Agency to whose outputs it is contributing.
- where special reasons exist that would be in the best interests of the community, (e.g. sale to a community group to enable the provision of necessary services to the community)
- where the financial return is clearly higher than could reasonably be expected from sale in the open market place
- disposals which contribute to or facilitate a government priority for economic development or development for community uses, in the State
- disposals which help resolve an intractable problem or remove a significant risk associated with government land (e.g. by bundling a lot with complex access and contamination issues with a better lot)

- disposals that are part of a project that will lead to significant innovation and/or flow-on economic, employment or community benefits
- disposals that are part of a proposal that relies on a buyer's demonstrated, genuine intellectual property
- disposals that are part of a complex or structured transaction that involves a number of properties or where the transaction is otherwise endorsed by Executive Government.

#### NOTE

Inter-agency transfers are not considered in- priority disposals and should be considered in accordance with section 3.4 of the QGLTP.

Investment Transactions can support Agencies with all aspects of the QGLTP, including interpretation, implementation, and identification of value uplift opportunities and assessing best value for Queensland. This includes advising Agencies, where requested, on property transactions outside of the QGLTP.

Where endorsement from the Treasurer is required, agencies should consult with Queensland Treasury and seek approval via their own agency processes.

## In-priority sale price

In-priority disposals are to be at Market Value, unless the Treasurer approves the sale at less than Market Value.

For complex transactions, the sale price may take into account value-adding opportunities such as land swaps, lease-backs, provision of works or assets, and support for government priorities. The aim is to achieve the best value for Queensland.

In-priority disposals of properties valued at \$2 million or less must be supported by at least one valuation provided by an Independent Qualified Valuer. The disposal of a property with a value above

\$2 million must be supported by a valuation provided by the Valuer-General (or delegate) or by obtaining valuations from two Independent Qualified Valuers.

The average of the two valuations is used, provided that the two valuations are no more than 20 per cent apart. In the event that they are more than 20 per cent apart, the Valuer-General (or delegate) will determine an appropriate level of value based on the two valuations provided, and make any additional enquiries considered necessary.

In-priority disposals are not to be the subject of an instalment contract unless endorsed by the Treasurer.

For properties sold in-priority the purchaser is required to bear all contingent costs unless otherwise approved by the owner-agency's chief executive officer (or delegate), for example, survey, legal or valuation costs.

## 4. Leases

All leases must be consistent with the [Property Principles \(Annexe 1\)](#).

### 4.1 Leasing of state-owned property

The lease of state-owned property must be:

- open, accountable and ensure the best value for Queensland
- at Market Value unless specifically approved by the Treasurer or an exemption is provided for in the QGLTP.

All rents shall be re-evaluated when appropriate, depending on the nature of the occupation and the nature of the property. Two-yearly reviews are recommended for long-term tenancies (greater than five years) and where there is a substantial private market for similar leasing opportunities.

## 4.2 Subsidised leases

Subsidised leases are to be approved by the Treasurer unless an exemption is provided for in the QGLTP.

Subsidised leases are the exception rather than the rule. Agencies should seek to understand the total transaction value to government by assessing the forgone Market Value of the proposed lease and the value of the benefits being offered to government by the lessee.

Unless otherwise directed by Executive Government a subsidised lease should:

- support government service delivery and/or objectives
- have a benefit to the State after consideration of financial, community and/or economic outcomes of the lease
- have a rental consideration greater than the holding Agency's overheads attributable to the tenancy, including items such as council rates, utility charges, cleaning and maintenance, holding costs (rentals may need to be calculated on a pro rata of use basis)
- include a six-month (or less) lease termination clause that is sufficient to terminate the lease where the property is required for reuse, redevelopment or disposal by government
- require the lessee to bear all contingent costs, for example, survey and legal fees associated with the preparation of the lease and
- be for a term that is aligned with the service delivery needs of government but not exceed five years.

### Exemptions

The following leases are exempt from **Treasurer approval** (but should still comply with the QGLTP):

- below market rentals (subsidised leases) where best value to Queensland can be demonstrated or
- subsidised leases that include a six-month (or less) lease termination clause that is sufficient to terminate the lease where the property is required for reuse, redevelopment or disposal by government or
- leases for properties where the value of the property is \$250,000 or less.

#### NOTE

An owner-agency's chief executive officer (or delegate) may rely on a standardised methodology, fee structure or similar appropriate application of rental valuations for low risk and low or nominal value leases, usually where the value of the property is less than \$50,000, such as for a vending machine or for an ATM in a hospital.

Where endorsement from the Treasurer is required, agencies should consult with Queensland Treasury and seek approval via their own agency processes.

## 5. Strategic and Long-Term Holds

Agencies may be required to hold properties where ownership supports government's long-term strategic objectives and for public benefit.

Strategic and long-term holds must optimise the secondary use of their property holdings by identifying opportunities to make available the secondary use capacity of their properties.

By taking advantage of the secondary use capacity of properties, an Agency is able to reduce operational and/or holding costs associated with property management. As a consequence, funds are released to extend that Agency's service delivery which will be of direct benefit to the community.

## 5.1 Identification and evaluation of secondary use

Identification of secondary capacity should be considered as part of property management planning. Secondary use of property can be facilitated through leases, licences and agreements, but should be consistent or complementary with the primary use and capability of the property.

## 5.2 Secondary use arrangements

In addition to the criteria detailed in **section 4.1**, secondary use rental consideration should take into account the equity of each party in the property (e.g. a lessee may have constructed improvements on a property for which it would not pay a rental).

Where capital expenditure is involved and structures are modified or constructed on state-owned property, it will be necessary to clarify remedial obligations pertaining to ownership/control, removal and/or restoration of the property. These capital costs are ordinarily met by the occupier.

# 6. Administering the QGLTP

## 6.1 Review

The QGLTP will be formally reviewed annually by Investment Transactions or more frequently if directed by the Director-General, Department of State Development, Manufacturing, Infrastructure and Planning, or where there is material change in a relevant government policy or other instrument.

## 6.2 Policy amendments

The use of the QGLTP will be monitored by Investment Transactions to determine whether it continues to meet the guiding precepts and provides agencies with enough guidance to make decisions.

Amendments to the QGLTP will be submitted to the Director-General, Department of State Development, Manufacturing, Infrastructure and Planning, for approval.

### NOTE

Investment Transactions can support Agencies with all aspects of the QGLTP, including interpretation, implementation, and identification of value uplift opportunities and assessing best value for Queensland. This includes advising Agencies, where requested, on property transactions outside of the QGLTP.

# Annexe 1: Property principles

## **The Queensland Government will manage the ownership of property for the public benefit.**

Departments and Statutory Authorities<sup>1</sup> acquire and release property regularly as part of the normal business of government to provide services, facilitate economic growth and create liveable communities. Over the period to 30 June 2018, it is forecast that the government's property portfolio will grow by 8.4 per cent

The State is committed to using an evidence-based approach to maintaining the ownership of its strategic property to meet community expectations, operational service delivery requirements and government policy objectives, both today and into the future. The State will only release surplus and underutilised property where it is no longer required for service delivery or to achieve government policy objectives.

The State will also adhere to the following **principles**<sup>2</sup>:

- The State will maintain ownership of strategic property identified by departments and statutory authorities for the public benefit as necessary for current or future service delivery.
- Decision making on property will take account of whole-of- government strategic priorities, the public benefit, objectives and budgetary considerations.
- When disposing of property, the State will seek the maximum return for Queensland, including opportunities for job creation, community use and economic growth.
- The decision to dispose of surplus or underutilised property will be considered where associated holdings costs do not provide a net benefit to the State.
- Divestment of surplus or underutilised property will only be pursued after consultation with Queensland Government departments, Statutory Authorities and the relevant local council.
- The State will continue to address legislative and policy-related barriers to best practice real property management.
- Departments and Statutory Authorities will ensure complete, current and accurate information on all property is maintained within the Government Land Register.

<sup>1</sup> Includes all entities identified in Annexe 2

<sup>2</sup> Property Principles were endorsed by Executive Government April 2015

## Annexe 2: Applicable entities

The following lists entities other than agencies to which the Policy applies. The list is derived from the Standing Rules and Orders of the Legislative Assembly schedule 7—Chief Executive Officers and has been refined to exclude all entities with land and building assets of less than \$3 million and all government-owned corporations.

Cairns and Hinterland Hospital and Health Service  
Central Queensland Hospital and Health Service  
Central West Hospital and Health Service  
Children’s Health Queensland Hospital and Health Service  
Darling Downs Hospital and Health Service  
Gold Coast Hospital and Health Service  
Gold Coast Waterways Authority  
Legal Aid Queensland  
Mackay Hospital and Health Service  
Metro North Hospital and Health Service  
Metro South Hospital and Health Service  
North West Hospital and Health Service  
Queensland Agricultural Training Colleges  
Queensland Bulk Water Supply Authority (Seqwater)  
Queensland Institute of Medical Research  
Queensland Museum Queensland Rail  
Racing Queensland (Queensland All Codes Racing Industry Board)  
South Bank Corporation  
South West Hospital and Health Service  
Stadiums Queensland  
State Library of Queensland/Library Board of Queensland  
Sunshine Coast Hospital and Health Service  
TAFE Queensland  
The Public Trustee of Queensland  
Torres and Cape Hospital and Health Service  
Townsville Hospital and Health Service  
West Moreton Hospital and Health Service  
Wide Bay Hospital and Health Service

# Glossary

AASB	Australian Accounting Standards Board.
Agency/Agencies	All Queensland Government agencies and departments as listed on the Administrative Arrangements Order approved by the Governor in Council. The term includes the Coordinator-General and the Minister for Economic Development Queensland and all applicable entities listed in <i>Annexe 2</i> of the Policy.
FRR 4F	FRR4F - <i>Equity, Contributions by Owners and Distribution to Owners</i> is a Queensland Treasury Financial Reporting Requirements for Queensland Government Agencies.
Commercial and industrial	A leasing implement for commercial and industrial purposes, including office buildings and industrial land.
Constructing Authority	As defined in the <i>Acquisition of Land Act 1967</i> .
Executive Government	Includes: the Premier, Deputy Premier or another Minister; the Cabinet, Cabinet Budget Review Committee or another Cabinet committee; the Chief Executive of a government department or agency to which the policy applies
Independent Qualified Valuer	A qualified member of the State Valuation Services or a qualified valuer external to the Queensland Government who is registered in accordance with the <i>Valuers Registration Act 1992</i> (Qld) and the <i>Valuers Registration Regulations 2003</i> (Qld).
In-House Qualified Valuer	A qualified valuer employed by the Queensland Government who is registered in accordance with the <i>Valuers Registration Act 1992</i> (Qld) and the <i>Valuers Registration Regulations 2003</i> (Qld).
In-priority sale	Sale without public competition other than an Inter-agency transfer.
Inter-agency transfer	A transfer of real property at Market Value between the owner-agency and another Agency, local government or federal government.
Land Act	<i>Land Act 1994</i> (Qld).
Lease	A lease is an interest in land or buildings that gives exclusive possession and is given by a land owner (lessor) to another person (lessee) for a fixed duration.
Licence	An agreement to allow the use or occupancy of land or buildings where there is clearly no intention to pass exclusive possession or an interest in the land.
Market Value	The estimated amount, as determined by a Qualified Valuer, for which a property should exchange on the date of valuation in accordance with the International Valuation Standards Council definition of 'Market Value' ( <a href="http://www.ivsc.org/glossary#letter_m">http://www.ivsc.org/glossary#letter_m</a> ). It is assumed that the amount excludes GST unless otherwise stated.
Property	Comprises real property and interests in real property owned and controlled by agencies and departments (including built property and air rights).
Qualified Valuer	Either an Independent Qualified Valuer or an In-House Qualified Valuer.
Revenue lease	A leasing implement for the occupation and/or use by third parties of real property owned by an Agency.
Secondary use	The ability to utilise an underperforming real property beyond its primary function where the secondary application does not prohibit or unduly interfere with the primary use function.
Statutory Authority	Within the <i>Queensland Government Land Transaction Policy</i> , references to statutory authorities includes all entities identified in <i>Annexe 2</i> .
Subsidised Leases	Leases with a rental consideration below Market Value.
QGLTP	The Queensland Government Land Transaction Policy

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