

## 1. Statement

The leasing of real property on behalf of Department of Health (DoH) shall be in accordance with legislation, whole-of-government policy and the principles of real property ownership and management.

All leasing transactions shall be approved in accordance with the DoH's Real Property Delegations.

The DoH is supportive of and encourages partnership agreements involving the use of Queensland Health real property assets via third party infrastructure partnership agreements.

## 2. Scope

Compliance with the requirements in this standard is mandatory.

This standard applies to all employees, contractors and consultants within the DoH divisions and commercialised business units.

This standard can be used by Hospital and Health Services either as is, by re-branding or as a base for a Hospital and Health Service specific policy.

## 3. Principles

Compliance with this standard will ensure all properties leased through Residential Headleases, Expenditure Agreements and Revenue Agreements:

- are developed and approved through a consistent and transparent process, maintaining appropriate legal documentation
- comply with relevant legislation and whole-of-government and DoH policy (including the Queensland Health Corporate Real Property Delegations, the *Residential Tenancies and Rooming Accommodation Act 2008* (Qld), the *Property Law Act 1974* (Qld), the *Land Title Act 1994* (Qld), the Transaction Policy and other legislation relevant to an individual agreement)
- provide value-for-money and ensure management of risk for the DoH.

All third party infrastructure partnership agreements are developed and delivered through a consistent process that supports the management of DoH real property assets, providing services that benefit the healthcare of the Queensland public and aligning with the strategic direction of the Department.

All DoH staff, and individuals and organisations acting as agents for DoH during property transactions, shall be aware of their confidentiality obligations.

## 4. Requirements

The requirements in this standard meet the DoH's obligations under legislation and the whole-of-government Transaction Policy to ensure real property leasing is undertaken in accordance with the Department of State Development's Property Principles.

All transactions, as stipulated by the Transaction Policy endorsement thresholds, shall be considered by DSD for the transaction's strategic approach.

All leasing and third party infrastructure agreements shall be in line with the DoH Real Property Delegations and shall be initiated and commenced through a request to Health Infrastructure Branch, Office of the Director General.

## 4.1 Leasing

4.1.1 The following leasing requirements of the Transaction Policy shall be addressed:

- must be at Market Value (for state-owned property) unless specifically approved by the Treasurer or an exemption is provided for by the Transaction Policy
- must be re-evaluated (for state-owned property) on a two-yearly basis
- that subsidised leases are to be approved by the Treasurer unless an exemption is provided for by the Transaction Policy.

## 4.2 Third party agreements

4.2.1 Third party partnership agreements shall:

- benefit the healthcare of the Queensland community
- align with the strategic direction of the Department
- be assessed against departmental strategic directions, established criteria and identified service priorities of the Department.

4.2.3 There shall be a thorough investigation before any third party agreement is negotiated taking into consideration future infrastructure plans, identified service needs and service planning and infrastructure planning information.

For further information regarding the process for leasing and third party agreements please refer to the Real Property Management Guideline.

## 5. Related legislation and documents

### Legislation

- *Financial Accountability Act 2009* (Qld)
- *Financial and Performance Management Standard 2009* (Qld)
- *Hospital and Health Boards Act 2011* (Qld)
- Hospital and Health Boards Regulation 2012 (Qld)
- *Land Act 1994* (Qld)
- *Land Title Act 1994* (Qld)
- *Property Law Act 1974* (Qld)
- *Public Service Act 2008* (Qld)
- *Retail Shop Leases Act 1994* (Qld)
- *Residential Tenancies and Rooming Accommodation Act 2008* (Qld)
- Residential Tenancies and Rooming Accommodation Regulation (Qld) 2009
- *Sustainable Planning Act 2009* (Qld)
- *Telecommunications Act 1994* (Cwlth)

### Department of Health

- Financial Delegations
- Corporate Real Property Delegations

- Implementation Standard for Integrated Risk Management 3 – Risk Analysis Matrix

## Other

- Department of Housing and Public Works, 2004, Office Accommodation Management Framework

## 6. Definitions

Term	Definition
Agreement	A negotiated and legally enforceable understanding between two or more legally competent parties.
Agreement in-principle	An agreement between QH and a third party as to high level principles supporting the proposed partnership and may cover possible terms for a future contract or project should it become funded or approved to proceed.
Built infrastructure	Refers to buildings, structures and other infrastructure which can be defined as real property. It includes the establishment or expansion of garden and landscaped areas such as memorial gardens.
Expenditure	Money spent
Expenditure Leasing Agreements	All legal documentation for the occupation and/or use by Queensland Health of real property owned by a third party. Includes: <ul style="list-style-type: none"> <li>• Commercial Expenditure Leases</li> <li>• Residential Expenditure Leases</li> <li>• Expenditure Licences</li> </ul> For example: Privately owned office accommodation, leased through Queensland Government Accommodation Office.
Landlord	The person or entity who grants the lease, usually, the owner of the Real Property.
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. For example: Red Cross Australia Bloodbank.
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. For example: A physiotherapist using a single room one day a month or as required.
Market Value	The estimated amount for which a property should exchange on the date of valuation between a willing lessee and a willing landlord in an arms' length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.
Memorandum of Understanding (MOU)	An MOU is a document that records the common intent of two or more parties where the parties do <i>not</i> wish to assume legally binding obligations. An MOU is usually less complex and less detailed than a contract, but provides a framework and set of principles to guide the parties in undertaking a project or working arrangement. State Government Departments are required to enter into MOUs as the State cannot lease or licence from the State.
Occupancy Agreement	An agreement used in relation to buildings defined by the Department of Housing and Public Works as government owned stock. For example: Queensland Government Accommodation Office commercial office accommodation.

Partnership agreement	<p>For the purpose of this policy partnership agreement refers to any arrangement where a third party has an agreement with DoH for the use of DoH real property.</p> <p>This may include agreement for:</p> <ul style="list-style-type: none"> <li>• co-located hospitals</li> <li>• university research, health services, and education and training facilities</li> <li>• staff and student accommodation</li> <li>• GP Superclinics</li> <li>• retail and commercial precincts</li> <li>• accommodation facilities</li> <li>• laundry facilities.</li> </ul>
Real Property	Real Property is defined as land and all that is affixed permanently to, including buildings and other immovable property.
Revenue Leasing Agreements	<p>All legal documentation for the occupation and/or use by third parties of real property owned by DoH.</p> <p>Includes:</p> <ul style="list-style-type: none"> <li>• Revenue Leases</li> <li>• Revenue Licences</li> </ul> <p>For example: University teaching and learning centre.</p>
Tenant	The person to whom the right to occupy under an agreement is given.
Third Party	<p>An entity external to DoH and other state government departments.</p> <p>Third parties may include:</p> <ul style="list-style-type: none"> <li>• local government authorities</li> <li>• universities</li> <li>• specialist providers (e.g. car park provider, child care provider)</li> <li>• not-for-profit organisations</li> <li>• for-profit organisations</li> <li>• non-government organisations.</li> </ul>

## Version Control

Date	Comments	Version No.
2011	Real Property Leasing Policy drafted	Version 1.0
27 September 2011	Third Party Infrastructure Policy drafted	Version 1.0
18 May 2012	Implementation Standard for Real Property Lease, Licence and Occupancy Agreements – Expenditure and Revenue update	Version 1.1
15 May 2015	Policy Rationalisation Project Review. Consolidation of Real Property Leases, Licences and Third Party Agreements Policy and Standards	Version 2.0