Real Property Management Policy

Protocol for Real Property Acquisition

1. Purpose

This protocol describes the mandatory steps for the acquisition of real property undertaken on behalf of Queensland Health, in accordance with Government Land Policies (see Appendix 1) and best practice for asset management. Compliance with the standard will ensure all decisions to acquire real property are based on sound business and planning principles, and all properties acquired for the delivery of health services and infrastructure shall:

- be suitable for the efficient delivery of those services
- be compatible with the planning requirements of state and local governments
- maximise and balance the social, economic and environmental benefits to the state and community.

The protocol also identifies the responsibilities (and audit criteria) of individual positions in relation to these requirements.

2. Scope

This protocol applies to all Queensland Health employees (permanent, temporary and casual) and all organisations and individuals acting as its agents (including visiting medical officers and other partners, contractors, consultants and volunteers) responsible for the acquisition of real property granted under the control of Queensland Health.

3. Related documents

Authorising Policy and Standard/s:

- Real Property Management Policy QH-POL-353:2012
- State of Queensland (Property Management Committee) Government Land Policies
  - Acquiring and Purchasing Property
  - Guidelines for the Compulsory Acquisition of Land by the State

Forms and templates:

- Property Services Work Request Form
- Acquisition Action Check Sheet – HIB Form
All Department of Health forms and templates are available from HIB_Enquiries@health.qld.gov.au.

4. Related documents

Legislation
Relevant legislation and associated documentation includes, but is not limited to, the following:

- Acts Interpretation Act 1954 (Qld)
- Acquisition of Land Act 1967 (Qld)
- Acquisition of Land Regulation 2003 (Qld)
- Environmental Protection Act 1994 (Qld)
- Financial Accountability Act 2009 (Qld)
- Financial Accountability Regulation 2009 (Qld)
- Judicial Review Act 1991 (Qld)
- Land Act 1994 (Qld)
- Land Regulation 1995 (Qld)
- Land Sales Regulation 2000 (Qld)
- Land Tax Regulation 1999 (Qld)
- Land Title Regulation 2005 (Qld)
- Land Valuation Act 2010 (Qld)
- Local Government Act 2009 (Qld)
- Native Title (Queensland) Regulation 1996 (Qld)
- Native Title (Queensland) Act 1993 (Qld)
- Native Title Act 1993 (Cwlth)
- Native Title (Technical Amendments) Act 2007 (Cwlth)
- Native Title Amendment Act 2007 (Cwlth)
- National Trust of Queensland Act 1963 (Qld)
- Property Law Act 1974 (Qld)
- Queensland Heritage Regulation 2003 (Qld)
- Queensland Heritage Act 1992 (Qld)
- State Development and Public Works Organisation Act 1971 (Qld)
- Sustainable Planning Act 2009 (Qld)
- Sustainable Planning Regulation 2009 (Qld)
- Torres Strait Islander Land Regulation 1991 (Qld)
- Valuation of Land Regulation 2003 (Qld)
- Workplace Health and Safety Regulation 2008 (Qld)
5. **Process for Real Property Acquisition**

5.1 **Initiating and assessing the request**

5.1.1 Acquisition of all real property shall be initiated and commenced through a request to Property Services (PS), Asset and Property Services (APS), Health Infrastructure Branch (HIB), System Support Services (SSS).

5.1.2 The relevant requesting officer from the Hospital and Health Service (HHS) or division (as the asset controller) shall identify the need for the acquisition of real property. It is best practice to identify the need for real property after the completion of service/master planning.

5.1.3 The asset controller shall submit a work request form to PS to initiate the real property acquisition process.

5.1.4 PS shall assess the request against:

- health service delivery requirements
- broader government objectives – including social, economic and environmental benefits
- value for money
- availability of funding.
5.1.5 The Manager PS shall endorse the decision to progress with the acquisition or decline the request on the basis of this assessment. PS shall advise the asset controller of the outcome.

5.2 Processing a request

5.2.1 PS, in consultation with the asset controller and the Senior Director, Capital Projects Unit (CPU) shall develop site/project specific evaluation criteria for an assessment of a potential site’s suitability for the intended purpose (as informed by service/master planning findings).

5.2.2 Evaluation criteria shall include, but not be limited to, tenure, size, location, geographical consideration, access, services, headworks, geotechnical survey and planning scheme compliance.

5.2.3 PS shall check the Government Land Register (GLR) for suitable surplus and under-performing government properties prior to seeking property on the open market. PS shall record details on the GLR.

5.2.4 PS shall advise the Department of State Development, Infrastructure and Planning of the intention to acquire property, as required, to confirm compliance with whole–of-government objectives, prior to possible sites being identified.

5.2.5 If required, PS shall engage a service provider to identify suitable sites, undertake due diligence investigations and develop an acquisition strategy. The list of suitable sites established by the service provider shall be provided to PS for endorsement.

5.3 Approval and implementation

5.3.1 No Queensland Health officer shall approve the acquisition of real property.

5.3.2 All Queensland Health staff, and individual and organisations acting as agents for Queensland Health during real property acquisition transactions, shall be aware of their confidentiality obligations.

5.3.3 All real property acquisitions shall comply with the requirements of the Government Land Policies (see Appendix 1).

5.3.4 PS shall instruct the service provider to arrange a current market valuation of property by a qualified valuer.

5.3.5 The service provider or PS shall undertake negotiation of terms and reach an Agreement-in-Principle with the property owner. If negotiated by the service provider, the agreement shall be endorsed by PS.

5.3.6 Negotiations relating to the acquisition of real property shall not impose unnecessary legal, administrative or financial burdens on Queensland Health.

5.3.7 Should agreement with the property owner not be possible, the acquisition process can either be abandoned or, after Ministerial approval has been given, referred to the Department of Natural Resources and Mines (DNRM) to initiate compulsory acquisition under the provisions of the Acquisition of Land Act 1967 (see 5.5 Compulsory Acquisition below).

5.3.8 All agreements relating to the acquisition of real property shall be in writing.
5.3.9 PS shall prepare a Ministerial brief to obtain approval for acquisition of real property and, subject to the value of the purchase, Governor-in-Council (GIC) approval, in accordance with the Queensland Health Corporate Real Property Delegations. PS or the service provider shall obtain Queensland Government Property Management Committee approval as necessary, subject to the value of the purchase, in accordance with provisions of the Government Land Policies.

5.3.10 If Ministerial approval is received, the service provider or PS shall:
   - instruct a solicitor to lodge and register transfer documentation
   - advise the asset controller
   - arrange execution of documentation.

5.3.11 PS shall arrange payment of settlement monies and update the Government Land Register and corporate databases.

5.3.12 PS or the asset controller shall pay the service provider, and the asset controller shall commence day-to-day management.

5.3.13 PS shall forward to the Portfolio Management and Investment Unit, Health Infrastructure Branch via email the Finance Requirements detailed in Attachment 1.

5.4 Compulsory acquisition

5.4.1 PS shall seek Ministerial approval to proceed with the acquisition of the property by compulsory means.

5.4.2 Following approval, PS shall instruct DNRM to issue a formal Notice of Intention to Resume (NIR). PS shall prepare a detailed Statement of Reasons, supported by the investigation documents used to seek approval, outlining why the acquisition of the site is critical to the delivery of public health services.

5.4.3 Should the owner of the property not object to the NIR, the land is taken by the State and the owner’s interest is converted to a right of fair compensation under the Acquisition of Land Act 1967 (Qld) (the Act).

5.4.4 Should the owner of the property object to the NIR, PS shall prepare a formal response to the objections, which shall include the methodology used by Queensland Health and shall identify the reasons why the need for the property is site-specific and essential.

5.4.5 Should DNRM uphold the owner’s appeal, Queensland Health shall have no further legislative opportunities to acquire the site, other than through amending the original area or seeking the introduction of new site-specific legislation.

5.4.6 Should DNRM dismiss the owner’s appeal, the land is taken by the State and the owner’s interest is converted to a right of fair compensation under the Act.

5.4.7 The acquisition process is then finalised as per acquisitions by negotiation (see 5.4.6 – 5.4.9 above).
## 5.5 Responsibilities

<table>
<thead>
<tr>
<th>Position</th>
<th>Responsibility</th>
<th>Audit criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minister</td>
<td>Approve, where required, acquisition agreements.</td>
<td>Agreements are approved in accordance with GLP and Corporate Real Property Delegations.</td>
</tr>
</tbody>
</table>
| Director-General | • Asset Owner  
• Endorse, where applicable, acquisition agreements for Ministerial approval.  
• Approve, where required, acquisition contracts. | Endorsement is given in accordance with Corporate Real Property Delegations.  
Documentation is completed meeting agreed timeframes. |
| Deputy Director-General, System Support Services | • Endorse, where applicable, acquisition agreements for approval.  
• Approve, where required, acquisition contracts. | Endorsement is given in accordance with Corporate Real Property Delegations.  
Documentation is completed meeting agreed timeframes. |
| Chief Health Infrastructure Officer, Health Infrastructure Branch, System Support Services | • Endorse, where applicable, acquisition agreements for approval.  
• Approve, where required, acquisition contracts.  
• Custodian for the Standard.  
• Endorse and review the Standard. | Endorsement is given in accordance with Corporate Real Property Delegations.  
Standard is reviewed at least every 2 years. |
| Senior Director, Asset and Property Services, Health Infrastructure Branch, System Support Services | Manage review of the Standard. | Standard is reviewed at least every 2 years. |
| Health Service Chief Executives | • Identify need for real property acquisition, in accordance with service planning.  
• Approve all appropriate forms for submission to PS. | All acquisition requests reflect documented service needs and plans.  
All acquisition requests are referred to PS in a timely fashion, and Work Request Form is used. |
| Manager, Property Services, Asset and Property Services, Health Infrastructure Branch | Review all work requests and delegate as required. | Review and delegation occurs in a timely manner.  
Requirements of Standard are met. |
| Staff, Property Services, Asset and Property Services, Health Infrastructure Branch | • Review and assess all submitted documents.  
• Engage service provider as necessary  
• Liaise with other agencies in assessment of sites  
• Refer to DNRM in case of compulsory acquisition  
• Develop documents seeking acquisition approval  
• Organise settlement of funds and payment of service provider  
• Update, maintain and archive documents. | Communication with HHSs is clear, concise and timely.  
Documents are reviewed and assessed in timely fashion.  
Due diligence is performed (Acquisition Action Check Sheet completed).  
Statement of Reasons is provided to DNRM as required.  
GLR and corporate databases are updated at each stage of process, as required. |
6. **Review**

This Protocol is due for review on: 4 June 2014

**Date of Last Review:** New

**Supersedes:** N/A

7. **Business Area Contact**

Senior Director, Asset and Property Services Branch
Health Planning and Infrastructure Division

8. **Definitions of terms used in the policy and supporting documents**

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition / Explanation / Details</th>
<th>Source</th>
</tr>
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<tbody>
<tr>
<td>Acquisition</td>
<td>The process of securing ownership of an asset. The process commences when the need for the asset is identified and concludes when the asset is received and registered.</td>
<td>Health Infrastructure Branch (HIB)</td>
</tr>
<tr>
<td>Asset controller</td>
<td>The entity that is accountable for the compliance and performance of allocated assets, usually the manager of the Hospital and Health Service, System Manager Branch or Unit with direct control over the use, size or need for an asset.</td>
<td>HIB</td>
</tr>
<tr>
<td>Asset management</td>
<td>A systematic approach to the procurement, maintenance, operation, rehabilitation and disposal of one or more assets which integrates the utilisation of assets and their performance with the business requirements of asset owners or users.</td>
<td>HIB</td>
</tr>
<tr>
<td>Asset owner</td>
<td>The State of Queensland, represented by the Director-General, Queensland Health, and acting through PS, APS, HIB.</td>
<td>HIB</td>
</tr>
<tr>
<td>Compulsory acquisition</td>
<td>The taking of land (or easement) compulsorily by a Constructing Authority pursuant to the Acquisition of Land Act 1967.</td>
<td>DNRM</td>
</tr>
<tr>
<td>Government Land Register (GLR)</td>
<td>The GLR is a computerised database that contains details of all property (land and improvements, such as buildings) including leasehold and easement interests controlled by government departments, statutory authorities and other agencies constituted under State legislation.</td>
<td>GLP-PMC website</td>
</tr>
<tr>
<td>Property Management Committee (PMC)</td>
<td>The Queensland Government’s PMC provides strategic direction and policies for the State's property asset portfolio (comprising land, buildings and infrastructure). Its membership comprises CEOs from nine government departments.</td>
<td>GLP-PMC website</td>
</tr>
<tr>
<td>Market value</td>
<td>The estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.</td>
<td>GLP-PMC website</td>
</tr>
<tr>
<td>Real property</td>
<td>Real property is defined as land and all that is affixed permanently thereto, including buildings and other immovable property. This policy does not relate to the disposal or removal of buildings only.</td>
<td>GLP-PMC website</td>
</tr>
<tr>
<td>Service provider</td>
<td>An entity external to Queensland Health engaged to assist in the acquisition process (eg. Project Services, Department of Public Works) or a private provider.</td>
<td>HIB</td>
</tr>
</tbody>
</table>
9. Approval and Implementation

Policy Custodian:
Chief Health Infrastructure Officer, Health Infrastructure Branch, System Support Services

Responsible Executive Team Member:
Deputy Director-General, System Support Services

Approving Officer:
Deputy Director-General, System Support Services

Approval date: 4 June 2012
Effective from: 4 June 2012

Version Control

<table>
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<th>Version</th>
<th>Date</th>
<th>Prepared by</th>
<th>Comments</th>
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<tr>
<td>1.0</td>
<td>11/02/2014</td>
<td>Helen Sotiris</td>
<td>minor update to include new reporting structure</td>
</tr>
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10. Attachments

Attachment 1: Finance Requirements for Property Purchase (to be emailed to Portfolio Accounting Team, Commercial Services Unit, Health Infrastructure Branch)

Prior to Check or EFT, please include the following information:

☐ Ministerial Brief approving total purchase price (additional approval for compensation if required)
☐ Queensland Health GST Ruling (GST@health.qld.gov.au)
☐ Current Title Search
☐ HHS Owner: _________________________________
☐ Settlement Statement or document from seller detailing break-up of purchase price:
  ○ Land $ _________________________________
  ○ Building $ _______________________________
  ○ Project Services Fees $ ___________________
  ○ Settlement Date ___________________________
☐ Funding Source _______________________________
☐ Valuation Report
☐ Seller’s Details (Name, Address, Phone and ABN printout if applicable)

After Settlement / Payment, please include the following information:

☐ New Title Search showing QH as owner
☐ Tax Invoice from Seller (if Registered Supplier – Developer, Business, Government, Councils)
☐ GLR Number
☐ Project Services Invoice
☐ ‘6’ Series Internal Order for Asset Capitalisation
☐ Due Diligence cost for acquisition $ _______________

Please Note the Finance Team is unable to supply Bank Cheques but can provide advice on this process.