

SUMMARY OF CHANGES TO LAND TITLE PRACTICE MANUAL PUBLISHED 1 NOVEMBER 2021

Part	Para	Summary
1	5620	Clarify wording to be used in item 5 of the Trust Details Form (Electronic)
14	3015	Update text in relation to the requirement for Minister's approval under the Land Act
14	3020 (new)	Insert new part relating to Nature Conservation Notings and Special Wildlife Reserves (including deleted content from 52-0140)
21	2190	Update text to include information regarding the use of a Form 18 General Consent to authorise a reservation
21	2250	Correct text to show Item 5 on plan administration sheet (Form 21B)
21	2300	Include to text to clarify the requirement for title reference to be shown on dealings lodged to follow a survey plan
24	4010	Update of Department/agency references where required
24	4020	Include information regarding additional reporting requirement for Australian Taxation Office
24	4080	Update of Department/agency references where required
24	4100	Include information regarding additional reporting requirement for Australian Taxation Office
24	5700	Include information regarding additional reporting requirement for Australian Taxation Office
36	0000	Include text and references in relation to land administered under the Nature Conservation Act 1992
36	0000	Clarify description of non-freehold land and update applicable references to legislation
36	2050	Clarify requirements for Minister's consent for various non freehold tenures and include reference to Nature Conservation Act
36	2050	Clarify requirements for inclusion of name of the Department representing the State of Queensland
36	4000	Update wording in example to show correct Department name at Item 1
49	0020	Update name of Department
49	0030	Update name of Department
49	0040	Update name of Department
49	0060	Update name of Department
51	4000	Clarify wording to be used in item 5 of the Trust Details Form
51	4160	Clarify wording to be used in item 5 of the Trust Details Form
51	5620	Clarify wording to be used in item 5 of the Trust Details Form (Electronic)
52	0140	Move contents to part 14-3020 and include cross reference to this part
52	0295	Update text to indicate that approval under the Land Act is given by the chief executive
52	0330	Update text to clarify practice
52	2000	Update cross reference for Nature Refuge Noting

Part	Para	Summary
61	0000	Amend paragraph relating to application of Land Title Act to Water Act and delete part relating to reference to Chief executive and include cross reference to legislation in introduction

Part 1 – Transfer

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Part 1 – Transfer

General Law

[1-0000]

A transfer is the passage of a right from one person or corporation to another by virtue of an act done by the transferor with that intention, as in the case of a conveyance or an assignment by way of sale or gift or by operation of law.

^{1, 2}The transfer of an interest in land effected under the *Land Title Act 1994* has the result that the person or corporation registered as the owner of that interest has title to it and the title has the protection of indefeasibility given under the Land Title Act.

^{2, 3}The registration of a transfer for an interest in a water allocation to the extent provided for in s. 173(1)(e) of the *Water Act 2000* has the same effect as a transfer of an interest in a lot under s. 62 of the Land Title Act. However, on registration of the transfer there are no provisions for the protection of indefeasibility of title.

^{1, 3}A lease, licence or sublease may be transferred under s. 322 of the *Land Act 1994* only to a person if the person is eligible and only if the chief executive has given written approval to the transfer. However, on registration of the transfer there are no provisions for the protection of indefeasibility of title.

^{1, 3}Under s. 322AA of the Land Act, the chief executive may grant exemption from the approval requirement.

^{1, 3}Under s. 142 of the Land Act, a minor may not apply for, buy or hold land.

Legislation

[1-1000]

^{2, 3}Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, an interest or dealing may be registered in a way mentioned in the Land Title Act, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act:

- (a) as if a reference to the freehold land register is a reference to the water allocations register; and
- (b) as if a reference to freehold land or land is a reference to a water allocation; and
- (c) as if a reference to a lot is a reference to a water allocation; and
- (d) with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [08100] and [0-8200] and [0-8300].

Practice

Transfer of Fee Simple, a State Lease or Licence, or a Water Allocation

General

[1-2000]

The following is a general guide to completing a Form 1 – Transfer under the *Land Title Act 1994*, *Land Act 1994* and *Water Act 2000* to enable the transfer of fee simple, a State lease or licence, or a water allocation. However, there are situations where this guide will not be applicable. Those situations, where some aspect of the transfer is required to be completed differently, are set out at [1-2100] to [1-2630].

Please note: All transfers must have a duty notation even if no transfer duty is payable

Item 1 The Interest being Transferred

[1-2010]

Generally, the interest being transferred is the fee simple, a State lease or licence, or a water allocation. Different interests may be transferred using a single form, provided that the interests are either all of a primary nature or all of a secondary nature (see part [59-2020]). However, the details relevant to each interest (e.g. the consideration) must be clearly set out in the transfer.

Item 2 Lot on Plan Description

[1-2020]

^{1, 2}Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

^{2, 3}Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

e.g.	Lot on Plan Description	Title reference
	WA 27 on AP 7900	46012345

^{1, 3}State Tenure Description

The description of the relevant State lease or licence should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘CP’ for a crown plan).

e.g.	Lot on Plan Description	Title reference
	Lot 27 on CP LIV1234	40567123

Item 3 Transferor

[1-2030]

The full name of the transferor/s must be inserted.

If the transferors are two or more individuals as joint tenants or tenants in common, the tenancy should **not** be shown.

If the transferor is a body corporate constituted under the *Body Corporate and Community Management Act 1997*, then the following words are inserted ‘Body Corporate for [name of scheme] community titles scheme [scheme number] e.g. ‘Body corporate for Seaview community titles scheme 1234’.

If a transferor holds the property as trustee or personal representative, then this must be stated, e.g. ‘[name of transferor] as Trustee’ or ‘[name of transferor] as personal representative’.

If a registered owner or holder of an interest holding with another, either as joint tenants or as tenants in common, appears to transfer his/her interest to the other, it will be accepted that the transferee and the remaining tenant in common or joint tenant (as the case may be) are one and the same person. This will be assumed unless a declaration or solicitor’s letter identifies the transferee as a different person. The substance of the transferee’s statutory declaration or solicitor’s letter should be along the following lines:

Declaration

‘I, John Anthony Smith, of [address] do solemnly and sincerely declare as follows:

- (1) I am the transferee from Patricia Mary Smith of a half share in [full description] contained in title reference 16543002.
- (2) I am the son of John Anthony Smith, the remaining [registered owner, or holder of an interest e.g. lessee] of the above [lot or other interest e.g. State lease] and I am not one and the same person as he.’

Solicitor’s Letter

‘I am the solicitor for John Anthony Smith, the transferee from Patricia Mary Smith of a half share in [full description] contained in title reference 16543002. My client is the son of John Anthony Smith, the remaining [registered owner or holder of an interest e.g. lessee] of the above [lot or other interest e.g. State lease], not one and the same person as him. Please register both names on the title as [registered owners or holders of an interest e.g. lessee].’

If a transferor is registered as an owner of a lot or holder of an interest in a name that has subsequently been changed either by marriage, deed poll, change of name (e.g. change of name issued by the Registrar of Births Deaths and Marriages) or change of name of a company then the name should be shown as [changed name] formerly [registered name]. Relevant documentary evidence e.g. a copy of the marriage certificate issued from the registry of births, deaths and marriages in the relevant jurisdiction or search from Australian Securities & Investments Commission National Names Index showing the previous names must be deposited with the Form 1. See part [60-1030] for more information about depositing supporting documentation. In the case of a natural person, a statutory declaration setting out the facts of the change of name must also be deposited. However, this practice must not be used where the transfer is for the purpose of s. 358 of the Land Act. **Note:** If the transferor is only transferring part of the interest held and are to remain on title as a registered owner or holder of an interest, a Form 14 – Request to Change Name should be deposited prior to registration of the Form 1 – Transfer.

Unless prior written approval has been received from the Titles Registry, where multiple titles (not being titles for a share of the one lot) are involved in a single transaction, each of these titles must be held in the same name such that the registered proprietor is consistent as transferor for each lot. For example, if Party A owns one lot on one title and Party B owns another lot on another title and they are transferring to a mutual transferee, separate forms are required for each lot. See also [51-2115].

Item 4 Consideration**[1-2040]**

The consideration is the full amount paid or the terms agreed by the transferee and the transferor for the transfer of the interest.

^{1, 2}For a transfer of the fee simple (other than to the Commonwealth of Australia) an additional fee is payable if the monetary consideration exceeds the amount specified in the Schedule of Fees under the applicable legislation (Refer to the Titles Fee Calculator available online).

Monetary Consideration

Monetary consideration must be shown in Australian dollars and can be expressed in words or figures.

Monetary consideration must be shown inclusive of the amount of any Goods and Services Tax (GST) payable.

Non-Monetary Consideration

If the basis of the transfer is other than monetary, this should be fully expressed, e.g. ‘pursuant to the terms of will dated [date] deposited with instrument No [number] or document No [number]’ or ‘pursuant to deed of retirement and appointment dated [date]’.

Where a transfer is pursuant to a gift or a nominal consideration, words which express the nature of the transaction must appear in Item 4, for example:

- ‘By way of gift’; or
- ‘The natural love and affection borne by the transferor for the transferee’.

If the basis of the transfer appears to be in the nature of a gift, and the transfer is executed under an enduring power of attorney, and that power of attorney does not authorise the attorney to make a gift, the attorney may only make a gift of value and in circumstances which satisfy s. 88(1) of the *Powers of Attorney Act 1998*. For the transfer to be registered, a statutory declaration by the attorney stating the facts which satisfy s. 88(1) and appropriate evidence to support the declaration must be deposited.

Reference to the terms of an agreement

The consideration may be expressed in part as being, e.g. ‘pursuant to an agreement dated [date]’ or ‘pursuant to the terms of a contract of sale dated [date]’ however, the consideration must be fully set out by including the monetary amount or other value exchanged.

^{1, 2}Where the consideration in a transfer of the fee simple makes reference to the terms of an agreement, deed etc., a copy of the agreement or deed must be deposited to assess any additional lodgement fees based on the consideration.

For information about options for the deposit of evidence, refer to [60-1030].

Transfers pursuant to oral agreements

In general terms, an interest in land, which is to be **effective at law, must be created in writing**. Exceptions to this requirement appear in s. 10(2) of the *Property Law Act 1974*. A transfer may be executed pursuant to an oral agreement; however, the transfer is then the contract in writing signed by the parties and is also the document that transfers the interest in the land (s. 11 of the *Property Law Act*). Such a transfer is acceptable for registration without further evidence provided the full terms of the oral agreement are set out, e.g. ‘pursuant to an

oral agreement which includes the payment of \$...' or 'pursuant to an oral agreement to exchange the within land for Lot 123 on Registered Plan 456789'.

Item 5 Transferee

[1-2050]

The full name/s of the transferee/s must be inserted. While full names must be inserted, if a person's true and correct legal name includes an initial, e.g., John J Brown, where the 'J' does not represent a given name, this is acceptable. Written confirmation from a solicitor acting for the person or from the person concerned should be deposited explaining that this is the true and correct legal name of the transferee. This requirement also applies where a person does not have a surname.

²If the transferee is a minor their date of birth must be shown.

If there are two or more transferees, the tenancy pursuant to which those transferees hold their interest must be stated. The transferees will be either joint tenants or tenants in common or trustees. If they are tenants in common, the interests held by the transferees must be specified in fractions, e.g., $\frac{1}{4}$ and $\frac{3}{4}$ if the whole of the fee simple is being transferred or $\frac{1}{4}$ and $\frac{1}{4}$ if a half interest in the fee simple is being transferred.

²Section 56(2) of the Land Title Act provides direction for the Registrar to register transferees as tenants in common, where a transfer to co-owners does not show whether the co-owners are to hold as tenants in common or as joint tenants. However, this provision will be relied upon only after written confirmation has been received from the transferees or the solicitor for the transferees stating the tenancy was intentionally not shown with the expectation the transferees were to be registered as tenants in common.

The Registrar will not record in a register a transferee who is deceased, except where:

- the words 'since deceased' are included after the name of the transferee; and
- the transfer is accompanied by either a transmission application in that deceased transferee's estate or, if a joint tenant, a request to record death.

If the transferee is a corporation registered by the Australian Securities and Investment Commission, either the Australian Company Number or the Australian Registered Body Number must be shown in Item 5. Foreign corporations not registered as such in Australia must establish the jurisdiction of their incorporation by production of suitable evidence from the jurisdiction, e.g., copy of certificate of incorporation together with a qualified translation (if required). For information about options for the deposit of supporting documentation see [60-1030].

A corporation may hold property as joint tenants with an individual or another corporation (s. 34(1) of the Property Law Act). However, trustee/s of a trust cannot be joint tenants with another entity.

If the transferee is an incorporated association under the *Associations Incorporation Act 1981*, a certified copy of the certificate of incorporation must be deposited with the transfer. See [51-0370] for additional information relating to incorporated associations. For information about options for the deposit of supporting documentation see [60-1030].

Example of Item 5 where the transferees hold as joint tenants:

5.	Transferee	Given names	Surname/Company Name and Number	(include tenancy if more than one)
		Terrence James	BROWN	as joint tenants
		Maureen Frances	BROWN	

In the example below, the first two parties are holding as tenants in common with the other parties but between themselves are holding their interest as joint tenants.

5.	Transferee	Given names	Surname/Company Name and Number	(include tenancy if more than one)
		Terrence James	BROWN and	as joint tenants inter se
		Maureen Frances	BROWN	
		Michael Andrew	BROWN	
		Peter John	BROWN	as tenants in common in the interests of 3/9, 2/9, 2/9 and 2/9 respectively
		Bernard Edward	BROWN	

If the transferee is a body corporate constituted under the Body Corporate and Community Management Act, then the following words must be inserted: 'Body Corporate for [name of the Body Corporate] community titles scheme [scheme number]' e.g., 'Body corporate for Seaview community titles scheme 1234'.

A transfer to the State does not attract a lodgement fee.

Item 6 Execution

[1-2060]

The transferor and transferee sign the transfer at Item 6 where indicated on the Form 1. Separate executions are required for each transferor and transferee, in the presence of a qualified witness as defined under Schedule 1 of the Land Title Act or s. 73 of the Land Regulation. Form 1 requires the completion of a separate witnessing provision for each signature which is required to be witnessed, even though signatures were made in front of the same witness. (For further information, see part 61, esp. [61-1000], [61-2000] and [61-3000]).

A Form 1 – Transfer must be signed by:

- the transferor, the transferor's registered attorney or another suitably authorised officer or person;
- the transferee, the transferee's registered attorney, the transferee's lawyer or another suitably authorised officer or person.

²There is no authority for a minor (a person who has not yet reached 18 years of age) to execute a transfer as transferor. Accordingly, a transfer by a minor, either as a sole transferor or as one of several transferors is not acceptable unless a Court Order authorises a person to execute the transfer on behalf of the minor (s. 136 of the Land Title Act).

²The Registrar will accept execution by or for a minor as transferee in the following ways:

- by a person authorised by Court Order to execute the transfer on behalf of the minor;
- By the minor if the transfer is accompanied by a letter from a solicitor, instructed and employed independently of any other party to the transfer. The letter must state that the solicitor is satisfied the minor understands the nature and effect of the transfer and the minor is entering into the transaction freely and voluntarily;
- by a solicitor acting for the minor.

The above list does not necessarily include all methods of execution permitted by law. The normal witnessing requirements for an individual or a solicitor apply to this type of execution.

For further information about executions see part 61, esp. [61-3000].

Lodgement of Transfer

[1-2070]

Please note: All transfers must have a duty notation even if no transfer duty is payable

The following should be deposited with the Form 1 – Transfer:

^{1, 2}For a fee simple title:

- (1) a Form 24 – Property Information (Transfer); and
- (2) a Form 25 – Foreign Ownership Information (if applicable).

^{2, 3}For a water allocation title:

- (1) a Form 24 – Property Information (Transfer); and
- (2) a Form W2F152 – Notice to registrar of water allocations of existence of supply contract (for water allocations managed under a Resource Operations Licence); or
- (3) a Water Allocation Dealing Certificate for Notice of Proposed Transfer of Unsupplemented Water Allocation – (for water allocations not managed under a Resource Operations Licence); and
- (4) a Form W2F164 – Acknowledgement notice for water allocation to which a distribution operations licence applies (for water allocations subject to a Distribution Operations Licence).

^{1, 3}For a State Lease or licence:

- (1) the chief executive's written approval and any additional documentation or requirements mentioned in the written approval e.g. declarations, rental clearance certificates or a copy of the contract (must be lodged within 6 months of approval), unless an exemption under s. 322AB of the *Land Act 1994* has been recorded on the State Lease. It should be noted that the exemption does not apply to transfers by mortgagees in possession and transfers by mortgagees exercising power of sale; and
- (2) a Form 24 – Property Information (Transfer); and
- (3) a Form 25 – Foreign Ownership Information (if applicable).

Property Information (Transfer)

[1-2080]

A transfer of fee simple, transfer of a lease under the *South Bank Corporation Act 1989*, transfer of a State lease or licence or a transfer of a water allocation must be accompanied by a completed Form 24 – Property Information (Transfer).

For further information relating to Form 24, see part 24.

Foreign Ownership Information

[1-2090]

If the transferee/purchaser is a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the *Foreign Ownership of Land Register Act 1988* (and the *Duties Act 2001*), then a Form 25 must be completed and attached to the Form 24.

For further information relating to Form 25, see part 25.

¹Transfer of Freehold or Non Freehold Land with the Benefit of a Road Licence**[1-2095]**

Section 104(c)(i) of the *Land Act 1994* requires that, if the person holding a road licence transfers the land with the benefit of the road licence, the person must also transfer the road licence to the new registered owner of the land or to the new lessee of a State lease. Alternatively, s. 104(c)(ii) of the *Land Act* allows the person selling the land to surrender the road licence at the time the sale is settled. The chief executive's approval to the transfer of the road licence, and any additional documentation or requirements mentioned in the chief executive's approval, e.g. declarations, rental clearance certificates or a copy of the contract must be deposited with the transfer of the road licence.

Under section 322(2) of the *Land Act*, chief executive approval is not required in relation to the transfer of a road licence over a temporarily closed road where:

- The Transferor is transferring freehold land and a road licence (over a temporarily closed road) that are both the subject of a covenant binding them in the same ownership under s. 373A(5)(c) of the *Land Act*; and
- Both the road licence and the freehold land are being transferred to the same transferee; and
- Where the transferee is an individual – the transferee is an adult.

However, the following must be deposited with the Transfer of the road licence:

- a Rental Position Report showing that all charges owing to the State on the road licence have been paid before the transfer is lodged; and
- a declaration by the Transferee stating that the Transferee is aware of the conditions of the road licence.

²Transfer to Mortgagee**[1-2100]**

If a mortgagee of a lot becomes the registered owner of that lot, s. 63(2) of the *Land Title Act 1994* requires that the mortgagee be recorded as the registered owner free from the mortgage. The mortgage is then cancelled as the interests are merged upon registration of the transfer.

However, under s. 63(3) of the *Land Title Act*, the Registrar will not cancel the mortgage if requested by the mortgagee by way of:

- including in Item 5 of the Form 1 the statement: 'do not cancel Mortgage No. [number] (s. 63(3) of the *Land Title Act*)'; or
- a letter from the mortgagee or solicitor for the mortgagee deposited with the transfer asking that the mortgage not be cancelled.

Transfer Pursuant to Part 19 of the *Property Law Act 1974***[1-2105]**

A de facto couple may settle ownership of property pursuant to part 19 of the *Property Law Act*. Under part 19 they may enter a recognised agreement or apply to the Court for an order to be made.

Where a transfer is made pursuant to part 19 of the *Property Law Act* a copy of the agreement or Court order must be deposited. For information about options for deposit of supporting evidence see [60-1030].

Item 4 of the transfer must be completed to indicate that the transfer is pursuant to part 19 of the Property Law Act and include details that clearly identify the agreement or order e.g. the date the agreement or order was made.

A duty notation is required and lodgement fees are applicable.

Transfer Pursuant to an Order under the *Family Law Act 1975* (Cth)

[1-2110]

Where a transfer is pursuant to terms of an order made under the Family Law Act (Cth) (the Act) this must be stated clearly in Item 4 including when the order is made, for example:

Pursuant to an order dated [date] made under the provisions of the Family Law Act 1975.

The transfer is registrable without deposit of the order provided:

- the transferee is one of the registered owners or holders of the interest and will be recorded in the same capacity (e.g. personal capacity); and
- both registered owners or holders sign the transfer.

In cases where the transfer is in favour of the female spouse and her surname as the transferee differs from that shown on the title, her execution, as one of the transferors and the transferee (if applicable), must be in her legal name at the date of execution. A statutory declaration setting out the circumstances and evidence to establish her identity must be deposited with the transfer, e.g. a copy of her former marriage certificate if she has adopted her maiden name and/or her current marriage certificate if she has remarried. A marriage certificate must be issued from the appropriate registry of births, deaths and marriages in the state or territory in Australia or overseas jurisdiction.

However, if the transferee named in Item 5 is:

- a party other than one of the transferors; or
- one of the transferors and another party;

a copy of the sealed order must be produced to establish that it allows the lot or interest to be transferred to the persons shown. If the transfer does not comply with the terms of the court order, it must be amended accordingly.

If one of the transferors has signed the transfer and the other refuses, the Registrar of the Court may sign the transfer on behalf of the other person under seal, with the designation 'Registrar' printed below the signature or a full attestation identifying the signatory and the authority to sign. A copy of the sealed order must be deposited with the transfer.

Under s. 90(1)(a) of the Act, a dealing lodged for the purposes of or in accordance with an order made under the provisions of the Act does not attract registry fees. If the court order also directs that other instruments be registered and the lodger seeks exemption from lodgement fees, a copy of the sealed court order must be deposited to authenticate that the instruments or documents were included in the Court's order.

For information about options for the deposit of supporting documentation see [60-1030].

Transfer Pursuant to Part VIIIA or VIIIAB of the *Family Law Act 1975* (Cth)

[1-2115]

Part VIIIA of the Family Law Act (the Act) provides for parties to enter into a financial agreement before marriage, during marriage or after dissolution of a marriage. Part VIIIAB of

the Act provides for de facto parties to enter into a financial agreement before, during or after breakdown of a de facto relationship.

Where a transfer is pursuant to a financial agreement made under the provisions of Parts VIIIA or VIIIB of the Act, Item 4 of the Form 1 must clearly state this and show the date of the agreement. The transfer or any other instrument (e.g. release of mortgage) executed by a person for the purpose of, or in accordance with a financial agreement, are exempt from the payment of registry lodgement fees (s. 90L or s. 90WA of the Act). The transfer must have a Queensland duty notation.

A complete copy of the signed agreement must be deposited with the instrument. If the lot or interest the subject of the transfer is not identified in the agreement by a real property description, supporting evidence, by way of a statutory declaration that identifies the lot or interest, must also be deposited.

For information about options for deposit of supporting evidence see [60-1030].

Transfer from the Returned & Services League of Australia (Queensland Branch)

[1-2120]

When land or an interest is sold by the ‘Trustees of the Returned & Services League of Australia (Queensland Branch) [name of district branch/sub-branch, as the case may be] District Branch/Sub-Branch [as the case may be]’, a certificate from the League’s State Secretary under seal, giving the full names of the current trustees of the district branch or sub-branch is required.

The transfer need only be signed by a majority of the trustees (s. 5 of the *Returned & Services League of Australia (Queensland Branch) Act 1956*).

[1-2130] deleted

Transfer to or from Masonic Lodge

[1-2140]

Section 4 of the *United Grand Lodge of Antient Free and Accepted Masons of Queensland Trustees Act 1942* provides that upon the passing of a resolution by any lodge adopting the Act, all land or interests held by the lodge vest in the ‘Trustees of the [name of the lodge] Lodge of Antient Free and Accepted Masons of Queensland’, who have been appointed by such lodge.

Section 8 provides that an authorised representative of the grand lodge must maintain, in duplicate, a register of current trustees. Section 12 states that a certificate as to present trustees given by an authorised representative or acting authorised representative under the seal of the grand lodge is sufficient evidence.

Section 6 provides that execution by the majority of the current trustees is sufficient to pass a legal estate.

Amendments to the Act in 1967 inserted s. 3A, which makes provision for the vesting of property of the grand lodge held for charitable purposes in the ‘Board of Benevolence and of Aged Masons, Widows and Orphans’ Fund’. Such vesting does not prejudice the rights of any existing encumbrance. No lodgement fee is payable on any instrument which evidences vesting in the Board.

[1-2150] deleted

Definitions

‘*the Board*’ means the Board of Benevolence and of Aged Masons, Widows and Orphans’ Fund.

‘the Trustees’ means the trustees of the United Grand Lodge of Antient and Accepted Masons of Queensland.

^{1, 2}Transfer by the Queensland Housing Commission

[1-2160]

The Queensland Housing Commission has a practice of lodging a transfer only on completion of the contract of sale. In such a situation, there may be one or more assignments of the contract. Where there is an assignment, the deed of assignment and the contract of sale are lodged with the transfer as evidence of the assignment.

The following procedures are to be adopted when a contract of sale has been completed:

- (a) The lodgement of a Form 1 – Transfer in favour of the purchaser, with the original contract and any assignments.
- (b) Where a contract of sale has been entered into and one of the purchasers dies before completion of the contract, then upon completion, a Form 1 – Transfer to the surviving purchaser should be lodged for registration. This should be accompanied by the original contract and any assignment and the appropriate evidence supporting recording of the death.
- (c) Where a contract of sale has been entered into and both purchasers die before completion and the contract is completed by the personal representative, a Form 1 – Transfer to Trustees (personal representative/s) should be lodged for registration. Item 4 of the Transfer should refer to ‘the trusts contained in the will of [name of deceased] deceased’. This must be accompanied by the original contract and any assignments and the appropriate evidence supporting recording of the death.

^{1, 2}Transfer by Westpac Banking Corporation (in connection with certain mortgages formerly held by the Defence Service Homes Corporation)

[1-2170]

Certain assets of the Defence Service Homes Corporation, including mortgages, were vested in Westpac Banking Corporation on 28 February 1989 pursuant to the *Defence Service Homes Act 1918* (Cth).

As a result of this vesting, Westpac Banking Corporation may lodge a transfer only on completion of the contract of sale. In such a situation, there may be one or more assignments of the contract. Where there is an assignment, the deed of assignment and the contract of sale are lodged with the transfer as evidence of the assignment.

The following procedures are to be adopted where a contract has been completed:

Prior to 28 February 1989

[1-2180]

- (a) The lodgement of a Form 1 – Transfer in favour of the purchaser, with the original contract and any assignments.
- (b) Where a contract of sale has been entered into and one of the purchasers dies before completion of the contract, then, upon completion, a Form 1 – Transfer to the surviving purchaser should be lodged for registration. This should be accompanied by the original contract and any assignment and the appropriate evidence supporting the recording of the death.
- (c) Where a contract of sale has been entered into and both the purchasers die before completion of the contract and the contract is completed by the personal representative, a Form 1 – Transfer to Trustees (personal representative/s) should be lodged for registration. Item 4 of the Transfer should refer to ‘the trusts contained in the will of

[name of deceased] deceased'. This must be accompanied by the original contract and any assignments and the appropriate evidence supporting the recording of the death.

After 28 February 1989

[1-2190]

- (a) The lodgement of a Form 1 – Transfer in favour of the purchaser, accompanied by the original contract.
- (b) Where a contract of sale has been entered into and:
 - (i) one of the purchasers has died after that date and the death has not been recorded by Westpac Banking Corporation (the Bank not having the capacity to record the death), a Form 1 – Transfer to all the purchasers under the contract, accompanied by the original contract and a Form 4 – Request to Record Death should be lodged for registration;
 - (ii) both of the purchasers have died after that date and the deaths have not been recorded by Westpac Banking Corporation (the Bank not having the capacity to record the death), a Form 1 – Transfer to all the purchasers under the contract, accompanied by the original contract, a Form 4 – Request to Record Death of the first deceased and a Form 5, 5A or 6 – Transmission Application (to the personal representative or devisee/legatee of the second deceased) should be lodged for registration.

The following items should be completed as below where there is a transfer by Westpac Banking Corporation.

Item 3 Transfer

‘Westpac Banking Corporation, successor to Defence Service Homes Corporation by virtue of s. 6B of the Defence Service Homes Act 1918.’

[1-2200] to [1-2220] deleted

^{1, 2}Transfer of Part of the Land

[1-2230]

A transfer of one of the lots in a title will operate to create separate indefeasible titles, e.g. where two lots with separate surveyed areas are contained on one indefeasible title, and one lot is sold. Item 2 must be completed to indicate that only part of the indefeasible title is being transferred. See example below. The registered owner may execute a transfer of that lot to a purchaser. The prescribed fee for the creation of an indefeasible title is payable on the transfer. An internal dealing is used to create indefeasible titles for the subject lot and each remaining lot in the title (s. 41 of the *Land Title Act 1994*).

2. Lot on Plan Description	Title reference
Lot 13 in SP114549	Part of 11234067

The following applies where one of the lots is being transferred:

- the local government consent may be required if the plan for the lots being separated contains any conditions requiring both lots to be contained in a single indefeasible title;
- any registered local government agreements requiring lots to be held in the same ownership must be dealt with;

- the lot being dealt with must not be part of more than one indefeasible title in different ownerships; and
- the lot being dealt with must have a separate surveyed area.

²Transfer Involving Tenants in Common

[1-2240]

A separate title may be created for each tenant in common if the prescribed fee is paid when the transfer is lodged.

[1-2250] and [1-2260] deleted

Transfer of a Share or Part of an Interest in a Lot or State Tenure

[1-2270]

Such transfers are completed as set out in [1-2000] to [1-2090] with the variations set out below.

Where part of the interest is being transferred, the part of the interest must be disclosed as a fraction. This is not to be confused with the transfer of a part of a lot or State tenure. Transfer of part of the interest in a lot or State tenure can occur in many circumstances, e.g. where one person owns the whole interest and transfers a quarter of it to another. The transferees will then hold as tenants in common with $\frac{3}{4}$ and $\frac{1}{4}$ shares respectively.

It should be noted that such a transfer operates to transfer the share of the interest shown in item 1, in the lot shown in item 2, to the transferee/s shown in item 5. To clarify, the share to be transferred to the transferee **must be expressed as a fraction of the whole** and not as a fraction of the share held by the transferor.

Note: Joint tenants wishing to transfer to a lesser or greater number of joint tenants, should always do so by a Form 1 – Transfer in which all join in, e.g. if A, B and C are joint tenants and C wishes to transfer his or her interest to A and B, a transfer is required from A, B and C to A and B pursuant to the consideration paid to C by A and B.

Note: If a sole proprietor wishes to transfer half of the fee simple (their share) to another party and be recorded as **joint tenants**, the transfer when prepared must be of the whole of the fee simple from the existing sole proprietor as transferor to the transferees as joint tenants, one of whom will be the current sole proprietor.

Note: If an existing tenant in common wishes to transfer their share to another party who is to hold the interest with the other current tenant in common as **joint tenants**, the transfer when prepared must be of the whole of the fee simple from both of the existing tenants in common as transferors to the transferees as joint tenants one of whom will be a current tenant in common.

Item 1 Interest Being Transferred

[1-2280]

For example:

1. Interest being transferred

' $\frac{1}{4}$ interest in fee simple'

Item 2 Lot on Plan Description

[1-2290]

The description of the lot or State tenure is completed in the same manner as a transfer of the whole of an interest. For example:

2. Lot on Plan Description

Lot 13 in BUP4549

Title reference

11234067

Severing a Joint Tenancy under s. 59 of the *Land Title Act 1994* and s. 322A of the *Land Act 1994* [1-2300]

Under the provisions of s. 59 of the Land Title Act and s. 322A of the Land Act a joint tenant of a freehold lot, a State tenure (lease, licence or sublease) or a water allocation may **unilaterally** sever the joint tenancy **so far as relates to their interest**, by lodging for registration a transfer in favour of himself/herself and satisfying the Registrar of Titles that the registered owner has given, or made a reasonable attempt to give each other joint tenant the following:

- a) a copy of the transfer. A Form 20 – declaration must be deposited with the transfer by the severing joint tenant or their solicitor declaring that a copy of the transfer has been given to the other joint tenant by hand, mail, courier or other reliable means, or detailing the attempts made to give a copy; or
- b) if the transfer is an electronic conveyancing document—written notice of the registered owner’s intention to sever the joint tenancy.

On registration of the transfer, **that** registered owner or holder of an interest in a State tenure or water allocation becomes entitled as tenant in common with the other registered owners or holders (s. 59(3) the Land Title Act or s. 322A(5) of the Land Act) in a share proportionate to the number of joint tenants before severance.

That is, s. 59 of the Land Title Act or s. 322A of the Land Act provides a mechanism for a joint registered owner or holder to terminate the right of survivorship of other registered owners or holders while still retaining their interest in the property. Section 59(1) of the Land Title Act or s. 322A(2) of the Land Act is not applicable where all registered owners or holders execute the transfer or where one of the registered owners or holders transfers their interest to a third party.

A transfer pursuant to s. 59 of the Land Title Act or s. 322A of the Land Act must be prepared in favour of the severing joint tenant only. Item 4 must state that the transfer is ‘a severance of the joint tenancy under the provisions of s. 59 of the Land Title Act 1994’ or ‘a severance of the joint tenancy under the provisions of s. 322A of the Land Act 1994’.

The share being transferred must be proportionate to the total number of joint tenants i.e. the share in Item 1 would be:

$$\frac{\text{number of severing joint tenants}}{\text{total number of registered joint owners}}$$

(e.g. where A and B are joint tenants and A intends to sever the joint tenancy, the share would be $\frac{1}{2}$. Where A, B and C are joint tenants and A severs the joint tenancy with B and C, the share being transferred would be $\frac{1}{3}$).

Where there are more than two joint tenants and only one severing tenant, the interest held by the others would be retained jointly. If more than one joint tenant is severing, those severing may choose to hold their shares as joint tenants *inter se*.

^{1, 2}Separate indefeasible titles will only be created when new title fees are paid on the transfer or a request for separate indefeasible titles is lodged and fees paid.

Severing a Joint Tenancy under Principles of Common Law [1-2305]

Alienation

A registered proprietor of fee simple, water allocation or a holder of an interest in a State tenure may at common law, sever a joint tenancy by alienation of their interest i.e. transferring their

interest to a third party. There is no requirement for the severing joint tenant to give notice of the transfer to the other joint tenants.

^{1, 2}Separate indefeasible titles will only be created when new title fees are paid on the transfer or a request for separate indefeasible titles is lodged and fees paid.

Transfer to a third party

On registration of a transfer that alienates a joint tenant's interest to a third party, the transferee becomes entitled to an interest as tenant in common of a share proportionate to the number of joint tenants prior to severance, e.g. where A and B are joint tenants and A transfers their interest to X, the joint tenancy is terminated and B and X will become entitled as tenants in common in equal shares.

Where there are two or more remaining joint tenants, the remaining joint tenants would hold their interest as joint tenants *inter se*, e.g. where A, B and C are joint tenants and A transfers their interest to X, the result will be that X will hold a one third share as tenant in common with B and C who will continue to hold the other two thirds share as joint tenants *inter se*.

Transfer to a co-owner

A transfer to sever a joint tenancy need not be to a 'stranger' to the joint tenancy. Where there are more than two joint tenants, one joint tenant may, at common law, sever the joint tenancy by transferring their interest to a co-owner. The transferee would be entitled to a share as tenant in common of a share proportionate to the number of joint tenants prior to severance while still holding as a joint tenant *inter se* with the remaining joint tenants.

For example, where A, B and C are joint tenants and A transfers their interest to B, the transfer will effect a severance with regard to A's interest. B will take that one-third interest as a separate share. B will continue to hold the other two third share jointly with C because the transfer by A has not affected that two-third share.

Mutual Agreement

All joint tenants may mutually agree to sever a joint tenancy. Once all tenants have mutually agreed to sever a joint tenancy, each will be entitled to an equal share of the original jointly held interest.

For example, where A and B are joint tenants and both agree to sever the joint tenancy, A and B will be entitled to hold as tenants in common in equal shares.

To record a mutually agreed severance, all joint tenants must enter into a transfer to themselves as tenants in common in equal shares and state clearly in the consideration that the transfer was either:

- pursuant to a mutually agreed severance; or
- pursuant to a desire by all the parties to change the tenancy to tenants in common.

Transfer by Way of Gift or for a Nominal Consideration

[1-2310]

See [1-2040]

²Transfer with an Intermediate Purchaser

[1-2320]

A transfer with an intermediate purchaser occurs when the purchaser under the contract of sale sells their interest to another, the final purchaser. On completion of the contract, the final purchaser is entitled to receive a transfer executed by the registered owner. In this situation,

there will not be two transfer documents, one from the registered owner to the intermediate purchaser and one from the intermediate purchaser to the final purchaser; there will only be one transfer, from the registered owner to the final purchaser. In the absence of special conditions, a purchaser cannot be compelled to receive two transfer documents (*Daamen v W & T Investments Pty Ltd (No. 2)* [1974] Qd R 400).

On completion, a transfer will be lodged which names the registered owner as transferor and the final purchaser as transferee. The existence of the intermediate purchaser is noted at Item 4, the consideration panel. The intermediate purchaser is not a transferor (*Re Pellick's Transfer* [1986] Q Conv R 54-226).

Example Form 1 – Intermediate Purchaser

[1-2330]

Item 3 Transferor

First Home Estates Pty Ltd ACN 445 667 221

Item 4 Consideration

The sum of \$350,000 paid to First Home Estates Pty Ltd by John East and Eileen May East and the sum of \$500,000 paid to John East and Eileen May East by Michael James Smith and Jacqueline Theresa Smith.

Item 6 Execution

.....	23/10/93	A Ham (Director) Common Seal L Bacon (Secretary)
Witnessing Officer (signature, full name & qualification)	Execution Date	Transferor's Signature
IA Lee Ian Alistair Lee Lawyer	23/10/93	Michael James Smith
Witnessing Officer (signature, full name & qualification)	Execution Date	Transferee's Signature
IA Lee Ian Alistair Lee Lawyer	23/10/93	Jacqueline Theresa Smith
Witnessing Officer (signature, full name & qualification)	Execution Date	Transferee's Signature

The example above states the consideration paid by the intermediate purchasers, the Easts, to the registered owner and the consideration paid by the final purchasers, the Smiths, to the intermediate purchasers.

The consent of the intermediate purchasers to the transfer is **not** required.

^{1, 2}Only the last amount of consideration is taken into account for the purpose of assessing additional fees.

Duty must be noted for each consideration shown in Item 4. The Office of State Revenue preferred method is to complete a single stamp with the details of duty for the second consideration and add only the transaction number of the first consideration. The Registrar will also accept a stamp for each transaction provided all information in the stamps is clear and other information on the form is not obliterated.

The maximum number of intermediate purchaser transactions allowable is two.

Transfer by Equitable Mortgagee Pursuant to s. 99(7) of the *Property Law Act 1974* [1-2335]

The following are the requirements to give effect to a court order, made under the provisions of s. 99(7) of the Property Law Act, which creates and vests a legal estate in an equitable mortgagee to enable the mortgagee to carry out a sale as if the mortgage was a legal mortgage:

A transfer completed as set out in [1-2000] to [1-2090] with the following variation at Item 3:

Item 3 Transferor

‘[name of equitable mortgagee/chargee] in accordance with Court Order dated [date] pursuant to s. 99(7) of the Property Law Act 1974’

A copy of the court order must be deposited with the transfer (see [60-1030]).

In this section equitable mortgagee includes equitable chargee.

Transfer by Mortgagee Exercising Power of Sale

General

[1-2340]

A transfer by a mortgagee exercising a power of sale occurs where the mortgagor has defaulted under the mortgage, e.g. by failing to repay principal and interest as specified in the mortgage. The mortgagee is entitled to sell the lot or State tenure to recover the debt.

A mortgagee exercising power of sale cannot sell to themselves.

A Form 3 – Release must not be lodged to discharge the mortgage which provides the authority for the power of sale.

The transfer is completed as set out in [1-2000] to [1-2090] with the following variation at Item 3:

Item 3 Transferor

Big Bank of Australia Ltd A.C.N. 987654321 exercising power of sale under Mortgage No [number]

The following must be deposited with the transfer:

²Freehold and Water Allocation

[1-2350]

- (1) a Form 20 – Declaration (statutory) by the mortgagee as to the facts of the default and the service of any notice of such default upon the mortgagor as required and in the manner provided under ss. 84 and 347 of the *Property Law Act 1974*; and
- (2) a copy of the notice served upon the mortgagor.

A person authorised by the mortgagee may make the statutory declaration that default has occurred and the notice of demand was served. The declaration must be made under the *Oaths Act 1867* or the equivalent legislation of the state or country where it is made and should specify:

- a property description that corresponds with the transfer and title;
- the authority of the declarant to make the declaration;

- that default has occurred and has continued for the period of 30 days from the service of notice;
- that notice of demand has been served in accordance with the provisions of the Property Law Act;
- the method and date of the service of notice of demand; and
- that default has continued to the date of the sale or up to the date of the transfer.

Section 347 of the Property Law Act does not apply:

- to notices served in proceedings in court;
- where the person serving the notice prevents its receipt by the person on whom the notice is intended to be served; or
- if a contrary method of service of a notice is provided in the instrument or agreement or by the Property Law Act.

Separate declarations by the mortgagee as to the facts of the default and by the person who served the notice of demand as to the facts of the service of the notice may be deposited with the transfer.

Where a mortgagee exercising a power of sale sells to a trustee, a Form 1 – Transfer to Trustees should be used (see [1-2380], [1-2390] and [1-2425]).

If the mortgage is over several parcels of land that the mortgagee sells by separate transfers, a declaration of default and a copy of the notice of demand must be deposited with the first transfer lodged for registration. Each subsequent transfer then only requires a declaration as to continuing default to be deposited and the reference to the dealing number that the evidence of default was deposited with included in item 3 of the transfer, e.g. ‘evidence of default deposited with instrument [number]’.

^{1,3}State Lease

[1-2355]

A mortgagee is entitled to sell a State lease in terms of s. 345 of the *Land Act 1994* if the lessee is in default under a registered mortgage.

The transferee must be a person qualified to hold a lease under the Land Act.

Chief executive approval to the transfer and any additional documentation or declarations required as a condition of the consent must be deposited with the transfer, e.g. declarations, rental clearance certificates or a copy of the contract of sale (must be lodged within 6 months of approval). Notwithstanding the recording of an exemption pursuant to s. 322AB, the requirement for written approval still applies to transfers by mortgagee exercising power of sale. (Note – The declarations by the mortgagee as to the facts of the default and by the person who served the notice of demand as to the facts of the service of the notice are not required to be deposited with the transfer.)

More than One Mortgagee

[1-2360]

If power of sale is being exercised under a mortgage with more than one mortgagee, declarations of default are required from all mortgagees.

If the lot or State lease is subject to two mortgages and a power of sale is exercised under the second mortgage, a release of the first mortgage is required if the purchasers are not taking their interest subject to the first mortgage.

Where Mortgagor is Deceased

[1-2370]

If the mortgagor is deceased at or before the time of default under the mortgage, the mortgagee can still exercise the power of sale without transmission of the estate of the mortgagor being entered on the register.

Section 347(2A) of the *Property Law Act 1974* requires the mortgagee to serve the relevant notices under the Act on the personal representative of the deceased. If there is no personal representative, service must be in the manner:

- provided in the mortgage (s. 347(6) of the *Property Law Act*); or
- directed by a court order (s. 347(3) of the *Property Law Act*).

Similarly, if two joint tenants are mortgagors and one dies at or before the time of default, the notices are served on the surviving joint tenant. The mortgagee exercising power of sale must produce with the transfer evidence of the death of the other joint tenant. It is not necessary that the death of the joint tenant be recorded in the register first.

^{1, 2}Power of Sale by Defence Service Homes Corporation

[1-2375]

Under the *Defence Service Homes Act 1918* (Cth), if a mortgagor or the mortgagor's spouse (if they are joint owners and borrowers) becomes bankrupt or incurs a judgment debt, the Secretary to the department administering the Defence Service Homes Corporation may approve the exercise by Westpac Banking Corporation of its power of sale in relation to the estate or interest of both of them.

There are three requirements for such a transfer to be registrable:

- (1) The description of the transferor on the Form 1 – Transfer (Item 3) must be 'Westpac Banking Corporation ACN 007 457 141 as mortgagee exercising power of sale under Mortgage No. [number] pursuant to the provisions of s. 45A of the Defence Service Homes Act 1918'.
- (2) The interest being transferred (Item 1) must be an estate in fee simple or water allocation.
- (3) A statutory declaration must be lodged by an officer of Westpac Banking Corporation, annexing a copy of the sequestration order and identifying the person named therein as being the registered proprietor of the land. If the land is owned by joint tenants, the declaration must also state that the other registered proprietor is the bankrupt's spouse.

Where Land has been Disclaimed

[1-2376]

Section 84A of the *Property Law Act 1974* (PLA) allows mortgagees to exercise the power of sale over land which has been disclaimed by either trustees in bankruptcy or liquidators of a company.

Subject to the respective governing legislation, trustees in bankruptcy and liquidators have authority to disclaim property. The bankruptcy trustee or liquidator is required to notify the Registrar of Titles of the disclaimer. This notification is recorded on the relevant title/s as an administrative advice under the code ANM.

If the mortgagee of disclaimed property wishes to exercise their power of sale, there are two different processes. The process used is dependent on the date on which the disclaimer of the property was made under the *Bankruptcy Act 1996* (Cth) or took effect under the *Corporations Act 2001* (Cth).

Prior to 25 May 2020 – the mortgagee is required to apply to the court for an appropriate order under s. 133(9) of the Bankruptcy Act or s. 568F of the Corporations Act. A copy of such order must be deposited with a transfer by mortgagee authorised by the order.

On or after 25 May 2020 - amendments to the PLA allow for a mortgagee to exercise their power of sale over a disclaimed property, provided a notice in the approved form (PLA Form 17 – Notice of intention to exercise power of sale in relation to disclaimed property) is given to the Registrar of Titles and to each person who has an interest in the disclaimed property.

The correct method for giving notice to the Registrar pursuant to s. 84A(4)(b) of the PLA is to deposit a Form 14 General Request with a completed PLA Form 17 – Notice of intention to exercise power of sale in relation to disclaimed property (the Notice).

The mortgagee can exercise their power of sale once:

- the disclaimer has previously been recorded on title as an ANM; and
- the Notice under s. 84A(4)(b) is recorded on title as an ANM; and
- other requirements under s. 84A of the PLA are complied with.

The Form 1 will be prepared in the same manner as other Transfers by Mortgagee exercising power of sale. However, unlike other Transfers by Mortgagee exercising power of sale, there is no requirement for the deposit of the usual supporting documentation (e.g. a statutory declaration by the mortgagee setting out the facts of the default and a copy of the notice served upon the mortgagor).

Transfers by a Mortgagee exercising power of sale over disclaimed property must be accompanied by a statutory declaration providing confirmation that notice under s. 84A(4) of the PLA has been given to all persons, who to the knowledge of the mortgagee, have an interest in the property. The declaration must also confirm the date of service of the last notice. This date is important as the mortgagee must wait 30 days after this date before they can exercise the power of sale (s. 84A(5) PLA).

^{1,2}Transfer by Resource Operations Licence Holder Exercising Power of Sale

[1-2377]

Sections 166(1)(b) and 166(2) of the *Water Act 2000* authorises a holder of a resource operations licence (ROL), despite any registered interest, to exercise power of sale over a water allocation, if the supply contract gives the ROL holder power to sell the water allocation.

Section 166(2) of the Water Act provides that the holder of a ROL may only exercise a power of sale in accordance with the supply contract.

The transfer is completed as set out in [1-2000] to [1-2090] with the following variation at Item 3:

Item 3 Transferor

[name of resource operations licence holder] as resource operations licence holder exercising power of sale under a supply contract dated [date of contract] pursuant to s. 166(1) (b) of the Water Act 2000.

The following must be deposited with the transfer:

- (1) a Statutory Declaration by an authorised officer of the resource operations licence holder stating:
 - (a) the facts of the default; and
 - (b) the exercise of power of sale was in accordance with clause/s [relevant clause/s number/s] of the supply contract; and
 - (c) all persons with a registered interest in the water allocation were given not less than 30 business days notice of the proposed exercise of the power.
- (2) a copy of the supply contract; and
- (3) a copy of the notice/s served on the holder/s of registered interests.

The purchaser of the allocation under the above section takes the allocation free of all interests.

Transfer by a Receiver Appointed by a Mortgagee for the Property of an Individual [1-2379]

Where a receiver or receiver and manager is appointed by the mortgagee to sell the property as an agent for the mortgagor who is an individual, the transfer is completed as set out in [1-2000] to [1-2090] with the following variation at Item 3:

Item 3 Transferor

[name of registered owner(s)] [Receiver or Receiver and Manager] appointed to sell the property pursuant to clause [clause number in the mortgage (and the deed of appointment if this is where the receiver's power is stated to sell the property)]

Copies of the relevant document(s) evidencing the appointment must be deposited with the transfer. For information about depositing supporting documentation see [60-1030].

Evidence of default is not required to be deposited.

The execution of the receiver or receiver and manager must be completed as set out in [61-3070].

Where a transfer executed by a receiver (or receiver and manager) is lodged to effect the sale of a lot or an interest, the mortgage under which the receiver is acting is not cancelled. The mortgage may only be removed by a release, which must be lodged to follow the transfer. Any other mortgages are not cancelled on registration of the transfer and can only be removed by the registration of releases.

For information about a receiver appointed for the property of a corporation see [50-2030].

Transfer to Trustee with Schedule of Trusts in a Form 20 – Trust Details Form [1-2380]

Form 1 is used to record a transfer to a trustee. The transfer is completed as set out in [1-2000] to [1-2090] and the words 'as trustee' must be inserted after the transferee's name in Item 5.

For example:

5.	Transferee	Given names	Surname/Company Name and Number	(include tenancy if more than one)
		Mary	SMITH	as trustee

An original Form 20 – Trust Details Form detailing the schedule of trusts (in item 2) must be annexed to the transfer (refer to [51-4100]). All of the beneficiaries must be identified and if a beneficiary is a minor, the date of birth must be shown.

No further reference should be made to identify the trust on the transfer by name and date, except when the same trustee is acquiring shares in the lot or interest under more than one trust.

For further information see part 51 – Trusts.

Transfer to Trustee with Trust Document or Form 20 – Trust Details Form Deposited [1-2390]

Form 1 is used to record a transfer to a trustee. The transfer is completed as set out in [1-2000] to [1-2090] and the words ‘as trustee’ must be inserted after the transferee’s name in Item 5.

There are three options:

- (1) an original Form 20 – Trust Details Form must be deposited (refer to [51-4100]); or
- (2) all document(s) that create the trust including any variation (for example, deed of retirement and appointment, deed of removal and appointment or variation of trust etc) must be deposited with the transfer; or
- (3) in Item 5, **all dealings with which the document(s) that create the trust (including any variation) were *deposited*** must be referred to. The words ‘under instrument’ are misleading and must not be used. Rather the words must refer to the prior *deposit* of all relevant trust documents with other dealings (either example 1 or 2 may be used). Please note that it is not acceptable to refer to a Form 20 – Trust Details Form previously deposited with another instrument or document. A newly completed original Form 20 – Trust Details Form must be deposited with each transfer.

Example 1.

5.	Transferee	Given names	Surname/Company (include tenancy if Name and Number more than one)	
		Mary	SMITH	
		John	SMITH	as trustee
				Deed of trust deposited with 712223335 and deed of retirement and appointment deposited with 721114444

Example 2.

5.	Transferee	Given names	Surname/Company (include tenancy if Name and Number more than one)	
		Mary	SMITH	
		John	SMITH	as trustee
				Trust documents deposited with 712223335 and 721114444

Where a transfer to trustee or recording new trustee is registered on title, the endorsement will identify, for each interest or share, the dealing number where the trust was first registered on the title for that interest or share.

For more information see part [51-2022], [51-2040], [51-2043] and [51-2050].

Recording New Trustees [1-2400]

Form 1 is used to record a transfer from a trustee to a new trustee under the same trust, for example pursuant to a deed of retirement and appointment, (whether or not the first trustee is recorded on the register as holding the property in trust).

Appointment of New Trustees

[1-2420]

Subject to the *Land Title Act 1994* and the *Land Act 1994*, trust property vests in new trustees immediately when they are appointed (s. 15(1) of the *Trusts Act 1973*). This may occur on the retirement, discharge or death of a registered trustee. It may also occur on the death of a sole trustee, however, notification of his/her appointment must also be given to the Public Trustee (s. 16(2) (a) of the *Trusts Act*).

New trustees may execute and lodge a Form 1 – Transfer with the Registrar to have their appointment recorded in the register (s. 15(3) of the *Trusts Act*).

In instances where a retiring, discharged or deceased trustee is unwilling or unable to act, either the continuing trustee/s or the new trustee/s (acting under s. 12(6) of the *Trusts Act*) may execute the transfer as the transferor. To record their appointment as trustees, in instances where the trust is not disclosed on the title, new trustees must simultaneously declare the existence of the trust.

For further information see part 51 – Trusts

Instrument Required

[1-2425]

A Form 1 – Transfer is required that shows:

- (1) The retired/discharged/deceased trustee and any continuing trustees (as applicable) as transferor in Item 3.
- (2) Words to the effect of ‘As a consequence of the retirement/discharge/death of [name of registered trustee] who held the lot or interest in trust and the appointment of [names of new trustees] in accordance with the *Trusts Act 1973*’ in Item 4. If the trust is not already recorded on title and it is intended that the trust be disclosed, Item 4 should also include words to the effect of ‘and to declare the trust in accordance with s. 109 of the *Land Title Act 1994*’ or ‘and to declare the trust in accordance with s. 374A of the *Land Act 1994*’.
- (3) ‘[names of new trustee] as trustee’ in Item 5. This will include any continuing trustee, as applicable.

Documentation to be deposited with the Form 1 – Transfer to record new trustee is:

- (1) Either:
 - (a) an original Form 20 – Trust Details Form (refer to [51-4100]) and if applicable – evidence of the death of the registered proprietor/holder/trustee (e.g. certificate of death or grant of representation); or
 - (b) the following:
 - (i) evidence of the retirement/discharge/death of the registered proprietor/holder/trustee (e.g. a deed of retirement/discharge or the certificate of death or grant of representation);
 - (ii) a copy of the original instrument of appointment of new trustees (not required if the new trustee is the Public Trustee); and
 - (iii) a copy of the original trust instrument (not required if a copy of the original trust instrument has been previously deposited or reference made to the instrument it was deposited with) or partnership evidence.

A duty notation is required.

For information about depositing supporting documentation see [60-1030].

Death of Sole Trustee

[1-2430]

On the death of a sole trustee, whether or not the trust is recorded on the title, the trust property vests in the Public Trustee. The trust property remains vested in the Public Trustee unless new trustees are appointed and the Public Trustee is notified (s. 16(2)(a) of the *Trusts Act 1973*).

If the sole trustee has died and the Public Trustee is not appointed as the new trustee or the Public Trustee makes the appointment of new trustees, the following documentation is required to be deposited:

- (a) either the original will or grant of representation (Note – An original will deposited with a transfer is not retained in the registry. For further information (see [5-2130] and [60-1030]); and
- (b) a copy of the notice to the Public Trustee.

For further information see part 51 – Trusts.

^{1, 2}Transfer of Life Interest

[1-2440]

The transfer of a life interest is completed as set out in [1-2000] to [1-2090] with the variations as set out in the following example:

Item 1 Interest being transferred

Life estate

Under the *Trusts Act 1973*, a life tenancy is regarded as ‘trust property’. The creation of a separate indefeasible title for an interest for life is not permitted.

The life estate is recorded by way of a transfer to the life tenant stated in Item 5 without reference to the trust.

The land remains in the name of the registered owner and reference to the creation of the life estate by the transfer will appear in the Easements, Encumbrances and Interests section of the title.

Transfer by Personal Representative

[1-2450]

A transfer by a personal representative is completed as set out in [1-2000] to [1-2090] with variations as set out in the following example:

Item 1 Interest being transferred

For example, Fee simple/State lease/Water allocation/Mortgage No [number]/Lease No [number]/Profit a Prendre No [number] [whichever is applicable]

Item 3 Transferor

The transferor is specified as being the personal representative, for example:

‘William Alexander Doe as personal representative’.

Item 4 Consideration

The consideration may be one of the following:

- (1) ‘the terms of the will of [name of deceased] deceased’; or
- (2) ‘pursuant to the rules of intestacy’; or
- (3) a monetary consideration, in which case the amount of consideration must be specified.

Transfer in Terms of Will**[1-2460]**

In view of the provisions of s. 15 of the *Succession Act 1981*, in the case of deaths occurring on or after 1 January 1982 and prior to 1 April 2006, a supplementary statutory declaration by a deceased’s husband/wife that the marriage between the deceased and the husband/wife has not been dissolved or annulled, is to be lodged with the transfer. This applies only where the transfer is pursuant to a disposition in a will or a codicil in favour of the deceased’s husband/wife. If the divorce or annulment occurred on or after 1 April 2006 and the will contained a contrary intention to s. 15(1) of the *Succession Act*, the divorce or annulment would not affect the disposition in the will.

Section 33B of the *Succession Act* does not allow for the beneficial disposition of property unless the beneficiary survives the testator for 30 days, unless there is contrary provision in the will. In view of this section a transfer pursuant to a will should not be executed within that time.

For deaths prior to 1 April 2006, under s. 15 of the *Succession Act* as in force at the date of death, dispositions (gifts) of property (other than a charge or direction for the payments of debts or remuneration) to a witness to the execution of the will, their spouse or persons claiming under the witness or spouse are null and void. Therefore, a statutory declaration is required from the beneficiary/transferee stating that neither they nor a spouse of theirs was a witness to the will, if such be the case.

Section 11 of the *Succession Act* applies to deaths on or after 1 April 2006. This section does not void the beneficial disposition to the spouse of a witness. It does void a beneficial disposition to a witness in circumstances other than mentioned in s. 11(3) of the *Succession Act*. Therefore a statutory declaration is required from the beneficiary/transferee stating that they were not a witness to the will, if such be the case.

For deaths on or after 1 April 2006, where a beneficial disposition has been made to a witness and one of the circumstances referred to in s. 11(3) of the *Succession Act* applies, the Registrar would require evidence of the particular circumstance.

²In the case of a transfer by a personal representative under a will which makes provision for a life estate, the following conditions apply:

- Under the *Trusts Act 1973*, a life tenancy is regarded as ‘trust property’. The creation of a separate indefeasible title for an interest for life is not permitted.
- An interest for life created by a devise in a will which is the subject of a Form 5 or 5A – Transmission Application will be registered in the name of the applicant as personal representative.
- If the personal representative intends to transfer the lot for a monetary consideration to a third party, the personal representative must take account of the life estate.
- If the transfer is made pursuant to the terms of the will to the devisee, then evidence is required that the life tenant has died, or relinquishes all rights, or that the life estate has been terminated by a provision of the will (e.g. marriage).

- In such cases one of the following must be deposited with the transfer:
 - (a) a copy of the death certificate; or
 - (b) a declaration setting out the details of the relinquishment with the original document attached; or
 - (c) a declaration referring to the provisions in the will and attaching evidence.

If the will makes reference to a trust, partnership or contract of sale, the personal representative (once recorded on the title by a transmission by death without any limitation as to the other equity referred to in the will (see [5-2190]), should resolve these issues by the appropriate Form 1 – Transfer.

The court has the power to appoint a statutory trustee for the purpose of selling property pursuant to s. 38 of the *Property Law Act 1974* (see further part 51 – Trusts, esp. [51-0170]).

Where property of the deceased was owned in common with others under a partnership, any transfer by a personal representative must also be executed by the surviving partners.

If a will does not clearly indicate the tenancy of the beneficiaries, the beneficiaries will take the estate as either joint tenants or tenants in common depending on circumstances (see part 5 – Transmission Application [5-2160]).

Transfer Pursuant to the Rules of Intestacy

[1-2465]

Where a sole owner or tenant in common has died intestate and the lot or interest is required to be transferred to those entitled to the estate, the lot or interest must first be transmitted to the deceased's personal representative (see part 5 – Transmission Application, esp. [5-2060] and [5-2110]).

A transfer pursuant to the Rules of Intestacy to those entitled to the deceased's estate is then lodged for registration.

Sections 35, 36, 36A and 37 together with schedule 2 of the Succession Act set out who would be entitled to a share of the deceased's estate.

The personal representative of the intestate's estate is to deposit a statutory declaration with the transfer setting out all persons who would be entitled to a share of the estate and their relationship to the deceased.

Where the death occurs on or after 1 May 1998 and part 1 of Schedule 2 of the Succession Act applies, the personal representative should include, in the personal representative's declaration, the basis upon which the entitlement to the lot or interest in question was arrived at.

For example:

One spouse and two children survived the deceased and the residuary estate did not exceed \$150,000. In this case the spouse alone is entitled to the lot or interest in question as transferee.

NB – For deaths between 1 May 1998 and 31 March 2003:

The existence or non-existence of a de-facto spouse as defined by s. 5 of the Succession Act, as in force at the date of death of the deceased, must also be included in the declaration by the personal representative.

NB – For deaths on or after 1 April 2003:

The existence or non-existence of one or more spouses as defined by s. 5AA of the Succession Act must also be included in the declaration by the personal representative.

^{1, 2}Transfer to the State**[1-2470]**

These actions were previously referred to as transfers or surrenders to ‘the Crown’. Current legislation relevant to these actions (i.e. the *Land Title Act 1994* and the *Land Act 1994*) no longer refer to ‘the Crown’. ‘The State’ has been substituted for ‘the Crown’. Section 36 of the *Acts Interpretation Act 1954* states that; when used in an Act, ‘the State’ means the State of Queensland. ‘The State’ or ‘the State of Queensland’ is now the appropriate terminology. In addition, land that was previously referred to as ‘vacant Crown land’ is now ‘unallocated State land’.

Section 48 of the Land Title Act states that ‘the State may, under this Act, acquire, hold and deal with lots’.

Transfers of freehold lots to ‘the State’ (i.e. the State of Queensland) can be for any of three types of action. The three types of transfer and their effects are as follows:

- (1) ‘The State’ acquires the fee simple title to the land (i.e. the land remains as freehold). In these cases, the title remains in the Freehold Land Register and the State is registered in the Freehold Land Register as owner.

Such transfers are acquisitions in accordance with s. 48 of the Land Title Act and reflect a change of ownership of the indefeasible title (the freehold) **to the State**. The land can then be dealt with by the State under s. 48.

- (2) The owner temporarily surrenders the land to ‘the State’ to allow action under s. 358 of the Land Act. The existing title is cancelled in the Freehold Land Register. A new indefeasible title will be created when a deed of grant issues on completion of the s. 358 action.

A Form 24 – Property Information (Transfer) is not required to be deposited with a transfer pursuant to s. 358 of the Land Act.

- (3) The owner totally surrenders the land to ‘the State’. On registration of the transfer, the land becomes ‘unallocated State land’. The title is fully cancelled by the transfer as the land is no longer freehold.

A transfer of absolute surrender to the State does not require the deposit of a Form 24 – Property Information (Transfer).

On registration of an absolute surrender to the State under s. 55 or s. 327 of the Land Act, all interests are extinguished from the day the surrender is registered (s. 331(2) of the Land Act). However, a public utility easement may still continue over the resulting unallocated State land with the Minister’s written approval (s. 372(2) of the Land Act).

Transfers referred to in (2) and (3) above either partially or fully cancel the existing indefeasible title and the subject land is no longer a part of the Freehold Land Register until or unless a deed of grant over it is issued in the future. If an existing title is only partially cancelled, an indefeasible title for the balance must be created (see s. 41 of the Land Title Act).

Under s. 426 of the *Duties Act 2001* the State is not liable to pay duty, however all transfers to the State must be properly stamped. In effect the transfer must bear a notation by either the Office of State Revenue or an authorised registered self-assessor.

All transfers to the State are exempt from lodgement fees.

Recording the State on Title

An interest transferred to the State will be recorded in a register as:

- The State of Queensland followed by the name of the department representing the State in brackets; or
- The State of Queensland followed by the name of the department representing the State in brackets and a reference to the relevant Act under which the department administers the interest.

‘The State of Queensland (represented by [name of department])’ or ‘The State of Queensland (represented by [name of department] — [name of Act])’. This information should be provided in the transfer or other form.

An example of the State recorded on an ATS title is as follows:

REGISTERED OWNER
THE STATE OF QUEENSLAND
(REPRESENTED BY DEPARTMENT OF HEALTH)

For information about dealing with or disposing of an interest held by the State see [60-1040].

Transfer of a Lease

[1-2480]

General

An assignment of lease may be registered by lodging a Form 1 – Transfer

The whole of the leased area for the residue of the term must be transferred.

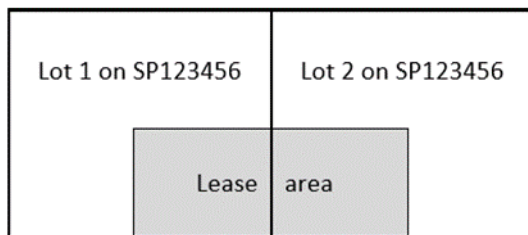
A lessee cannot transfer an interest in only part of the leased area to another. Refer to examples 1 and 2 below for a more detailed explanation.

Example 1

Lot 1 on SP123456		
Lease Shop A	area Shop B	Shop C

- Lease 712345678 is registered over the area of Shop A and Shop B contained within Lot 1 on SP123456.
- Any transfer of an interest in Lease 712345678 cannot be for only part of the leased area (e.g. Shop A only) – any transfer must be for the entire leased area (Shops A and B).

Example 2



- Lease 782258258 is registered over an area that straddles Lots 1 and 2 on SP123456 on Title Reference 11223078.
- Any transfer of an interest in Lease 782258258 cannot be for only part of the leased area (e.g. the area contained within Lot 1 on SP123456 only) – any transfer must be for the entire leased area.

The following options are available where there is a desire to only deal with part of the leased area of a registered lease:

- A lessee may sub-lease part of the leased area to another (e.g. in example 1 – a sub-lease of Shop A); or
- A lessee may surrender the relevant part of the leased area followed by a new lease for the surrendered area (e.g. in example 1 – a partial surrender of Lease 712345678 so far as relates to Shop A followed by a new lease for Shop A).

While it is a requirement that any transfer must be for the whole of the leased area; because of the nature of a lease the Registrar will not enquire as to whether all of the lots in the registered lease are included in a lodged transfer of a lease.

Even though the lessor and lessee may covenant that no transfer of the lease can be made without the consent of the lessor, the Registrar is not obliged to and will not examine the covenants in the lease.

A transfer of a lease must have a duty notation and lodgement fees are applicable. A transfer of a lease other than one under the *South Bank Corporation Act 1989* does not attract any additional fees in respect of the consideration.

²If the term of a lease is to expire on the death of the lessee, the lessor must consent to any transfer of the lease, as the term of the lease will be affected by the transfer.

A transfer of a lease executed after the initial term of the lease has expired cannot be registered unless the term is first extended by a Form 13 – Amendment of Lease. This will allow the transfer to proceed. Without it the document should be fully withdrawn. Alternatively, a new lease may be lodged to evidence the exercise of the option and a transfer of the new lease lodged.

²A transfer of lease may be capable of registration even if lodged after the initial term has expired. For further information see [7-2190].

A Form 25 – Foreign Ownership Information will be required where the new lessee is a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the *Foreign Ownership of Land Register Act 1988* (and the *Duties Act 2001*) and the term of the lease exceeds 25 years (inclusive of further term/s available under any option/s).

A transfer of a lease is completed as set out in [1-2000] to [1-2090] with the following variations:

Item 1 Interest being transferred

The lease number must be specified, for example:

Lease No. [number]

Item 6 Transfer/Execution

Delete the second, third and fourth sentences set out in Item 6 of the Form 1 – Transfer.

^{1, 2}Transfer of Lease of Freehold

Prior to the *Land Title Act 1994*, the lessee's instrument of title was his/her registered copy of the lease and any dealings with the lessee's interest (e.g. transfers, mortgages, etc.) were registered on presentation of a copy of the lease alone. These transactions were marked on an original registered lease held in the register and not on the indefeasible title to the lot. It is prudent to search both the indefeasible title and the registered original lease if it was registered before the commencement of the Land Title Act, for any notations of dealings in respect of a lease.

^{2, 3}Transfer of Lease of Water Allocation

A consent where given by the lessor in order to register a transfer of a lease of a water allocation, may be only given by the deposit of a Form 18 – General Consent.

^{1, 3}Transfer of a Sublease of a State Lease

A transfer of a Sublease of a State Lease is subject to the same requirements as a transfer of a State Lease, being chief executive approval to the transfer, and any additional documentation or requirements mentioned in the chief executive approval, e.g. declarations, a rental clearance certificate and a copy of the contract of sale. The written approval and additional documentation is not required where an exemption has been recorded pursuant to s. 322AB of the *Land Act 1994*.

^{1, 3}Transfer of a Trustee Lease

Section 58 of the *Land Act 1994* allows for the transfer of a trustee lease if it is accompanied by the written approval of the chief executive and the trustee. A Form 18 – General Consent is the appropriate form for the written approval. The chief executive's approval is not required if the trustee has a written authority under section 64 of the Land Act or the lease is a trustee lease (State or statutory body) (section 58(2) of the Land Act). Where the Minister has dispensed with the need to obtain the Minister's or chief executive's approval under section 64(1) of the Land Act a copy of the written authority must be deposited.

Transfer of Mortgage

[1-2490]

A transfer of mortgage may occur where a mortgagee elects to transfer its interest in the mortgage to another mortgagee. Given the nature of a mortgage, when a transfer of mortgage is lodged the Registrar will not enquire as to whether all the mortgage lots or interests are included

in the transfer. The transfer is completed as set out in [1-2000] to [1-2090] with the following variations:

Item 1 Interest being transferred

Mortgage No. [number]

More than one mortgage may be included in a transfer of mortgage, provided the parties are the same. However, a lodgement fee is payable for each mortgage being transferred.

Item 4 Consideration

If the consideration is monetary, it must be expressed in Australian currency, but does not attract an additional fee.

Item 6 Transfer/Execution

Delete the second, third and fourth sentences set out in Item 6 of the Form 1 – Transfer.

A transfer of a mortgage must have a duty notation and lodgement fees are applicable.

Confirmation of Identity of Mortgagor by Mortgage Transferee

[1-2495]

Section 11B of the *Land Title Act 1994* and s. 288B of the *Land Act 1994* place an onus on **all** mortgage transferees to confirm the identity of mortgagors prior to lodging a transfer of mortgage for registration.

For any transfer of mortgage lodged for registration, a mortgage transferee must first verify the identity of the mortgagor in the same way an original mortgagee is required to identify a mortgagor under the practice guidelines for s. 11A of the Land Title Act and s. 288A of the Land Act. A mortgage transferee also has the same record keeping obligations as an original mortgagee. Relevant practice guidelines are set out in Part 2 – Mortgage (National Mortgage Form), esp. [2-2005].

Alternatively, if the original mortgagee has complied with s. 11A of the Land Title Act or s. 288A of the Land Act and transfers to the mortgage transferee copies of identification documents or the record kept under s. 11A(4) of the Land Title Act or s. 288A(4) of the Land Act regarding the steps taken to identify the mortgagor, this satisfies the practice guidelines for confirmation of identity under ss. 11B(2) and (3) of the Land Title Act or ss. 288B(2) and (3) of the Land Act.

Section 94 of the *Property Law Act 1974*

[1-2500]

Another way in which a mortgage may be transferred is in accordance with s. 94(1) of the Property Law Act. This enables a mortgagor to require the mortgagee, instead of discharging the mortgage, to transfer the mortgage to any third person that the mortgagor directs. A Form 1 – Transfer is the applicable form and the consideration should be worded along the lines of ‘in consideration of a request by the mortgagor made under s. 94(1) of the Property Law Act 1974’.

[1-2510] deleted

¹Transfer by a Local Government under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012

[1-2520]

A transfer of a lot, or a lease under the *Land Act 1994* by a local government is completed as set out in [1-2000] to [1-2090] with the following variations:

Item 3 Transferor

The words ‘pursuant to Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012’ must follow the name of the local government. For example:

‘[name of the local government] pursuant to Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012’.

Item 4 Consideration

Insert the amount paid.

Alternatively, the following may be adopted:

Item 3 Transferor

State the name of the local government.

Item 4 Consideration

Insert the amount paid and refer to the authorising statutory provision. For example:

‘[amount paid] and pursuant to Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012’.

Lodgement fees are payable and a duty notation is required.

²If there is only one indefeasible title for the lot or lots being transferred, no new indefeasible title will be created. However, if the lot or lots being transferred are owned by tenants in common with separate titles, or do not constitute all lots in an existing indefeasible title, a new indefeasible title must be requested and applicable fees paid.

Where the land is taken to have been sold at auction to the local government (s. 143(4) of the Local Government Regulation 2012), an application by the local government to be recorded as registered owner of the land, or holder of the lease under the Land Act can be made. See [14-2410].

See also [61-3210] and [61-3220].

Transfer under Writ or Warrant of Execution**[1-2530]**

A transfer under a writ or a warrant of execution is completed as set out in [1-2000] to [1-2090] with the variation that the writ of execution number must be inserted, for example:

Item 3 Transferor

Sheriff exercising power of sale under Writ of Execution No [number].

or

The Sheriff or other officer of the applicable court.

A transfer under a writ of execution occurs where a writ of execution has been registered and the enforcement debtor has not satisfied the debt. The Sheriff, Registrar or other authorised officer of the court may then sell the lot or interest.

These transfers must be made under a registered writ of execution, and must be executed under the seal of the court and the designation of the signatory shown. They require a duty notation and lodgement fees are payable.

If the interest being sold is the interest of a joint tenant, the joint tenancy is severed and a tenancy in common is created.² However, a separate indefeasible title is not created unless it is required as evidenced by payment of the relevant fee by the transferee.

The transfer is registered subject to registered encumbrances, liens and interests notified on the register.

²In the case of freehold land and water allocations the transfer is also registered subject to all equitable mortgages and liens notified by any caveat lodged prior to registration of the writ of execution (s. 120(2) of the *Land Title Act 1994*).

If a lot or an interest sold by the Sheriff is subject to a mortgage and the purchaser pays out the mortgagee, the correct order of lodgement is:

- (1) the transfer under the writ of execution (subject to the mortgage); and
- (2) the Form 3 – Release of Mortgage.

^{1,2}However, a lot that is subject to a mortgage pursuant to the *Defence Service Homes Act 1918* (Cth) may not be sold in satisfaction of an unsecured judgement debt without the approval of the Secretary of the Department of Veterans' Affairs (s. 45A of the *Defence Service Homes Act* (Cth)). The approval of the Secretary of the Department of Veterans' Affairs must be deposited with the Form 1 – Transfer executed by an authorised Court Officer.

Priorities

[1-2540]

A writ of execution has a currency of six months from lodgement and binds the lot or lease under the *Land Act 1994* when executed and put into force (s. 117(b) of the *Land Title Act* and s. 387(b) of the *Land Act*). This six month binding period can be extended by an order of the court and must be notified to the Registrar by way of a Form 14 – General Request (s. 117(b) of the *Land Title Act* and s. 387(b) of the *Land Act*).

A registered writ of execution binds purchasers, lessees, mortgagees and creditors of the lot or lease under the *Land Act* if the writ is executed (i.e. the lot or lease under the *Land Act* is seized and sold by the appropriate court officer) during the binding period of six months from its lodgement or any extension allowed by the court and notified to the Registrar.

Any instrument or document other than those by purchasers, mortgagees, lessees and creditors that are lodged after the writ and during the binding period of six months from lodgement and any extended time allowed by the court and notified to the Registrar may be registered.

If a lot or lease under the *Land Act* is sold by a court officer under a registered writ or warrant, the authorised officer is empowered to execute a transfer to the purchaser in Form 1 under the seal of the court, provided the official designation is shown adjacent to the officer's signature.

If a transfer to a purchaser from the court is lodged subsequent to a transfer by the debtor in the above circumstances, registration in the name of the purchaser from the court will proceed.

The binding effect of a writ that is not executed (i.e. the lot or lease under the *Land Act* is not seized and sold by the appropriate court officer) during the binding period ceases immediately on expiration of the six months or extended period. Any person, including purchasers, lessees, mortgagees and equitable mortgagees may request the cancellation of the writ in a Form 14 – Request to Cancel a Writ or Warrant of Execution, provided evidence that the writ was not

executed is deposited. The evidence may be a certificate of search issued by the relevant court registry stating that the writ was not executed. This applies even if the writ is again lodged on the day after the binding period expired (*Hoy v AAA Home Loans Pty Ltd* [1985] VR 281).

A transfer executed and lodged by the Sheriff after the expiration of the six month binding period will be registered if there is no competing instrument or document, on the assumption that the time was extended. No further investigation will be made, as failure to notify the Registrar does not invalidate the transfer.

²A sale by a Sheriff of land registered under the Torrens System is not invalid merely because it takes place before the writ of execution was entered in the register (*Ex parte Bank of Australasia; Re Registrar General and Master of Titles* [1865] 1 QSCR 126).

If a transfer of a lot or lease under the Land Act from the enforcement debtor is lodged but unregistered at the date of lodgement of the writ of execution, the transfer is entitled to registration. The writ of execution will be requisitioned to be withdrawn as the enforcement debtor no longer has an interest capable of being transferred under the writ of execution.

A writ of execution must not be registered if it is lodged after:

- (a) 12 months from the date of issue of the writ of execution by the court; or
- (b) 12 months and any extension of the period allowed by the court and established by production of the court order.

1, ²Transfer of Crown Reservation

[1-2550]

Transfers of crown reservations fall into two categories:

- (1) Land which at the time of vesting in, or acquisition by, the Commonwealth of Australia by compulsory process was not subject to the *Land Title Act 1994*. In this situation:
 - (a) Where a transfer of the fee simple is to the State of Queensland from the Commonwealth, it is effected by a surrender and Form 1 – Transfer of the whole of the estate or interest of the Commonwealth. There is no need for a further transfer of the reservations. Such a transfer is not liable to transfer duty or lodgement fees.
 - (b) Where such land is transferred to a person or corporation, a Form 1 – Transfer of the fee simple to the transferee is required in which the reservations are reserved to the Commonwealth. These would be recited after the operative clause (in Item 4) and would entail the use of a Form 20 – Enlarged Panel for this purpose. In Item 4 would then appear ‘See Annexure A’, and the Form 20 would be identified as that annexure. At some later date these reservations would be transferred to the State by a Form 14 – General Request. No transfer duty is payable on this request.
- (2) Land which at the time of vesting in, or acquisition by, the Commonwealth of Australia by compulsory process, was subject to the Land Title Act and is being transferred:
 - (a) To the State of Queensland in fee simple. This requires a Form 1 – Transfer followed by an Indenture, lodged with a Form 14 – General Request, between the Commonwealth and the State in which the Commonwealth transfers those reservations to the State. Note that the reservations are not recited in the transfer as in the example in 1(b) above. No transfer duty is payable.

- (b) To a person or corporation. This is achieved through a Form 1 – Transfer. The reservations are reserved to the Commonwealth by the use of a Form 20 – Enlarged Panel, followed by an Indenture, lodged with a Form 14 – General Request, between the Commonwealth and the State whereby the reservations are transferred to the State.

[1-2560] deleted

²Transfer to a Local Government as trustee – s. 116 of the *Trusts Act 1973*

[1-2570]

Any transfer in favour of a local government for a public, charitable, recreation or other leisure-time purpose must be in trust.

The transfer is effected by a Form 1 – Transfer, accompanied by a Form 24 – Property Information (Transfer).

The completion of the Form 1 – Transfer requires the following information:

- an appropriate consideration that reflects the circumstances must appear in Item 4 (¹however, the consideration must make no reference to a condition of approval of a plan of subdivision);
- the local government as trustee must be shown in Item 5;
- the local government as transferee must execute in Item 6;
- a schedule of trusts in an original Form 20 – Trust Details Form may be incorporated in the Transfer (see [51-4100]);
- where there is a trust document, either the trust document or an original Form 20 – Trust Details Form (see [51-2040, [51-2043] and [51-4100]).

^{1,2}A transfer of a lot that appears to be an access restriction strip on a plan of subdivision approved under the *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009* or the *Planning Act 2016* requires the lodgement of a statutory declaration by the registered owner to the effect that the transfer of the lot to the local government as trustee for access restriction purposes was not a condition of the relevant development approval and that the consideration shown in the transfer is a negotiated purchase price (s. 3.5.32 and Chapter 5 Part 5 of the *Integrated Planning Act* or s. 347 of the *Sustainable Planning Act* or s. 66 of the *Planning Act*). To clarify, the consideration must not refer to an access restriction strip.

If the land is affected by a mortgage or lease, documentation should be lodged to precede the Form 1 – Transfer to remove them to the extent they relate to the parcel of land in the transfer.

¹However, land transferred to a local government as trustee may be subject to easements, and these need not be surrendered.

A duty notation and lodgement fees are applicable.

^{1,2}Transfer to a Local Government other than as trustee – s. 117 of the *Trusts Act 1973*

[1-2580]

If a lot is transferred to a local government as sole transferee other than as trustee, s. 117 of the *Trusts Act* requires the transferor/s to provide a statutory declaration that the land is not being transferred to the local government as sole trustee.

The Registrar will not register any plan of subdivision if it is apparent that the local government has included a transfer of land as a condition to its approval of the plan.

In addition to the general practice requirements that apply to a Form 1 – Transfer, please note the following specific practice requirements that apply to a Transfer to a local government other than as trustee:

- Item 4 Consideration – this item must be expanded to include the true details of the consideration. The consideration must not be expressed as ‘a condition of approval for subdivision’ or ‘an approved condition on the plan’;
- evidence to be deposited with Transfer – a Form 20 – Declaration made under the *Oaths Acts 1867* stating that the land is not being transferred to the local government as sole trustee from:
 - when there is only **one** transferor:
 - the transferor; or
 - if the declaration cannot be provided because of the death or incapacity of the transferor – the delegate of the transferee;
 - when there are **two or more** transferors:
 - each transferor; or
 - if a declaration cannot be provided because of the death or incapacity of any of the transferors:
 - each other transferor that is available and competent; or
 - if no other transferor is available and competent to make the declaration – the delegate of the transferee; and
- a Form 24 – Property Information (Transfer) must accompany the Transfer.

If the lot is to be public use land, the following procedure must be followed:

- (a) the subject lot must be identified by describing the nature of the use (i.e., ‘park’) on the face of the plan (see [21-2280]); and
- (b) the Form 1 – Transfer must be withdrawn.

Lodgement fees are payable and a duty notation is required.

^{1, 2}Transfer of a Lot Outside the Scheme to the Body Corporate for Additional Common Property in a Community Titles Scheme

[1-2590]

When a lot outside of a Community Titles Scheme is to be added to the Community Titles Scheme and then converted to common property for that scheme the following documents may be required to be lodged for registration in the order listed:

- (a) a transfer of the lot to the body corporate;
- (b) a new CMS to bring the lot into the scheme;

- (c) a survey plan, signed by the body corporate, converting the lot into common property;
- (d) a new CMS incorporating the additional common property.

Alternatively, it is acceptable to achieve this outcome by only lodging one new CMS for registration. In this instance Item 6 of the Request (Form 14) to accompany the new CMS must include a detailed explanation of addition of the subject lot to the scheme and its subsequent conversion to additional common property for the scheme. (See [45-2540] for additional information).

1, 2Transfer of the whole of a Lot Within the Scheme to the Body Corporate for Additional Common Property in a Community Titles Scheme

[1-2600]

If a lot in a scheme is to become additional common property of the scheme the following documents may be required to be lodged for registration in the order listed:

- (a) a transfer of the lot to the body corporate;
- (b) a survey plan, signed by the body corporate, converting the lot into common property;
- (c) a new CMS incorporating the additional common property. (See [45-2540] for additional information).

1, 2Transfer of part of the Common Property in a Subsidiary Scheme to a Higher Scheme in a Layered Arrangement

[1-2610]

If additional common property is to be created for a higher scheme from the common property of a subsidiary scheme the following documents are required to be lodged for registration in the order listed:

- (a) a survey plan subdividing the area of common property of the subsidiary scheme that is to become common property of the principal scheme into a lot;
- (b) a transfer of the subject lot to the body corporate for the principal scheme. A certificate under the relevant Regulation Module is also required from the body corporate for the subsidiary scheme;
- (c) a new CMS for the subsidiary scheme excising the lot from the subsidiary scheme;
- (d) a new CMS for the principal scheme adding the lot to the principal scheme;
- (e) a survey plan, signed by the body corporate for the principal scheme, converting the lot into common property;
- (f) a new CMS for the principal scheme incorporating the lot as additional common property.

Alternatively, it is acceptable to achieve this outcome by one new CMS for the principal scheme together with the plans and transfer and new CMS for the subsidiary scheme. In these instances Item 6 of the Request (Form 14) to accompany the new CMS for the principal scheme must include a detailed explanation of adding the subject lot to the scheme and its conversion into additional common property.

1, 2Transfer of a Lot Created from Common Property in a Community Titles Scheme

[1-2620]

If additional lot/s are to be created from common property in a community titles scheme and transferred from the Body Corporate to new owner/s the following documents are to be lodged for registration in the order listed:

- (a) a survey plan, signed by the body corporate, subdividing the common property and defining the new lot/s;
- (b) a transfer from the body corporate to the intended owner(s) of the lot/s. A certificate under the relevant Regulation Module is also required;
- (c) a new CMS for the scheme.

In addition, a statement, under the Body Corporate seal, is required confirming that the provisions of s. 96 of the *Body Corporate and Community Management Act 1997* have not been contravened.

1, 2Transfer of a Lot in a Subsidiary Scheme for Common Property of a Higher Scheme in a Layered Arrangement

[1-2630]

If a lot in a subsidiary scheme is to become additional common property for the principal scheme in a layered arrangement the following documents are required to be lodged in the order listed:

- (a) a transfer of the subject lot to the body corporate for the principal scheme;
- (b) a new CMS for the subsidiary scheme excising the lot from the subsidiary scheme;
- (c) a new CMS for the principal scheme adding the lot to the principal scheme;
- (d) a survey plan, signed by the body corporate for the principal scheme, converting the lot into common property;
- (e) a new CMS for the principal scheme incorporating the lot as additional common property.

Alternatively, it is acceptable to achieve this outcome by one new CMS for the principal scheme together with the plan and transfer and new CMS for the subsidiary scheme. In these instances Item 6 of the Request (Form 14) to accompany the new CMS for the principal scheme must include a detailed explanation of the inclusion of the subject lot into the scheme and its subsequent conversion into additional common property.

Forms

General Guide to Completion of Forms

[1-4000]

For general requirements for completion of forms see part 59 – Forms.

Dealing Number

Duty Imprint



OFFICE USE ONLY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

Print one-sided only

1. Interest being transferred (if shares show as a fraction)		Lodger (Name, address, E-mail & phone number)	Lodger Code
FEE SIMPLE		SMYTHE & CO. SOLICITORS 45 ADELAIDE STREET BRISBANE QLD 4000 mail@smytheco.com.au (07) 3227 9850	490
Note: A Form 24 - Property Information (Transfer) must be attached to this Form where interest being transferred is "fee simple" (Land Title Act 1994), "State leasehold" (Land Act 1994) or "Water Allocation" (Water Act 2000)			
2. Lot on Plan Description		Title Reference	
LOT 16 ON RP999999		12345678	
3. Transferor			
JOHN ANTHONY SMITH and PATRICIA MARY SMITH			
4. Consideration			
\$400,000.00			
5. Transferee	Given names	Surname/Company name and number	(include tenancy if more than one)
	TERENCE JAMES	BROWN	AS JOINT TENANTS
	MAUREEN	BROWN	

6. Transfer/Execution The Transferor transfers to the Transferee the estate and interest described in item 1 for the consideration and in the case of monetary consideration acknowledges receipt thereof. The Transferor declares that the information contained in items 3 to 6 on the attached Form 24 is true and correct. The Transferee states the information contained in items 1, 2, 4 to 6(h) on the attached Form 24 is true and correct. Where a solicitor signs on behalf of the Transferee the information in items 1, 2, 4 to 6(h) on the Form 24 is based on information supplied by the Transferee.

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994.

Separate executions are required for each transferor and transferee. Signatories are to provide to the witness, evidence that they are the person entitled to sign the instrument (including proof of identity).

N / South

.....
NELLIE ISABELLA SOUTH
JUSTICE OF THE PEACE (QUALIFIED) #23456.....
Witnessing Officer (signature, full name & qualification)

15/10/2017
Execution Date

J A Smith
.....
Transferor's Signature

N / South

.....
NELLIE ISABELLA SOUTH
JUSTICE OF THE PEACE (QUALIFIED) #23456.....
Witnessing Officer (signature, full name & qualification)

15/10/2017
Execution Date

P M Smith
.....
Transferor's Signature

.....
Witnessing Officer (signature, full name & qualification)

11/11/2017
Execution Date

I M Law
IAN MAURICE LAW
*
Transferee's or Solicitor's Signature

.....
Witnessing Officer (signature, full name & qualification)

/ /
Execution Date

*
Transferee's or Solicitor's Signature

(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

*Note: A Solicitor is required to print full name if signing on behalf of the Transferee and no witness is required in this instance

Guide to Completion of Form 1

[1-4010]

See [1-2000] for a full guide to the completion of Form 1.

eConveyancing

[1-5000]

Electronic Conveyancing and Electronic Conveyancing Document

[1-5010]

Electronic Conveyancing (or eConveyancing) is the term used to refer to the electronic preparation, lodgement, processing and registration of instruments and other documents (Electronic Conveyancing Documents) for the purposes of the *Land Title Act 1994*, *Land Act 1994* and other titling legislation. It is an alternative to the traditional ‘paper based’ conveyancing system which involves the manual completion, execution and lodgement of paper forms either at a Titles Registry lodgement office, by post or through eLodgement.

An Electronic Conveyancing Document is a document under the Electronic Conveyancing National Law (Queensland) (the ECNL) that is lodged electronically through an Electronic Lodgment Network (see s. 14B of the *Land Title Act 1994* and s. 7 of the ECNL).

For more information, refer to Part 62 – eConveyancing.

The terms Electronic Conveyancing and eConveyancing are used interchangeably in this Part and throughout the Land Title Practice Manual.

Scope Restrictions

[1-5100]

Refer to the [Titles Registry Electronic Conveyancing web page](#) for the list of transactions currently available through eConveyancing.

Prescribed Requirements – Form 1 (electronic)

[1-5200]

Under the Participation Rules (Queensland) a Prescribed Requirement is a published requirement of the Registrar that Subscribers to an Electronic Lodgment Network are required to comply with.

Currently there are no Prescribed Requirements for a Form 1 (electronic).

Attachments – Form 1 (electronic)

[1-5300]

An attachment cannot be included with a Form 1 (electronic) unless:

- it is in the circumstances detailed in this section (e.g. a Transfer to more than 4 trustees of the same trust); and
- the attachment only includes the stated evidence required in those circumstances (e.g. evidence that the trust is a charitable trust or evidence of a written certificate from the Minister approving the larger number of trustees).

Attachments must be uploaded in portable document format (PDF). For information regarding uploading attachments, refer to the relevant Electronic Lodgment Network Operator.

Transfer to trustee – Form 20 – Trust Details Form (electronic) not an attachment

If one or more of the transferees will be recorded as a trustee, a Form 20 – Trust Details Form (electronic) must be completed for each trust (see Part 51 esp. [51-5000]).

The Form 20 – Trust Details Form (electronic) is not an attachment. It cannot be provided as an attachment or as a separate dealing.

The Subscriber will enter the information required for the Form 20 – Trust Details Form (electronic) in the relevant fields within the Electronic Lodgment Network Operator interface and the rendered form will be included as part of the Form 1 (electronic) dealing (see page 3 of Electronic Form Example 2 in [1-5620]).

Note: the Form 20 – Trust Details Form (electronic) does not form part of the freehold land register (s. 110(4) of the *Land Title Act 1994*).

^{1, 2}**Transfer to a Local Government other than as trustee**

[1-5310]

If a lot is transferred to a local government as sole transferee other than as trustee, s. 117 of the *Trusts Act 1973* requires the transferor/s to provide a statutory declaration that the land is not being transferred to the local government as sole trustee.

An attachment to a Form 1 (electronic) is required where a lot is being transferred to a local government as sole transferee other than as trustee.

The attachment must provide:

- a scanned copy of a Form 20 – Declaration made under the *Oaths Acts 1867* stating that the land is not being transferred to the local government as sole trustee from:
 - when there is only **one** transferor:
 - the transferor; or
 - if the declaration cannot be provided because of the death or incapacity of the transferor – the delegate of the transferee;
 - when there are **two or more** transferors:
 - each transferor; or
 - if a declaration cannot be provided because of the death or incapacity of any of the transferors:
 - each other transferor that is available and competent; or
 - if no other transferor is available and competent to make the declaration – the delegate of the transferee.

Transfer to more than 4 Trustees

[1-5320]

The number of trustees of a trust cannot exceed four unless the trust is for a charitable purpose or a written certificate from the Minister approving a larger number of trustees has been given (s. 11 of the *Trusts Act 1973*).

An attachment to a Form 1 (electronic) is required where there are more than four trustee transferees that will be recorded as trustees of the same trust. The attachment must provide:

- evidence that the trust is a charitable trust; or
- evidence that a written certificate from the Minister approving the larger number of trustees has been given.

Execution and Certification

[1-5400]

The requirements for digitally signing and making certifications for an Electronic Conveyancing Document are contained in the Participation Rules (Queensland).

Electronic Form

[1-5600]

Approved Electronic Form

[1-5610]

An instrument of transfer that is an Electronic Conveyancing Document (an eConveyancing transfer) must be lodged through an Electronic Lodgment Network and be in the form approved by the Registrar under the Electronic Conveyancing National Law (Queensland). The eConveyancing transfer must be digitally signed by or for the transferee/s and transferor/s as required by the approved form and Participation Rules.

A representation of the electronic form approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland) is shown on the following page.

TRANSFER

Lodger Details:

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

Duty Assessment Information: In accordance with Duties Act 2001, endorsed by the self assessor.

Transaction Number:

Client Number:

Duty Amount:

Duty Exempt:

UTI Amount:

Date:

1. Interest being transferred

2. Lot on Plan Description

Title Reference

3. Transferor

4. Consideration

5. Transferee

6. Transfer/Execution and Attestation

The Transferor transfers to the Transferee the estate and interest described in item 1 for the consideration and in the case of monetary consideration acknowledges receipt thereof.

I certify that:

Signed by:

For
On behalf of

Dated:

I certify that:

Signed by:

For
On behalf of

Dated:

Electronic Form Examples

[1-5620]

Electronic Form Example 1 – Transfer to individuals as Joint Tenants

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

FORM 1 (electronic) Version 2
Page 1 of 2

TRANSFER

812345678

PX 200

07/01/2021 09:01:13

Lodger Details:

SMYTHE & CO. SOLICITORS
45 ADELAIDE STREET
BRISBANE QLD 4000

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

Duty Assessment Information: In accordance with Duties Act 2001, endorsed by the self assessor.

Transaction Number:	612345621	Client Number:	3502152	Duty Amount:	\$26,000.00
Duty Exempt:	No	UTI Amount:	\$0.00	Date:	07/01/2021

1. Interest being transferred

Fee Simple

2. Lot on Plan Description

LOT 16 ON RP99999

Title Reference

12345678

3. Transferor

JOHN ANTHONY SMITH
PATRICIA MARY SMITH

4. Consideration

\$400,000.00

5. Transferee

TERENCE JAMES BROWN
MAUREEN BROWN

Joint Tenants

6. Transfer/Execution and Attestation

The Transferor transfers to the Transferee the estate and interest described in item 1 for the consideration and in the case of monetary consideration acknowledges receipt thereof.

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
2. The Certifier has retained the evidence supporting this Registry Instrument or Document.
3. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to verify the identity of the transferor or his, her or its administrator or attorney.

Signed by:

James Woodhouse
For WOODHOUSE LAWYERS
On behalf of
JOHN ANTHONY SMITH
PATRICIA MARY SMITH
Dated: 07/01/2021

This is a representation of the instrument that was electronically lodged

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
2. The Certifier has retained the evidence supporting this Registry Instrument or Document.
3. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to verify the identity of the transferee or his, her or its administrator or attorney.

Signed by:

Ian Maurice Law
For LAWHOUSE
On behalf of
TERENCE JAMES BROWN
MAUREEN BROWN
Dated: 07/01/2021

TRANSFER

812345679

SY 235

08/01/2021 09:01:13

Lodger Details:

SMYTHE & CO. SOLICITORS
45 ADELAIDE STREET
BRISBANE QLD 4000

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

Duty Assessment Information: In accordance with Duties Act 2001, endorsed by the self assessor.

Transaction Number:	612345621	Client Number:	3502152	Duty Amount:	\$26,000.00
Duty Exempt:	No	UTI Amount:	\$0.00	Date:	07/01/2021

1. Interest being transferred

Fee Simple

2. Lot on Plan Description

LOT 16 ON RP99999

Title Reference

12345678

3. Transferor

ABC PTY LTD ACN 987 654 321

4. Consideration

\$400,000.00

5. Transferee

BIG CITY DEVELOPER PTY LTD ACN 654 987 123

As Trustee

6. Transfer/Execution and Attestation

The Transferor transfers to the Transferee the estate and interest described in item 1 for the consideration and in the case of monetary consideration acknowledges receipt thereof.

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
2. The Certifier has retained the evidence supporting this Registry Instrument or Document.
3. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to verify the identity of the transferor or his, her or its administrator or attorney.

Signed by:

James Woodhouse
For WOODHOUSE LAWYERS
On behalf of
ABC PTY LTD
Dated: 08/01/2021

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
2. The Certifier has retained the evidence supporting this Registry Instrument or Document.
3. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to verify the identity of the transferee or his, her or its administrator or attorney.

Signed by:

Ian Maurice Law

For LAWHOUSE

On behalf of

BIG CITY DEVELOPER PTY LTD AS TRUSTEE

Dated: 08/01/2021

SAMPLE

TRUST DETAILS FORM

1. Authority for the Trust

Trust Document

2. Schedule of Trust Details

N/A

3. Name of Trust

Big City Development Trust

4. Date of Creation of Trust

05/01/2021

5. Beneficiaries

Defined in clause 4 of the Trust Deed dated 5 January 2021

6. Trustees

BIG CITY DEVELOPER PTY LTD ACN 654 987 123

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
2. The Certifier has retained the evidence supporting this Registry Instrument or Document.
3. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to verify the identity of the transferee or his, her or its administrator or attorney.

Signed by:

Ian Maurice Law
For LAWHOUSE

On behalf of

BIG CITY DEVELOPER PTY LTD AS TRUSTEE

Dated: 08/01/2021

NOTE: a transfer to one or more transferees that will be recorded as a trustee will require the completion of a Form 20 – Trust Details Form (electronic) for each trust. Each Form 20 – Trust Details Form (electronic) will be included as part of the Form 1 (electronic) dealing when it is lodged (see Part 51 esp. [51-5000]).

Electronic Form Notes for Completion

[1-5700]

Refer to the table below for notes for the completion of a Form 1 (electronic).

Item	Notes
Item 5	<p><u>Transferee name and capacity</u></p> <p>For a transferee recorded in Item 5 there are Name data fields (the given name/s and family name/s of an individual or the name (and ACN/ARBN if applicable) of an organisation) and a Tenancy/ Capacity data field (the tenancy or capacity of the transferee):</p> <p>5. Transferee</p> <p>TERENCE JAMES BROWN Joint Tenants MAUREEN BROWN</p> <p><i>Name data fields</i> <i>Tenancy/Capacity data field</i></p> <p>5. Transferee</p> <p>BIG CITY DEVELOPER PTY LTD ACN 654 987 123 As Trustee</p> <p><i>Name data fields</i> <i>Tenancy/Capacity data field</i></p> <p>Only the name of the Transferee can be inserted in the Name data fields.</p> <p>It is not permissible to include other words or symbols that are not part of the name of the transferee in the Name data fields (e.g. the capacity of a transferee, a reference to previously lodged evidence or using a symbol like “.” for the family name of an individual transferee that only has a given name*).</p> <p>Where a transferee will be recorded as holding the interest as a trustee (or another capacity) this must be recorded by selecting the relevant capacity for the transferee which will be displayed in the Tenancy/Capacity data field. A Form 20 (electronic) – Trust Details Form will need to be completed for a trustee transferee (see Part 51 esp.[51-5000]) and details of the trust will be provided in that form.</p> <hr/> <p><u>Transferee recorded as Trustee – Form 20 – Trust Details Form (electronic) not an attachment</u></p> <p>If one or more of the transferees will be recorded as a trustee, a Form 20 – Trust Details Form (electronic) must be completed for each trust (see Part 51 esp. [51-5000]).</p> <p>The Form 20 – Trust Details Form (electronic) is not an attachment. It cannot be provided as an attachment or as a separate dealing.</p> <p>The Subscriber will enter the information required for the Form 20 – Trust Details Form (electronic) in the relevant fields within the Electronic Lodgment Network Operator interface and the rendered form will be included as part of the Form 1 (electronic) dealing (see page 3 of Electronic Form Example 2 in [1-5620]).</p>

* **Note:** it is not currently possible to lodge an eConveyancing transfer to a transferee that does not have both a given name and a surname.

[1-6000] deleted

[1-7010] to [1-7050] deleted

Fees

[1-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60-8000].

Cross References and Further Reading

[1-9000]

Part 2 – Mortgage (National Mortgage Form)

Part 5, 5A, 6 – Transmission Applications

Part 12 – Request to Register Writ or Warrant of Execution

Part 45 –Community Title Schemes

Part 51 – Trusts

Part 49 – Water Allocations

Part 62 – eConveyancing

Duncan and Vann, *Property Law and Practice*, Law Book Co Ltd (loose-leaf service)

Queensland Conveyancing Law and Practice, CCH Australia Ltd (loose-leaf service)

Croft, C, 'Rights and Obligations of Mortgagees in Possession' (1992) 66/122 *Law Institute Journal* pp 76-78

Notes in text

[1-9050]

Note¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land.

Part 14 – General Request

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Part 14 – General Request

General Law

[14-0000]

A General Request is used to notify the Registrar of certain matters that impact on the registries.

Form 14 is the prescribed form for General Requests or for where no other specific form has been approved. Some of the many uses of this Form are outlined in this Part.

^{1,2}Body Corporate and Community Management Requests

[14-0100]

The *Body Corporate and Community Management Act 1997* provides for the establishment, operation and management of community titles schemes.

^{1,2}Reservation of Name

[14-0110]

On receipt of an application, the Registrar may reserve a name for a proposed community titles scheme. The proposed scheme land must be properly identified in the application. The period of reservation is two years, however, that may be extended for a further one year if the person who reserved the name applies during the initial two year period. The reservation ends if the person withdraws the reservation or the community titles scheme is established.

^{1,2}Community Management Statement

[14-0120]

A First Community Management Statement (First CMS) must accompany a plan of subdivision (survey plan) to establish a community titles scheme and takes effect when it is recorded in the Titles Registry.

A First CMS may only be recorded if a properly completed Form 18C – Planning Body Community Management Statement Notation (Form 18C) signed by the planning body is deposited with the request to record the First CMS.

However, a New CMS may be recorded if either:

- A properly completed Form 18C signed by the planning body is deposited with the request to record the New CMS; or
- if Item 7 is endorsed by the body corporate as follows:

‘not applicable – see s. 60(6) of the Body Corporate and Community Management Act 1997.’

A CMS cannot be amended. It can only be replaced by a New CMS that has the endorsement and consent of the body corporate. A New CMS may also only be recorded if it has been consented to by the body corporate and is lodged within three months after the **relevant event** happens (s. 65(1) and (3) of the Body Corporate and Community Management Act).

A CMS is not an instrument under the *Land Title Act 1994*. However, s. 115K(3) of the Land Title Act provides that a request to record a CMS is an instrument. Section 115L(2) of the Land Title Act also provides that the recording of a CMS in the registry does not guarantee that it is valid or enforceable. The Registrar is not obliged to, but may, examine a CMS before it is recorded.

^{1,2}Change of address of Body Corporate

[14-0130]

The *Body Corporate and Community Management Act 1997* stipulates that notices, legal processes and documents are served on the body corporate for a community titles scheme if served personally on the secretary or another member of the committee if the secretary is absent. It also stipulates that the address for service of the body corporate is the address recorded on the indefeasible title for the common property as notified to the Registrar from time to time.

The address of the original owner as shown on the First CMS for the scheme is the address for service of the body corporate if the Registrar has not been advised otherwise. Similarly, the address for service of an owner of a lot in the scheme is either the address in the records of the body corporate or the address of the lot if no address has been recorded by the body corporate.

The address of a body corporate that is recorded by the Registrar can be changed by making a formal application to have it changed.

For further information see [14-2700].

Legislation

[14-1000]

^{2,3}Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, an interest or dealing may be registered in a way mentioned in the Land Title Act, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act:

- (a) as if a reference to the freehold land register is a reference to the water allocations register; and
- (b) as if a reference to freehold land or land is a reference to a water allocation; and
- (c) as if a reference to a lot is a reference to a water allocation; and
- (d) with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8200] and [0-8300].

Practice

Request to Record Correction or Change of Name

[14-2000]

A name on a title may be recorded incorrectly, due to an error by either the lodging party or the registry. In other situations, the name of a party may have changed. Other than for departmental errors, a Form 14 – General Request is the correct form to use to change or correct names recorded on a title. Throughout this topic, this Form is also referred to as a Form 14 – Request to Change Name or a Form 14 – Request to Correct Name.

While no duty notation is required on this Form 14 – General Request, lodgement fees apply.

The Registrar allows a change or correction of the registered proprietor or holder of an interests name of multiple secondary interests (for example, a mortgage or a lease) by registration of a single Form 14, rather than a separate form for each interest, provided the parties are the same and a lodgement fee is paid for each interest.

Natural Person

[14-2010]

To correct or change the name of a natural person, a Form 14 – General Request must be lodged with a Form 20 – Declaration (statutory) setting out the circumstances that warrant a change or correction of name.

However, where an error was made by the registry, an internal request under s. 15 of the *Land Title Act 1994* or s. 291 of the *Land Act 1994* will be used to correct the name.

When a person or persons acquire an interest in a lot or a State tenure, the Registrar assumes that the name(s) provided is/are the legal name(s) of the proprietors or holders of the interest. The Registrar makes no inquiry to ascertain whether the name supplied is the legal name.

On marriage or entering into a civil partnership a person has the choice as to whether he or she will:

- (a) retain his or her previous legal name (e.g. birth name); or
- (b) adopt the surname of his or her partner.

For example, if Mary Green marries Tom Brown:

- Mary can choose to retain the surname of Green; or
- Mary can adopt the surname of Brown;
- Tom can choose to retain the surname of Brown;
- Tom can adopt the surname of Green;
- Mary and/or Tom may adopt a surname of Green-Brown as his/her/their legal name;
- Mary and/or Tom may adopt a surname of Brown-Green as his/her/their legal name.

Conversely, when a person who adopted his or her partner's surname after marriage or entering into a civil partnership and had title to an interest in a lot or a State tenure registered in that name and subsequently divorces his or her partner or ends the civil partnership, he or she may revert to his or her previous legal name as his or her legal name.

To the knowledge of the Registrar, apart from marriage, entering into a civil partnership or divorce the only mechanisms whereby a person can change his/her name are by:

- (1) Deed Poll, if the name was changed prior to 1 February 2004, or
- (2) on or after 1 February 2004, a request to change name registered in the Registry of Births, Deaths and Marriages, which is the formal means by which a change of name is recorded, or
- (3) by assumption of a name and use of that name in keeping with common law.

Persons who use other than their legal names when acquiring interests in a lot or a State tenure could experience difficulty when attempting to deal with that interest as a result of the

provisions of the Land Title Act or Land Act relating to ‘obligations of witnesses for individuals’.

Section 162 of the Land Title Act and s. 311 of the Land Act provide, in part, that ‘a person who witnesses an instrument or document executed by an individual must:

- (a) first take reasonable steps to ensure that the individual is the person entitled to sign the instrument or document; and
- (b) have the individual execute the document in the presence of the person...’.

Witnesses may find it impossible to fulfil their obligation of ‘ensuring that the individual is the person entitled to sign the instrument or document’ if the person is not registered as the proprietor in their legal name.

When totally different names are used as aliases, it will be extremely difficult, if not impossible, to satisfy a witness’s requirements to subsequently register an instrument or document.

On making a request to change or correct the name of a registered proprietor or holder of an interest, evidence that the new name is the registered proprietor’s legal name will be required to be deposited.

Generally, acceptable proof of legal name is:

- a copy of a birth certificate; or
- a copy of a certificate of marriage (to adopt a different surname as a result of marriage);
- a copy of a civil partnership certificate (to adopt a different surname as a result of registering a civil partnership)
- a copy of a certificate of change of name; or
- a copy of a Court issued recorded Deed Poll; or

Note – Where an office copy is required the copy must be certified by the issuing authority. For further information on depositing supporting evidence see part 60 – Miscellaneous, esp. [60-1030].

- comprehensive documentation to the satisfaction of the Registrar evidencing the change of name by assumption based on use of that name. The following documentation generally will be required:

- (1) a statutory declaration by the applicant that states:
 - their previous and current names;
 - the applicant is the owner/holder of the registered interest;
 - the duration of exclusive use of the current name;
 - it is the intention of the applicant to use only the current name in all matters;
 - they are aware of the potential privacy issues associated with private documentation being deposited in a publicly accessible register; and

- they are aware that all evidence deposited in support of the application will remain a part of the public register and will be available to any interested party that searches the register.
- (2) evidence of exclusive use of a new name (e.g. driver licence, passport, etc.); and
 - (3) if relevant (i.e. hyphenated name comprising previous name and partner's surname), copy of a marriage certificate or civil partnership certificate; and
 - (4) sufficient supporting documentary evidence to satisfy that the new name is used exclusively (e.g. local government rates notice, receipts for mortgage and/or home insurance payments, etc.); and
 - (5) a statutory declaration by a reliable, independent person in a position to state that they knew the applicant prior to the adoption of their new name and are able to corroborate that the owner of the registered interest is the same person as the applicant (e.g. bank manager).

If there is more than one correction to be made on a title (e.g. where two registered owners hold as joint tenants and both their names are incorrect or have changed), only one Form 14 – General Request is required.

If only one registered proprietor's or holder's name requires correction, the Request may only be made by that person.

A registered proprietor or holder of an interest whose name requires correction (e.g. due to a misspelling) and change (e.g. due to marriage/entering into a civil partnership) need only lodge one document. The Request must be to change the name and a statutory declaration, together with documentary evidence (e.g. copies of a birth certificate and certificate of marriage/civil partnership certificate certified by the Registrar-General of Births, Death and Marriages), must be provided concerning the correction and the change of name.

Example 1 — Request to correct name (Natural Person) supported by a declaration from the solicitor's firm that prepared the original instrument or document.

Example 1A — Request to correct name (Natural Person) supported by a declaration by the registered owner.

Example 2 — Request to change name.

Corporation

[14-2020]

A Form 14 – General Request is lodged to record the change or correction of a name of a corporation. Where an incorrect name is recorded due to an error by the registry, an internal request will be used to correct the name.

Where a corporation desires to record a change of name which has already been effected under the *Corporations Act 2001* (Cth), a Form 14 – General Request should be used.

Either an office copy of the certificate of change of name certified by the Australian Securities and Investments Commission (ASIC) or a search extracted from the ASIC database through an authorised information broker must be deposited with the Form 14.

Where a corporation's name has been changed in compliance with or by legislation, no evidence is required, provided the relevant Act is cited in the Request. A lodgement fee is payable unless an exemption is included in the legislation.

When an amalgamation of companies creates a new company, a change of name is not the proper instrument to record such a transaction. A Form 1 – Transfer should be used in this case.

Where a company has had several changes of name, the Form 14 – General Request need only identify the present name as the new name and the name on the title as the former name. However, documentary evidence is required to illustrate the chain of changes of name.

See Example 3.

Documents to be Deposited When Requesting Change or Correction of Name

[14-2025]

Documentation required to be deposited with a Form 14 – Request to Change or Correct Name is as follows:

- Where the ownership of a fee simple, a water allocation or a State tenure is concerned:
 - **For a corporation:**
 - (a) a copy of the certificate of change of name; or
 - (b) a search from the ASIC database that shows both the current name and the former name (**Note:** For an update of a registered power of attorney to record a change of a company name, the evidence provided must contain the date the change of name of the company was effective from, as this date is required to be entered into the power of attorney register (see [14-2800]));
 - **For a natural person:**
 - (a) a statutory declaration declaring the facts; and
 - (b) documentary evidence in support of the change of name, e.g. certificate of marriage certified by relevant issuing agency (see [14-2010]).

For more information about depositing supporting documentation see [60-1030].

However, if a statutory declaration, made by a lawyer, is deposited stating that:

- (1) the error was made in the document that recorded the owner's or the holder's name/s; and
- (2) the document was prepared by him/her,

then no further evidence is required.

- Where a lessee's interest is concerned the same evidence as shown above as well as the following requirement:
 - A request to record the correction or change of name of a lessee, which is executed after the initial term of the lease has expired, will not be registered unless a Form 13 – Amendment of Lease is lodged prior to the Form 14 – Request to Change Name of the lessee.

Incorporated Association

[14-2030]

Where an incorporated association has changed its name, a Form 14 – General Request must be lodged. The Form 14 should be lodged with:

- (a) a certified copy of the certificate of incorporation in the new name of the association; or
- (b) (if applicable) a search from the Australian Government Business Register that shows both the current name and the former name (**Note:** For an update of a registered power of attorney to record a change of an incorporated association name, the evidence provided must contain the date the change of name of the associated corporation was effective from, as this date is required to be entered into the power of attorney register (see [14-2800]).

After lodgement, land held by the association will be recorded as being held by the association in its new name. For further information about depositing supporting documentation see [60-1030].

See Example 3.

For the manner of execution or the recording of vestings in incorporated associations, see [14-2360].

[14-2040] deleted

Transition from an Incorporated Association to a Company Registered under the *Corporations Act 2001* (Cth)

[14-2035]

Part 11A of the *Associations Incorporation Act 1981* and Part 5B.1 of the *Corporations Act* provide for an incorporated association to transition to a company registered under the *Corporations Act*.

A Form 14 – General Request to Record Change of Name, with appropriate evidence must be lodged to record the transition. Appropriate evidence will consist of:

- (a) a copy of the notice of authority to transfer incorporation provided by the chief executive under s. 106E of the *Associations Incorporations Act*; and
- (b) a copy of the certificate issued by ASIC pursuant to s. 601BD of the *Corporations Act*, or a search from the ASIC database that shows the current name of the corporation.

For further information about depositing supporting information see [60-1030].

Item 6 of the Form 14 – General Request to Record Change of Name should include wording similar to the following:

I hereby request that the change of name of the registered owner from XYZ Inc. to XYZ Pty Ltd A.C.N. 001 311 711 be recorded following the transition from an incorporated association to a company registered under the *Corporations Act 2001* (Cth) pursuant to Part 11A of the *Associations Incorporation Act 1981* and part 5B.1 of the *Corporations Act 2001* (Cth) be recorded.

Lodgement fees apply to the Form 14 – General Request, but a duty notation is not required.

Request to Remove Expired Lease from Title

[14-2045]

See part 7 – Lease, esp. [7-2200]. See Example 4.

Request to Register Merger of Interest

[14-2050]

A merger of interest may occur in the following circumstances:

- ²merger of mortgage see [14-2060];
- ²merger of lease see [14-2070];
- ¹merger of easement see [14-2080]; and
- ^{1,2}merger of profit a prendre.

The merger of an interest with the fee simple or water allocation cannot occur where the two interests are held by the same party in different capacities. For example, a lessee of the freehold may hold the interest as a trustee for another and may then become the registered owner of the fee simple in his/her own right, i.e. not as trustee. In that situation, the leasehold interest cannot merge with the freehold interest.

²Merger of Mortgage

[14-2060]

Where a mortgagee becomes the registered owner of the land over which the mortgagee holds a mortgage, s. 63(2) of the *Land Title Act 1994* requires that the Registrar register the mortgagee as the registered owner free from the mortgage. Upon registration (of the transfer to the mortgagee), the mortgage ceases to exist. In this situation a Form 14 – General Request is **not** required to merge a mortgage with the freehold or water allocation.

Where a transferee and mortgagee are **not** one and the same person (i.e. where their names are the same, but they are different people such that no merger is taking place), a statutory declaration of identity should be lodged with the Form 1 – Transfer stating that the transferee and the mortgagee are not the same person. Without such declaration, a merger will be automatically recorded.

However, the mortgagee may request, pursuant to s. 63(3) of the *Land Title Act*, that the two interests not be merged. If such a request is made, the Registrar cannot cancel the mortgage. This request is to be made when the mortgagee lodges the transfer for registration by including in Item 5 of the Form 1 the words ‘do not cancel Mortgage No. [number]’.

If the mortgagee decides to merge the mortgage after previously advising the Registrar not to merge the mortgage in accordance with s. 63(3) of the *Land Title Act*, a Form 14 – General Request will be required to merge the mortgage.

Lodgement fees apply to the Form 14 – General Request, but a duty notation is not required.

²Merger of Lease

[14-2070]

Where a lessee becomes the registered owner of:

- a lot; or
- ¹part of the lot;

the lessee may lodge a Form 14 – General Request to merge the two interests. The lease is then cancelled. The merger of the two interests does not occur automatically.

Where a lessee’s interest in a lease merges with the fee simple or water allocation and there is a sub-lease registered over the land, the sub-lease remains in place and becomes the head-lease (s. 115 of the *Property Law Act 1974*). The consent of the sub-lessee is not required.

Lodgement fees apply to the Form 14 – General Request, but a duty notation is not required.

See Example 5.

Where the lease being merged with the fee simple or water allocation is mortgaged under a registered mortgage, the consent of the mortgagee in Form 18 is required to effect the cancellation of the mortgage or, alternatively, a Form 3 – Release of Mortgage may be lodged.

¹Merger of Easement (Extinguishment under s. 87A of the *Land Title Act 1994* or s. 368(2) of the *Land Act 1994*)

[14-2080]

When the dominant tenement (the land benefited by the easement) and the servient tenement (the land burdened by the easement) come into the ownership of the same party, the easement may be merged. If the registered owner or a trustee, lessee or licensee under the *Land Act 1994* requires the easement to be merged, a Form 14 – General Request requesting the merger should be deposited. Once the Request is registered, the easement is extinguished.

See Example 6.

Merger of an easement is not automatic, as the registered owner or a trustee, lessee or licensee under the *Land Act* may subsequently transfer their interest, either in the dominant or servient tenement. The easement would then continue to exist. However, where a plan of survey has the effect of amalgamating the dominant and servient tenements so that they are both contained in the one lot, the easement is automatically merged as there are no longer two separate titles necessary to support the easement. A merger of this type is the subject of internal documentation.

Withdrawal of Caveat and Discharge, Satisfaction, Cancellation and Withdrawal of Writ of Execution

[14-2090]

A caveat that has been registered over a title may be withdrawn, whereas a registered writ of execution issued from a Court may be discharged, satisfied or cancelled. A registered writ of execution issued by the Registrar of the State Penalties Enforcement Registry may be withdrawn.

Withdrawal, Removal and Cancellation of Caveat

[14-2100]

Withdrawal of registered Caveat by Caveator

A caveator can withdraw a registered caveat by lodging a Form 14 – General Request to Withdraw Caveat which must be signed by the caveator or by the caveator's current solicitor.

Lodgement fees apply to the Form 14 – General Request to Withdraw Caveat, but a duty notation is not required.

Refer to Part 11 (esp. [11-0210], [11-2060], [11-4200] and Part 11 Example 8).

Withdrawal of unregistered Caveat by Caveator

A caveator can withdraw an unregistered caveat by way of a letter signed by the caveator or the caveator's current solicitor.

Removal by Supreme Court order after application by Caveatee

The caveatee may apply to the Supreme Court for an order that the caveat be removed (s. 127 of the *Land Title Act 1994* or s. 389H of the *Land Act 1994*).

If an order is obtained, the Caveatee can remove the caveat by lodging a Form 14 – General Request to Remove Caveat together with the court order.

Lodgement fees apply to the Form 14 – General Request to Remove Caveat, but a duty notation is not required.

Refer to Part 11 (esp. [11-0200], [11-2080], [11-4200] and Part 11 Example 10).

Removal of lapsed caveat

Any person can make a request remove a lapsed caveat by lodging a Form 14 – General Request to Remove Lapsed Caveat (no fee applies). A lapsed caveat can be removed whether it is registered or unregistered.

Refer to Part 11 (esp. [11-0170], [11-2050], [11-4200] and Part 11 Example 9).

Cancellation of Caveat

Under s. 128 of the *Land Title Act 1994* or s. 389I of the *Land Act 1994* any person can make request that a caveat be cancelled by lodging a Form 14 – General Request to Cancel Caveat. The person must be able to demonstrate that:

- the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn; or
- the claim of the caveator has been settled by agreement or otherwise satisfied; or
- the nature of the interest claimed does not entitle the caveator to prevent registration of an instrument that has been lodged; or
- for a caveat lodged by a person who has the benefit of an order mentioned in section 122(1)(e) of the *Land Title Act* or 389D(1)(c) of the *Land Act* – the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended.

The Registrar is obliged to notify the caveator of the intention to cancel the caveat seven days before cancelling it (s. 128(2) of the *Land Title Act* or s. 389I (3) of the *Land Act*).

Normal lodgement fees apply to the request.

Refer to Part 11 (esp. [11-0230], [11-2090], [11-4200] and Part 11 Example 11).

Partial Withdrawal of registered Caveat by Caveator

[14-2110]

A partial withdrawal of a registered caveat may occur:

- where the caveat is registered over several lots, or leases or licences under the *Land Act 1994* contained in separate titles and is subsequently withdrawn in relation to one or more, but not all, of the lots, or leases or licences under the *Land Act*; or
- ¹where the caveat is registered over one title that contains more than one lot and the withdrawal is for less than all the lots in that title.

A caveator can partially withdraw a registered caveat by lodging a Form 14 – Request to Partially Withdraw Caveat.

Refer to Part 11 (esp. [11-0210], [11-2065], [11-4200] and Part 11 Example 8A and 8B).

Lodgement fees apply to the Form 14 – General Request, but a duty notation is not required.

²Instalment Contract Caveat

[14-2120]

A caveat lodged to protect a purchaser's interest under an instalment contract pursuant to s. 74 of the *Property Law Act 1974*, may be removed or withdrawn by a Form 14 – General Request. Lodgement fees are payable, however, a duty notation is not required.

Discharge, Satisfaction or Cancellation of Writ of Execution

[14-2125]

Discharge

A Form 14 – General Request to Record Discharge of Writ of Execution must be used by an enforcement creditor to remove the writ where it has been satisfied by payment of the debt and appropriate costs or otherwise satisfied.

If the Form 14 is executed by:

- (a) the enforcement **creditor** personally, no evidence of satisfaction of the debt is required to be deposited; or
- (b) a solicitor on behalf of the enforcement creditor, either evidence of satisfaction of the debt or a letter from the enforcement creditor's solicitor (on the solicitor firm's letterhead) confirming that the solicitor is acting on behalf of the enforcement creditor in discharging the writ, must be deposited.

Appropriate evidence must be:

- (a) a certificate of search issued by the Court that issued the writ; or
- (b) a statutory declaration stating that the debt, costs and interest have been repaid in full together with a copy of the original receipt(s) for the repayment. The copy of the receipt must comply with one of the options in [60-1030].

All items on the Form 14 must be appropriately completed. Applicable lodgement fees must be paid. See Example 7.

Satisfaction

Where the enforcement creditor cannot be contacted or refuses to provide a request to record a discharge the enforcement debtor may lodge a Form 14 – General Request for Satisfaction of Writ of Execution to have the writ removed from the title. Evidence of satisfaction of the debt must be deposited with the Form 14.

Appropriate evidence must be:

- (a) a certificate of search issued by the Court that issued the writ; or
- (b) a statutory declaration stating that the debt, costs and interest have been repaid in full together with a copy of the original receipt(s) for the repayment. The copy of the receipt must comply with one of the options in [60-1030].

All items on the Form 14 must be appropriately completed. Applicable lodgement fees must be paid. See Example 9.

Cancellation

A writ of execution can be removed by anyone by lodgement of a Form 14 – Request to Cancel a Writ of Execution. The following criteria must be satisfied:

- Six months (and any appropriate extension time as notified to the Registrar) must have expired.
- The request must be accompanied by evidence of non-enforcement. The evidence must be:
 - (a) for the Supreme Court or District Court a certificate of search issued by the Court that issued the writ.
 - (b) for the Magistrates Court either:
 - (i) a certificate of search issued by the Court that issued the writ; or
 - (ii) if the Court refuses to issue a certificate of search, the Registrar of Titles will accept a statutory declaration stating that the Court refused to issue a certificate of search and that a search of the Court has been completed and the result of the search revealed that the time for the writ has expired or has not been executed.

All items on the Form 14 must be appropriately completed. No lodgement fees are payable.

Withdrawal of Writ of Execution Issued by the Registrar of SPER

[14-2127]

To withdraw a registered writ of execution issued by the Registrar of the State Penalties Enforcement Registry (SPER) a Form – 14 General Request signed by the Registrar of SPER or a delegate must be registered. The term ‘discharge’ may be used in lieu of ‘withdrawal’.

Lodgement fees are not applicable.

Partial Discharge, Satisfaction or Cancellation of Writ of Execution

[14-2130]

Partial discharge, satisfaction or cancellation of a writ of execution may occur:

- where a writ of execution is registered over several lots, or leases or licences under the *Land Act 1994* contained in separate titles and is subsequently discharged in relation to one or more, but not all, of the lots, or leases or licences under the Land Act; or
- ^{1,2}where a writ of execution is registered over a number of lots in one title and the discharge is for less than all of the lots.

²Where a writ of execution is registered over a lot which is subsequently subdivided, the writ then affects the new titles created by the:

- ¹plan of subdivision for freehold land; or
- ³subdivision of a water allocation;

and can be discharged, satisfied or cancelled so far as relates to individual lots.

Lodgement fees are payable, however, there is no duty notation required.

See Example 7.

[14-2140] deleted

Extension of Writ of Execution

[14-2150]

Refer to part 12, esp. [12-2010] and [12-2020]. See Example 10.

Standard Terms Document Forming Part of Instrument/Document

[14-2160]

Section 169 of the *Land Title Act 1994* or s. 318 of the *Land Act 1994* enables standard terms documents to be registered.

A registered standard terms document sets out the provisions, covenants and conditions of other instruments or documents, such as mortgages, leases, statutory covenants and easements.

Referring to a registered standard terms document removes the need to repeat all the provisions, covenants and conditions in instruments or documents to be lodged. For example, a mortgagee may register a standard terms document setting out its common mortgage covenants. For each subsequent mortgage, it need only prepare and lodge a *National Mortgage Form* which refers to the dealing number of the standard terms document.

Section 171(1) of the *Land Title Act* or s. 320(1) of the *Land Act* provides that, in addition to incorporating the terms of a standard terms document, an instrument or document may incorporate other terms into the instrument or document.

Under s. 168A of the *Land Title Act*, references to standard terms documents in ss. 170 and 171 include a standard terms document that has been or is taken to be registered under the *Land Act*.

Under s. 317A of the *Land Act*, reference to standard terms documents in ss. 319 and 320 include a standard terms document that has been or is taken to be, registered under the *Land Title Act*.

A Form 20 is used to set out the content of a standard terms document which must include the class of instrument or document to which it applies. A completed Form 14 – General Request to Register a Standard Terms Document must be lodged accompanied by the Form 20.

Practitioners and financiers are encouraged to register standard terms documents in instances where the terms and/or conditions and/or covenants are the same or very similar for multiple instruments or documents that they will lodge.

No fees are payable for lodgement.

See Example 11.

Request to Record Transmission by Bankruptcy

[14-2170]

Where a registered owner of a lot or the holder of an interest becomes bankrupt, that lot or interest will immediately vest in that person's trustee in bankruptcy. The person's trustee in bankruptcy will be a registered trustee where he/she has consented to act as the trustee in bankruptcy or, if no registered trustee has so consented, the trustee in bankruptcy will be the Official Trustee. The trustee in bankruptcy will deal with the lot or interest in accordance with the *Bankruptcy Act 1966* (Cth) to try to satisfy the bankrupt's creditors. A bankrupt cannot hold or deal with land or an interest in land in their personal capacity. See sections 58(1)(a), 58(1)(b) and 58(6) of the *Bankruptcy Act*.

Note: In accordance with ss. 160 and 161 of the *Bankruptcy Act*, the prescribed name for a private trustee is "The Trustee (or Trustees) of the Property of [Name of Bankrupt], a Bankrupt"; or if the property vests in the Official Trustee in Bankruptcy, the prescribed name is "Official Trustee in Bankruptcy".

A Form 14 – General Request must be lodged to register a transmission by bankruptcy pursuant to s. 115 of the *Land Title Act 1994* or s. 381 of the *Land Act 1994*. An extract from the National Personal Insolvency Index that is dated less than two weeks before, or any time after, execution of the Form 14, that evidences that the trustee has been appointed must be deposited with the request (see [60-1030]). Upon the transmission occurring, it is recorded on the title that the lot or interest is vested in the trustee in bankruptcy.

Throughout this topic, this Form is also referred to as a Form 14 – Request to Record Transmission by Bankruptcy.

Under the Bankruptcy Act, a transmission may be sought by:

- a trustee in bankruptcy (whether it be a registered trustee or the Official Trustee);
- a trustee in bankruptcy of a deceased debtor.

Lodgement fees are applicable and a duty notation is required.

Where the bankruptcy of a joint tenant severs a joint tenancy, a tenancy in common is created.² However, a separate title is not created unless it is required or evidenced by payment of the relevant fee by the trustee.

Where a trustee is registered on the title in the registry and a new trustee has been appointed but not registered on title, a new Form 14 – Request to Record Transmission by Bankruptcy to the new trustee must be lodged to precede a dealing with the bankrupt's interest by the new trustee. An extract from the National Personal Insolvency Index that is dated less than two weeks before, or any time after, execution of the Form 14, that evidences that the trustee has been appointed must be deposited with the request (see [60-1030]). This is supported by s. 58(2) of the Bankruptcy Act which is taken to mean that the trustee must be registered on title before they may deal with the property. Until registered, the trustee only has an equitable interest and therefore has no authority to deal with the property. This is also in line with s. 181 of the Land Title Act and s. 301 of the Land Act.

Bankruptcy of Debtor or Deceased Debtor's Estate

[14-2180]

A person may become bankrupt:

- On the acceptance of their own petition (Debtor's Petition) by the Official Receiver through the Insolvency and Trustee Service Australia (s. 55; s. 56A; and s. 57 of the *Bankruptcy Act 1966* (Cth)).
- When the court makes a sequestration order on the application of a creditor (Creditor's Petition) (s. 52 of the Bankruptcy Act).
- When the court makes a sequestration order on the application of a trustee or a creditor of a Part IV Composition or Arrangement (s. 76B); Part IX Debt Agreement (s. 185Q(5)); or a Part X Personal Insolvency Agreement (ss. 221(1), 222(10) and 222C(5) (from 1 December 2004). Prior to 1 December 2004 there were three types of Part X arrangements (Compositions, Deeds of Assignment or Deeds of Arrangement). An application for a sequestration order in these cases is equivalent to filing a creditor's petition.
- An administration order may be made by the court against the estate of a deceased debtor on the application of a creditor or a person administering the estate of a deceased person (s. 244 and s. 247 of the Bankruptcy Act).

The operation of s. 58 of the Bankruptcy Act serves to transfer or ‘vest’ the bankrupt’s or deceased person’s property in the trustee of the bankrupt (subject to exceptions detailed in s. 116(2) of the Bankruptcy Act). All property acquired by or devolved on bankrupts after the date of their bankruptcy and before being discharged from bankruptcy also vests in the trustee of the bankrupt (subject to s. 116(2) of the Bankruptcy Act). The vested property is ‘divisible property’ and includes any interest in fee simple, a water allocation or a lease, sublease or licence under the *Land Act 1994* where the person entitled to the interest is bankrupt.

The trustee of a bankrupt may be the Official Trustee in Bankruptcy or a private bankruptcy trustee or ‘registered trustee’.

The names and contact details for all registered trustees are available from the Insolvency and Trustee Service Australia internet site.

The Official Trustee in Bankruptcy (Official Trustee) is a body corporate created by s. 18 of the *Bankruptcy Act 1966* (Cth)). It has perpetual succession; may acquire, hold and dispose of real and personal property; and may sue and be sued in its corporate name. The Official Trustee has a seal.

An Official Receiver is a natural person who holds a statutory position under s. 15 of the Bankruptcy Act.

The Official Receiver for the Bankruptcy District of the State of Queensland may delegate all or any powers and functions of the Official Receiver, e.g., to a Deputy Official Receiver.

The Official Receiver or delegate exercises powers and performs functions of the Official Trustee that relate to matters originating in the District including execution of documents in the name of the Official Trustee, e.g., execution of a transfer by affixing the seal of the Official Trustee.

The National Personal Insolvency Index (NPII) is an Index of natural persons who have been subject to a proceeding or administration under the Bankruptcy Act. It is maintained by Official Receivers through the Insolvency and Trustee Service Australia (ITSA) pursuant to Part 13 of the Bankruptcy Regulations 1996 (Cth). The Index contains names, status of administration and the current trustees.

The content of an extract of the National Personal Insolvency Index includes:

- type of administration or proceeding;
- date of administration or proceeding;
- petition type (Debtor or Creditor Petition);
- identification number;
- full name of the debtor, including aliases;
- date of birth of the debtor;
- name of the trustee or controlling trustee; and
- the current status, e.g. a statement that the debtor is bankrupt or has been discharged from bankruptcy.

The types of administration or proceedings reported on an extract of the Index are:

- interim receiving orders;
- bankruptcy;
- post bankruptcy scheme or composition;
- Part X s. 188 authority;
- Part X Personal Insolvency Agreements (from 1 December 2004);
- Part X deed or composition (prior to 1 December 2004);
- Part IX debt agreement – proposal/acceptance; and
- Part XI deceased estate.

In the absence of proof to the contrary, the information extracted from the Index is evidence of the truth of the information (r 13.10 of the Bankruptcy Regulations).

A Form 14 – General Request must be lodged to register a transmission by bankruptcy based upon a debtor’s petition, sequestration order or administration order, together with the following:

- an extract from the NPII current at the time of execution of the Form 14;
- a statutory declaration by the trustee identifying the bankrupt as the registered owner or holder of the interest;
- ^{1, 2}if a trustee of a bankrupt estate seeks to enter a transmission by bankruptcy over property affected by the *Defence Service Homes Act 1918* (Cth), a certified copy of the approval given by the Secretary of the Department of Veterans’ Affairs must also be lodged (s. 45A of the *Defence Service Homes Act*).

See Examples 12 and 13.

[14-2190] to [14-2200] deleted

Trustee by Part IV Composition or Arrangement, Part IX Debt Agreement or Part X Personal Insolvency Agreement

[14-2210]

A person who desires to make non-divisible property available to a trustee to be dealt with under Part IV, Div 6 – Composition or Arrangement with Creditors may, pursuant to a composition proposal or scheme of arrangement, assign that property to a registered trustee or the Official Trustee in Bankruptcy (s. 73(1) of the *Bankruptcy Act 1966* (Cth)). Acceptance of the composition or scheme of arrangement by creditors annuls the bankruptcy.

A person who desires that their affairs be dealt with under Part IX (debt agreement) or Part X (personal insolvency agreement) of the Bankruptcy Act may assign their property to a registered trustee, or the Official Trustee in Bankruptcy or any other person referred to as an administrator. In either case the property may be assigned to another party (s. 185C; s. 188A of the Bankruptcy Act). Agreements under Part IX and Part X avoid bankruptcy or sequestration.

On acceptance by creditors of a composition proposal or scheme of arrangement under Part IV, a debt agreement under Part IX or a personal insolvency agreement under Part X the specified property is capable of being transferred to the trustee or administrator. Alternatively the agreement with creditors under these provisions may authorise for the property to be transferred

to a purchaser under direction from the trustee or the property may be transferred directly from the debtor to a creditor again under direction from the trustee.

If the property is sold to a third party under direction from the trustee/administrator the debtor may be required to execute all documents relating to property as directed by the trustee/administrator. In any transfer executed by the debtor, the consideration clause should indicate that the purchase moneys were paid to the trustee/administrator under the agreement reached with creditors, e.g.:

- for a Part X

‘[Amount] paid to [name] as trustee of [name] (a debtor) under a deed of personal insolvency agreement pursuant to s. 188A of the *Bankruptcy Act 1966* (Cth) on the [day] day of [month] [year] by [name], the receipt of which sum is acknowledged by the trustee’.

- for a Part IV Composition or Scheme

‘[Amount] paid to [name] as trustee of [name] (a debtor) under a composition pursuant to s. 73 of the *Bankruptcy Act 1966* (Cth) on the [day] day of [month] [year] by [name], the receipt of which sum is acknowledged by the trustee’.

- for a Part IX debt agreement

‘[Amount] paid to [name] as trustee of [name] (a debtor) under a debt agreement pursuant to s. 185C of the *Bankruptcy Act 1966* (Cth) on the [day] day of [month] [year] by [name], the receipt of which sum is acknowledged by the trustee’.

A copy of the composition, scheme of arrangement, debt agreement or personal insolvency agreement must be deposited.

A consent and direction by the trustee in Form 18 – General Consent is also required.

Bankruptcy Legislation Amendment Act 2004 (Cth)

[14-2220]

The Bankruptcy Legislation Amendment Act introduced significant changes to Part X of the Bankruptcy Act taking effect from 1 December 2004. From that date authorities given under s. 188 by a debtor result in just one type of matter known as a personal insolvency agreement (PIA). Unlike a bankruptcy or a Deed of Assignment under the pre-1 December 2004 provisions property does not vest automatically by operation of law in the trustee of a PIA. So there is no transmission of title, however PIAs are flexible arrangements negotiated with creditors and may involve the debtor assigning property to the trustee or third parties.

Authorities executed by debtors prior to 1 December 2004 may have resulted in one of three types of arrangements:

- A deed of assignment which resulted in the vesting of the debtor’s property in the trustee and which may require transmission.
- A composition which typically involved the periodic payments to the trustee from the debtor’s income but could also include the assignment of property.
- A deed of arrangement which could involve the assignment of property.

Part X arrangement entered into prior to 1 December 2004**[14-2225]**

On the execution of a deed of assignment or composition proposal under Part X of the *Bankruptcy Act 1966* (Cth), all of the debtor's divisible property vests in the trustee of the deed of assignment.

If a trustee needs to be recorded on a title, they will be registered as 'The trustee of the property of [name]'.

A Form 14 – General Request must be lodged with the following:

- an extract from the NPII current at the time of execution of the Form 14;
- a statutory declaration by the trustee identifying the debtor as the registered owner or holder of the interest.

If a trustee under a Part X deed of assignment or composition proposal does not seek to be registered on the title, s. 268(2)(f) of the Bankruptcy Act requires the debtor to execute all documents relating to property assigned by the deed of assignment or its disposal as directed by the trustee or by order of a court of competent jurisdiction. In any transfer executed by the debtor, the consideration clause should indicate that the purchase moneys were paid to the trustee under the deed of assignment pursuant to s. 214 of the Bankruptcy Act, e.g.:

'[Amount] paid to [name] as trustee of [name] (a debtor) under deed of assignment executed pursuant to s. 214 of the *Bankruptcy Act 1966* (Cth) on the [day] day of [month] [year] by [name], the receipt of which sum is acknowledged by the trustee'.

The deed of assignment must be deposited.

A consent and direction by the trustee in Form 18 – General Consent is also required.

Controlling Trustee under Part X of the *Bankruptcy Act 1966* (Cth)**[14-2230]**

A person who does not want their estate to be sequestrated may enter into a deed of assignment or arrangement or a composition under Part X of the Bankruptcy Act. The person may sign an authority in favour of a trustee or solicitor in accordance with Form 13 (Administrative Forms) of the Bankruptcy Regulations 1996 (Cth). That authority empowers the trustee, solicitor or the Official Trustee to call a meeting of their creditors and to take control of their property (s. 188 of the Bankruptcy Act). Once the authority becomes effective the trustee or solicitor becomes a controlling trustee by force of s. 188(6) of the Bankruptcy Act.

The controlling trustee may deal with the debtor's property in any way that is in the interest of the creditors (s. 190(2)(d) of the Bankruptcy Act). The controlling trustee has the same powers as a duly constituted attorney of the debtor.

Any instrument or document executed by the controlling trustee under this section will be treated as if the controlling trustee had been appointed by the debtor as their lawful attorney (s. 190(4) of the Bankruptcy Act).

²Section 189AB of the Bankruptcy Act creates a statutory charge. That charge is a caveatable interest and a caveat may be lodged by the controlling trustee (see part 11). The grounds of claim in Item 4 of the Form 11 – Caveat should make reference to s. 189AB of the Bankruptcy Act.

Powers of a Trustee

[14-2240]

Section 134 of the *Bankruptcy Act 1966* (Cth) authorises the trustee of a bankrupt to sell, lease or mortgage property or to execute a power of attorney.¹ While there are no specific provisions to grant or accept an easement, this is regarded as acceptable if it improves the value of the property. The Registrar will register these instruments or documents without enquiry.

Section 190 of the *Bankruptcy Act* authorises the controlling trustee of a debtor to act in the name of the debtor as if duly appointed as the debtor's attorney to deal with relevant property of the debtor in any way that will be in the interests of creditors in the opinion of the controlling trustee.

Transfers by trustees to themselves are improper without leave of the court (Schedule 2, s. 60-20 of the *Bankruptcy Act*).

Annulment of Bankruptcy

[14-2250]

Where a bankruptcy is annulled, the property which has not been sold by the trustee in bankruptcy reverts to the bankrupt, subject to any order of the court directing that the property should vest in an appropriate person.

The former bankrupt or the person in whom the property is vested by the court order must lodge a Form 14 – General Request accompanied by an extract from the NPII current at the time of execution of the Form 14.

See Example 15.

If the trustee of a bankrupt or their solicitor executes the Form 14 no further evidence is required to be deposited.

If the former bankrupt or their solicitor executes the Form 14, the following evidence must also be deposited:

- (i) A Form 18 – General Consent to the instrument or document, executed by the trustee;
or
- (ii) A statutory declaration, by the trustee, stating that the former bankrupt is entitled to be registered as owner or holder of the property.

Disclaimer

[14-2260]

Disclaimer of Freehold Land under the *Land Title Act 1994* or a Lease or Licence under the *Land Act 1994* by a Trustee of a Bankrupt

Pursuant to s. 133 of the *Bankruptcy Act 1966* (Cth), notwithstanding the trustee of a bankrupt (trustee) has or has not become the registered owner of land or the holder of a lease or licence of a bankrupt under the *Land Act*, the trustee may disclaim freehold land or a lease or licence under the *Land Act* which is unsaleable or not readily saleable or burdened with onerous covenants.

If the trustee is disclaiming freehold land or a lease or licence under the *Land Act*, the trustee must notify the Registrar by lodging a Form 14 – General Request (deposited as an Administrative Noting Miscellaneous). This request must be signed by the trustee or a solicitor for the trustee and supported by a notice of the disclaimer pursuant to s. 133 of the *Bankruptcy Act*.

Evidence by way of a current National Personal Insolvency Index extract that is dated less than two weeks before, or any time after execution of the Form 14 to validate the trustee's right to disclaim must be deposited.

The administrative advice will alert interested parties that all rights, interest and liabilities of the bankrupt in the freehold land or the lease or licence under the Land Act are terminated.

Lodgement fees are not applicable. A duty notation is not required.

Disclaimer of a Freehold Lease or a Sub-Lease under the *Land Act 1994* by a Trustee of a Bankrupt

A trustee of a bankrupt (trustee) may disclaim a freehold lease or a sub-lease under the Land Act, which is unsaleable or not readily saleable or burdened with onerous covenants, without the leave of the court only if:

- the trustee has given written notice of the intention to disclaim the freehold lease or the sub-lease under the Land Act to the lessor and any sub-lessees; and
- the notified persons have not, within 28 days of the notice, required the trustee to apply to the court for leave to disclaim the freehold lease or the sub-lease under the Land Act.

To give effect to s. 133(2) of the *Bankruptcy Act 1966* (Cth), a Form 14 – General Request to register the disclaimer must be lodged. The request may be made by the lessor.

The following must be deposited with the request:

- Evidence by way of a current National Personal Insolvency Index extract that is dated less than two weeks before or any time after execution of the Form 14 to validate the trustee's right to disclaim.
- A statutory declaration where the trustee declares that:
 - (1) the bankrupt is one and the same person as the registered lessee of the freehold lease or sub-lessee of the sub-lease under the Land Act being disclaimed;
 - (2) the trustee has given notice of intention to disclaim the freehold lease or the sub-lease under the Land Act to all interested parties pursuant to s. 133(4) and regulation 6.10 of the Bankruptcy Act, and
 - (3) no interested party has, within 28 days of the notice to disclaim, served notice requiring the trustee to apply to the court for leave to disclaim the freehold lease or the sub-lease under the Land Act.

Lodgement fees are applicable.

A duty notation is required if the term of the lease commenced prior to 1 January 2006.

Disclaimer of Freehold Land under the *Land Title Act 1994* or a Lease or Licence under the *Land Act 1994* by a Company Liquidator

If the company liquidator is disclaiming freehold land or a lease or licence under the Land Act, the liquidator may notify the Registrar by lodging a Form 14 – General Request (deposited as an Administrative Noting Miscellaneous), supported by a copy of the Notice of Disclaimer (a Form 525 under the Corporations Regulations 2001 (Cth)).

A statutory declaration by the liquidator as to the service of notice of the disclaimer and any response received (s. 568A(1)(b) of the *Corporations Act 2001* (Cth)) must be deposited with the Form 14.

The administrative advice will alert interested parties that all rights, interest and liabilities of the company in the freehold land or the lease or licence under the Land Act are terminated.

Lodgement fees are not applicable. A duty notation is not required.

Disclaimer of a Freehold Lease under the *Land Title Act 1994* or a Sub-Lease under the *Land Act 1994* by a Company Liquidator

If a company liquidator is disclaiming a freehold lease or a sub-lease under the Land Act, a Form 14 – General Request, supported by a copy of the Notice of Disclaimer (a Form 525 under the Corporations Regulations 2001 (Cth)) must be lodged to notify the Registrar of the disclaimer. The request may be made by the lessor.

A statutory declaration by the liquidator as to the service of notice of the disclaimer and any response received (s. 568A(1)(b) of the *Corporations Act 2001* (Cth)) must be deposited with the Form 14. A lessor may make this declaration if the liquidator is unwilling to do so provided the relevant lease has no affected interests e.g. mortgages and sub-leases.

Where a lease being disclaimed has an affected interest, evidence that the Notice of Disclaimer was served on that party is also required to be deposited. A period of 14 days from when the Notice of Disclaimer was served is required to have elapsed before registration of the Form 14 under s. 568C(3) of the Corporations Act.

Lodgement fees are applicable.

A duty notation is required if the term of the lease commenced prior to 1 January 2006.

Note: The Corporations Act does not provide authority for a notice under s. 443B by a person acting in the capacity of an administrator (Form 509B) or a notice under ss. 419A(3) by a controller for a company (Form 503) to disclaim a lease. Where the lessor is unable to obtain a Notice of Disclaimer (Form 525) from a person acting in the capacity of liquidator, then a copy of the Form 509B or Form 503 may be used by the lessor as part of the basis for determining the lease instead.

Court Order to vest Disclaimed Freehold Land under the *Land Title Act 1994* or a Lease or Licence under the *Land Act 1994*

The court may order that freehold land or a lease or licence under the Land Act disclaimed by a trustee of a bankrupt or a company liquidator (s. 568F(1) of the *Corporations Act 2001* (Cth)) is vested in a person considered to be entitled. The freehold land or a lease or licence under the Land Act is vested by lodging a Form 14 – General Request supported by a copy of the court order vesting the property (see [60-1030]). The applicant must be the person in whom the court has ordered that the property be vested.

Lodgement fees are applicable. A duty notation is required.

Charge under s. 139ZN or 139ZR of the *Bankruptcy Act 1966* (Cth)

[14-2270]

A request to register a charge under s. 139ZN or 139ZR of the Bankruptcy Act is required to be lodged in Form 14.

The certificate required under ss. 139ZN(4) or 139ZR(4) that identifies the property the subject of the charge and the name of the current appointed Trustee of the Bankrupt must be deposited with the request.

The applicant must be the current appointed Trustee identified in the certificate. An extract from the National Personal Insolvency Index that is dated less than two weeks before, or any time after, execution of the Form 14 that evidences that the applicant is the trustee for the bankrupt referred to in the certificate must be deposited with the request (see [60-1030]).

Lodgement fees are payable, however, a duty notation is not required.

^{1,2}Interest for Life

[14-2280]

To record that the holder of an interest for life has died or relinquished all rights, a completed Form 14 - General Request must be registered. On registration of the Request, the trust created for the life of the beneficiary ends and the title reverts to the registered owner.

Death of life tenant

Where the holder has died, the request must be completed to advise of the death and a copy of the death certificate deposited (see [60-1030] for information about depositing supporting documentation).

Lodgement fees are payable.

See Example 16.

Relinquishment

Where the holder relinquishes all rights, the request must be completed to advise the details of the relinquishment and a copy of the executed document of relinquishment deposited (see [60-1030] for information about depositing supporting documentation).

Lodgement fees are applicable and a duty notation is required.

^{1,2}Application for Title by Adverse Possession

[14-2290]

In certain circumstances, a party may claim title to land, although that party is not the registered owner.

The authority to make an application for title by adverse possession and the provisions governing it are to be found in ss. 98 to 108B (Division 5 of Part 6) of the *Land Title Act 1994*.

Reference material regarding the common law requirements for adverse possession include the following texts (or later editions of these texts):

- (1) Megarry & Wade *The Law of Real Property*, 6th edn, Thomson Sweet & Maxwell, 2003.
- (2) Butt, P, *Land Law*, 5th edn, Thomson Lawbook Co, 2005.
- (3) Bradbrook, A, MacCallum, S and Moore, AP, *Australian Real Property Law*, 4th edn, Thomson Lawbook Co, 2007.
- (4) Wallace et al, *Real Property Law in Queensland*, 4th edn, Thomson Reuters, 2015.

The time for bringing an action to recover a lot is 12 years from the accrual of the right of action where the person entitled to recover possession is *sui juris* (s. 13 of the *Limitation of Actions Act 1974*) and where such person is not *sui juris*, six years from his or her ceasing to be under a disability, up to a maximum of 30 years from the accrual of the right of action (s. 29 of the *Limitation of Actions Act*). If the true owner's identity is not established it will not expire until 30 years after the adverse possessor went into possession.

In this regard s. 29 of the *Limitation of Actions Act* simply extends the limitation period until any possible claim to true ownership has been barred. See *Re Johnson* [2000] Qd R 502.

Therefore, in most cases, due to the operation of s. 29 of the *Limitation of Actions Act* an applicant for title by adverse possession will have to establish that he or she has been in adverse possession of the lot for 30 years.

An applicant must demonstrate that the common law requirements for adverse possession are satisfied.

In general it is possible to determine if possession is adverse from the circumstances under which possession was taken, the acts of user relied upon by the applicant and the intention of the adverse possessor. This latter consideration is important, especially where the acts relied upon as constituting adverse possession are equivocal. A person claiming to have taken adverse possession must be more than a persistent trespasser.

The control exercised over the land must be continuous and uninterrupted for the whole of the limitation period. If this is not the case, the limitation period ceases to run against the person to whom it accrues (s. 19(2) of the *Limitation of Actions Act*).

Acts of control include the payment of rates, the construction of improvements, the erection of fencing and the carrying out of maintenance.

The applicant's statutory declaration in support of the Form 14 – General Request should declare to the following facts, giving sufficient detail to allow an assessment to be made as to whether the common law requirements for adverse possession are met:

- (1) The particulars of the possession upon which the application is based.
- (2) The manner and extent to which the land has been used and occupied.
- (3) The nature of all improvements of the land.
- (4) The extent and manner in which the land is enclosed.
- (5) The acts of ownership upon which the adverse possession is based.
- (6) The time when the improvements and fencing were erected and by whom and the persons who maintained such improvements, fencing etc.
- (7) Whether the applicant has been assessed as owner and/or paid the rates on the land.
- (8) Whether there are any documents or evidence of title affecting the said land under the control or possession of the applicant other than those listed in an attached schedule.
- (9) That no person other than the registered owner has any claim, estate or interest at law or in equity in the said land, save and except those mentioned in an attached schedule.
- (10) The names and addresses of the owners and occupiers of all lands contiguous to the subject land as far as is known to the applicant in an attached schedule.

The application should be supported by:

- (1) A statutory declaration by at least two disinterested persons who are familiar with the history of the land for the required period setting out, from their own knowledge and observation, the actual use and occupation of the land by the applicant and his/her predecessors in title during the period.
- (2) A letter from the local authority stating in whose name the rates were assessed and by whom the rates were paid for the period in question, or other documentary evidence of payment of rates for that period. If the documentary evidence consists of rates notices and/or receipts, the information should also be summarised in the form of a table showing rating periods, amounts and payment dates in chronological order.

Lodgement fees apply to the Request and any **successful application** executed after 1 March 2002 will require a notation of the payment of transfer duty before it can be registered. To facilitate this requirement a notification will be forwarded to the lodger of the application during the advertising period to allow for a transfer duty notation to be endorsed.

Before registering the applicant as an adverse possessor, the Registrar requires the applicant to give public notice of their request. For information about advertising see [60-0830].

A successful application requires the creation of an indefeasible title in the applicant's name and the prescribed fee for the creation of the new title is payable.

A person claiming an interest in a lot which is the subject of an application by adverse possessor may lodge a caveat pursuant to s. 104 of the Land Title Act.

See Example 17.

Deregistered Company

[14-2300]

^{1,2}Company Deregistered Prior to the *Companies Act 1961*

Pursuant to s. 300 of the Companies Act, when a company was dissolved, all property and rights whatsoever vested in the company immediately before its dissolution shall be 'deemed to be *bona vacantia*, and shall accordingly belong to the Crown'.

However, during this period the Crown could not hold freehold land or an interest in freehold land. It was not until the *Queensland Government Land Holding Amendment Act 1992*, which inserted s. 15A into the *Real Property Act 1861*, that "The Crown in right of the State may, under this Act, acquire, hold and deal with land under the name 'Queensland Government'."

When dealing with the property of a company that was deregistered prior to 1 July 1962, a Form 14 – General Request executed by a person authorised to sign on behalf of the Crown, together with evidence of the dissolution, may be lodged to vest the property in the name of the State of Queensland (represented by the Department of Justice and Attorney General).

Upon registration the title is fully cancelled and the property becomes unallocated State Land under the *Land Act 1994*.

Lodgement fees are not applicable.

When dealing with the lease of a company that was deregistered prior to 1 July 1962, see part 8, esp. [8-2040].

Company Deregistered under the Australian Securities and Investments Commission (ASIC)

The property of a deregistered company vests in ASIC pursuant to s. 601AD of the *Corporations Act 2001* (Cth). If it is intended that the vesting be recorded on the title, a Form 14 – General Request is lodged to notify the Registrar. The property is then registered in the name of the ASIC. Upon registration, ASIC has power to deal with the property in any way (s. 601AE of the *Corporations Act*).

When dealing with the property of a deregistered company that has vested in ASIC, an instrument may be lodged which disposes of the property of the company, executed by ASIC, together with evidence that the company is deregistered, without the necessity of vesting the property in the name of ASIC on the title. Lodgement fees are payable.

²Foreclosure and Vesting

[14-2310]

A mortgagee, upon default by the mortgagor under the mortgage, may, subject to the terms of the mortgage, seek a foreclosure order under s. 78(2)(c)(ii) of the *Land Title Act 1994*. If the Court grants a foreclosure order, the mortgagor is no longer able to exercise its right of redemption and the title vests in the mortgagee.

Usually, such orders stipulate a time by which the mortgagor must repay the total amount owing under the mortgage and if the mortgagor defaults, foreclosure occurs and the title vests in the mortgagee.

The mortgagee then lodges a Form 14 – General Request to Register Order of Foreclosure and Vesting (also called a Request to Vest).

The following practice requirements apply:

- the applicant in Item 5 must be the mortgagee in whom the title will vest;
- a copy of the order certified by the Court must be deposited with the Form 14;
- if the court order stipulates conditions for foreclosure and vesting to occur – a statutory declaration from the mortgagee or their solicitor declaring that the conditions have been met must be deposited; and
- the Form 14 must have a duty notation.

Registry lodgement fees are payable.

See Example 18.

^{1,2}Dedication of Road by Notice

[14-2315]

Section 54(1) of the *Land Title Act 1994* allows for the dedication of the whole of a lot as a road for public use, by registration of a dedication notice. The form of a dedication notice is by way of a Form 14 – General Request.

Part of a lot may **not** be dedicated as a road for public use under s. 54 of the *Land Title Act*.

Item 6 of the Form 14 must request that ‘the within land be dedicated as road pursuant to s. 54(1) of the *Land Title Act*. The form must be executed by registered owner or their solicitor.

A dedication notice (Form 14) must be accompanied by the approval of the relevant planning body, and typically this will be by way of a Form 18 – General Consent. Alternatively a letter on the appropriate letterhead from the relevant planning body may be deposited with the Form 14.

If the land to be dedicated is subject to any interests e.g. easements, leases, profits, etc., consent by way of a Form 18 – General Consent of the grantee/lessee of that interest is also required to be deposited with the Form 14.

The dedication of the lot as road takes effect from the day the dedication notice is registered.

Lodgement fees apply. A duty notation is not required.

A constructing authority having acquired fee simple land for road purpose under s. 12B of the *Acquisition of Land Act 1967* may dedicate a lot as road by registering a dedication notice. A dedication notice must be made on a Form 14 – General Request and be for the whole of a lot.

Item 6 of the form must request that ‘the within land be dedicated as road pursuant to s. 12B of the *Acquisition of Land Act 1967*’. The form must be executed by the constructing authority or their solicitor.

Lodgement fees do not apply. A duty notation is not required.

¹Resumption

[14-2320]

Generally

A constructing authority, within the meaning of the *Acquisition of Land Act 1967* has power to take land or an interest in land (for example, an easement) for a purpose stated in the schedule of the Act.

If a resumption relates to only part of a lot or the interest being taken cannot be described by reference to an existing description, a plan identifying the land or interest is required to be registered.

Registration of the Form 14 – General Request records the resumption of land or interest in the freehold land register or the relevant State land register.

The consent of any registered proprietor e.g. mortgagee whose interest is affected by a resumption is not required.

Lodgement fees apply except where the constructing authority is the State. The form must have a duty notation.

Resumption of an Easement

A Form 14 – General Request to record the resumption and a copy of the taking of easement notice are required to be lodged.

Where an interest in land, being an easement is resumed and the resumed easement intersects or follows an existing easement registered under the *Land Title Act 1994* or *Land Act 1994*, the prior registered easement continues to exist and the resumed easement is subject to the former’s covenants.

²Resumption of Freehold Land by a Constructing Authority

A Form 14 – General Request to record a resumption of freehold land and a copy of the taking of land notice (gazette notice) are required to be lodged.

Once land has been resumed, there may be a following action to dedicate the land as road.

The publishing in the gazette of the taking of land notice cancels all registered interests in the land including mortgages, leases and easements and identifies the land taken and the manner in which the land is to be held by the constructing authority.

If, for example the wording of the taking of land notice states:

‘the land is taken by [Name of Department] as constructing authority for the State of Queensland for [a public purpose] as from [Date] and vests in the State of Queensland’

the lot becomes unallocated State land and is no longer recorded in the Freehold Land Register. Or, if for example the wording of the taking of land notice states:

‘the land is taken by [Name of Department] as constructing authority for the State of Queensland for [a public purpose] as from [Date] and vests in the State of Queensland’ for an estate in fee simple’

the lot taken will be recorded in the Freehold Land Register in the name of the State with reference to the representative department.

³Resumption of a Lease under the *Land Act 1994*

A Form 14 – General Request to record the resumption of a lease under Chapter 5 Part 3 Division 1 of the Land Act and a copy of the taking of leasehold interests in land notice (gazette notice) are required to be lodged.

Once the lease has been resumed the land becomes unallocated State land.

The publishing in the gazette of the taking of leasehold interests in land notice cancels all registered interests in the land including mortgages, leases and easements.

Revocation of Resumption

A revocation can only be considered if compensation has not been determined or paid.

A resumption may be revoked by publishing a revocation proclamation in the government gazette. To give effect to the revocation in the register, a Form 14 – General Request by the constructing authority to request revocation of resumption must be registered. A copy of the revocation notice must be deposited with the request.

See Example 19.

Vesting Order

By Proclamation

[14-2330]

A proclamation may vest land in the State, a statutory body representing the State or a local government.

A Form 14 – General Request to Vest must be lodged to vest the land in the name identified in the proclamation.

The following practice requirements apply:

- the applicant in Item 5 must be the person in whom the land is vested by the proclamation;
- a copy of the proclamation must be deposited with the Form 14; and

- the Form 14 must have a duty notation.

Registry lodgement fees are payable unless exempted by the legislation that authorises the vesting.

By Order of the Court

[14-2332]

A Court may order that a lot or an interest be vested in a person other than the registered owner or holder.

To record such an order on the register a Form 14 – General Request to Register Order of the Court (also called a Request to Vest) must be lodged.

The following practice requirements apply:

- the applicant in Item 5 must be the person in whom the lot or interest is vested;
- a copy of the order certified by the Court must be deposited with the Form 14; and
- the Form 14 must have a duty notation.

Registry lodgement fees are payable.

Vesting in a Trustee

[14-2335]

A Form 14 – General Request to Register Order of the Court (also called a Request to Vest) must be lodged to give effect to a vesting order made under the *Trusts Act 1973* or another Act.

The following practice requirements apply:

- the applicant(s) in Item 5 must be the trustee(s) in whom the land is vested by the vesting order;
- a copy of the vesting order certified by the Court must be deposited with the Form 14; and
- either:
 - an original Form 20 – Trust Details Form (see [51-4100]); or
 - all documents that create the trust upon which the interest is vested;

must be deposited with the Request. For information about depositing supporting documentation see [60-1030].

[14-2340] deleted

Request for Determination of Lease

[14-2350]

In this numbered section a reference to a lease is taken to include a reference to a lease or sublease under the *Land Title Act 1994* or a sublease or sub sublease under the *Land Act 1994*.

Under s. 124 of the *Property Law Act 1974*

Usually, a lessor has an express power granted in the lease to re-enter and take possession of the premises where the lessee has defaulted under the terms of the lease. Section 107 of the Property Law Act implies into the lease a provision that the lessor may re-enter. Section 68 of

the Land Title Act or s. 339 of the Land Act may also be invoked for this purpose. A Form 14 – General Request for Determination of the lease is required to be lodged to remove the lease from the title.

Proof of the re-entry and taking of possession by the lessor must be provided to the Registrar.

If a court order for re-entry and possession has been issued, a copy of the order must be deposited with the Form 14. If court action has not been taken, a declaration by the lessor or a person authorised by the lessor is required, together with evidence of the lessee's default under the lease and the demand for remedy of that default. Appropriate evidence is a photocopy of the completed Form 7 under the Property Law Act – Notice to Remedy Breach of Covenant. The declaration must set out the circumstances of repudiation by the lessee or the facts and circumstances of the re-entry and possession.

The Request must have a duty notation if the lease commenced before 1 January 2006. Lodgement fees are applicable.

The interests of existing sub-lessees or sub-sub lessees may also be determined by being included in the same Request, providing the relevant evidence is deposited.

Company Deregistered under the Australian Securities and Investments Commission (ASIC)

If the lessor re-enters and takes possession of premises leased to a company that has been deregistered, a Form 14 – General Request should be lodged to record the re-entry, supported by a Form 20 – Declaration detailing the facts and circumstances of the default; including:

- the lessee has defaulted;
- the lessor has re-entered and taken possession;
- the lessee company is deregistered; and
- notices have been served on the ASIC.

Copies of notices served on ASIC and a search from ASIC evidencing the defunct status of the lessee company are also required to be deposited.

Note – The unreported decision of Dowsett J in the matter of the *Corporations (Queensland) Act 1990 and Hassell Holdings Pty Ltd* (Supreme Court of Queensland, No 20 of 1994) held that a mortgagee exercising a power of sale could serve notice of default on ASIC.

Lodgement fees are payable. The Request must have duty notation if the lease commenced before 1 January 2006.

Re-entry by Lessor by Repudiation

A request to record the re-entry by the lessor for repudiation is made in Form 14 – General Request. Item 6 of the Form 14 should state the lease is determined for common law repudiation. The request must be supported by statutory declaration/s, which must clearly:

- (1) State that the lease was determined for common law repudiation and not pursuant to a right of re-entry in the lease.
- (2) Provide evidence of the conduct of the lessee that amounted to a repudiation (for example, the lessee left the premises (in the case of land) or abandoned the water

allocation on a particular date without consent and has not returned. The lessee may have also removed or abandoned some or all of its fixtures, fittings and stock).

- (3) Provide evidence of the conduct of the landlord that amounted to an acceptance of the repudiation (for example the lessor re-took possession of the premises or water allocation on a particular date after the lessee abandoned. The lessor may have also relet premises or water allocation/s to a new lessee etc.).

Lodgement fees are payable. The Request must have duty notation if the lease commenced before 1 January 2006.

There is no requirement to provide a copy of a notice of default under s. 124 of the Property Law Act to the Registrar where the lease is determined for repudiation at common law.

Recording Vesting in an Incorporated Association

[14-2360]

A Form 14 – General Request is lodged in relation to incorporated associations in the following situations:

- Where land or an interest formerly held by trustees is to be vested in the name of an incorporated association under the *Associations Incorporation Act 1981* (as amended) a Form 14 – General Request is required.

See Example 24 and notations.

- Where two or more incorporated associations amalgamate, a Form 14 – General Request is lodged by the secretary of the new association requesting that the land or interest held by the previous associations be vested in the name of the new association. The Form 14 – General Request is executed by the secretary of the new association and is lodged, together with a certified copy of the certificate of incorporation of the new, amalgamated association. Land or interests previously held by the prior associations will now be recorded as being in the name of the new association. A duty notation is not required.
- Where a body which holds letters patent under the (now repealed) *Religious Educational and Charitable Institutions Act 1861* (repealed by No 74 of 1981, s. 4, sch 1) incorporates, a request to vest the land or interest so held in the association is lodged. The Form 14 – General Request is executed by the secretary of the association and is lodged with a certified copy of the certificate of incorporation of that body. A duty notation is not required.
- Where an incorporated association is cancelled, a Form 14 – General Request is lodged requesting the property of the association to be vested in the Public Trustee of Queensland. The Form 14 – General Request is lodged with a copy of the Order in Council vesting the property in the Public Trustee. Alternatively, the Governor in Council may, by an Order in Council, vary the trusts and vest the property in another body or party. In this case, a Form 14 – General Request is lodged, together with a copy of the Order in Council. A duty notation is not required in either case.
- Where a receiver and manager appointed by a mortgagee executes an instrument or document for an association under the Associations Incorporation Act, a copy of the deed of appointment certified by a solicitor is required as evidence of the appointment.

Recording Vesting under the Returned & Services League of Australia (Queensland) Branch) Act 1956

[14-2365]

The Returned & Services League of Australia (Queensland Branch) Act provides that upon the passing of a resolution by any district branch or sub-branch adopting the Act, any land held by that district branch or sub-branch or by any person/s on behalf of the district branch or sub-branch becomes vested in the branch or sub-branch in the name of ‘Trustees of the Returned & Services League of Australia, (Queensland Branch) [name of sub-branch/district branch, as the case may be] Sub-Branch/District Branch [as the case may be]’. To record such a vesting, a Form 14 – Request to Vest must be lodged, together with a certificate that a resolution adopting the Act has been passed by the district branch or sub-branch, showing the **date of adoption** of the Act and signed by the president and secretary of the district branch or sub-branch (s. 3 of the Returned & Services League of Australia (Queensland Branch) Act).

No lodgement fees are payable and a duty notation is not required.

[14-2370] and [14-2380] deleted

Trustee

[14-2390]

A lot or an interest can be held by a registered owner or holder as trustee for one or more other parties. If no appointment of a new trustee is involved, the instruments or documents required to be lodged for registration in the registry in certain circumstances are as follows:

- where a trustee dies: a Form 4 – Record of Death (see part 51 – Trusts, esp. [51-2060] to [51-2090]); and
- where a trustee retires or is discharged: a Form 14 – General Request to record retirement or discharge, together with an original Form 20 – Trust Details Form (see [51-4100]) or documentary evidence, see Example 22.

Lodgement fees apply.

A duty notation is required on a retirement or discharge.

If the appointment of a new trustee is to be simultaneously recorded, the appropriate instrument or document is a Form 1 – Transfer (see part 1 – Transfer, esp. [1-2400] to [1-2420]).

Legal and Beneficial Interests Merge

[14-2400]

From time to time the situation will arise where a person (A), being registered on the title as ‘devisee in trust’ or ‘personal representative’, is also the sole beneficiary under the will of the deceased or is the only person entitled to the deceased’s estate under the rules of intestacy.

Where A has discharged all required executorial duties, other than having effected the transfer, then the property is held by A as trustee. The law is well settled that one cannot be a trustee for oneself, and so the doctrine of merger operates to merge the beneficial and legal estates.

Where A is registered as ‘devisee in trust’ or ‘personal representative’ and is alive, but is the sole beneficiary under the will and is entitled to be registered as ‘devisee’, the property may be dealt with in the following manner:

A Form 14 – Request to Record a Merger of estates should be lodged, supported by a declaration by A to the effect that he/she (as ‘personal representative’) has effected all executorial duties in respect of the administration of the estate of the deceased

proprietor, but has not effected a transfer to himself/herself. See Example 23. A duty notation is required.

When A is registered as ‘devisee in trust’ or ‘personal representative’ and is deceased, but is the sole beneficiary under the will and is entitled to be registered as ‘devisee’ a Transmission Application must be lodged (see Part 5 [5-2030]).

¹Application by Local Government under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012

[14-2410]

Where land, or a lease under the *Land Act 1994* with overdue rates is:

- submitted for sale by auction but the land is not sold, the land is taken to have been sold to the local government; or
- valueless or not worth selling;

a local government can apply to be registered as owner of the land, or holder of the lease under the Land Act.

An application to register land, or a lease under the Land Act in the name of a local government must be in a Form 14 – General Request.

Lodgement fees are payable and a duty notation is required.

²If the application is over the whole of the land, a new indefeasible title will not be created. However, if the land is held in separate titles by tenants in common, or is part of an existing indefeasible title, a new indefeasible title must be requested and applicable fees paid.

See Example 25.

¹Change of Department Representing the State of Queensland

[14-2420]

A change of a title from one representative department to another, within the State of Queensland, is **not** a transfer of title. As no interest is passing, a Form 1 – Transfer is **not** appropriate.

A Form 14 – General Request to record a change of the department representing the State is the appropriate form even where there is a shift of responsibilities to a different department.

The address for service of notices to the applicant must be inserted in Item 5.

Item 6 of the Request must provide the full circumstances of the change and include where applicable:

- a reference to the relevant legislative authority, if the change is by way of a statutory vesting; or
- details of relevant Administrative Arrangements Order(s), if the change is by way of a machinery of government change; or
- details of any agreement, the payment of money or other arrangement, if there is a shift of responsibilities to a different department.

Lodgement fees are not applicable. A duty notation is required for only a statutory vesting.

¹Removal of a Profit a prendre

[14-2425]

If the specified period of time has expired or the event upon which it is based has happened, then a profit a prendre may be removed under the provision of s. 97L(3) of the *Land Title Act 1994* or s. 373O(3) of the *Land Act 1994*.

The removal is lodged in a Form 14 – General Request. Any interested party can apply. If the removal is based upon the happening of an event then evidence that clearly establishes the occurrence of that event must be deposited.

Lodgement fees are not applicable. A duty notation is not required.

See Example 26.

¹Order of the Court Modifying or Extinguishing an Easement

[14-2430]

If the court makes a direct order for the extinguishment of an easement or modification of the covenants to an easement, without requiring the participation of the parties to the court application to execute appropriate documentation to give effect to the order (pursuant to s. 181 of the *Property Law Act 1974*), the appropriate instrument or document to be lodged is a Form 14 – Request to Record an Order of the Court, made by either the grantor or the grantee of the easement.

^{1, 2}Request to Record Reservation of Name for a Community Titles Scheme

^{1,2}Reservation of Name for Community Titles Scheme

[14-2500]

A plan for a community titles scheme may not be accepted for lodgement if the name has been reserved or used for another community titles scheme.

An application to reserve, extend or withdraw a reservation of name for a proposed community titles scheme must be made by lodging a Form 14 – General Request. Only one name is to be reserved over any one parcel of land unless the Registrar is satisfied that an appropriate reason is given for example, the names being reserved are for a layered scheme. However, a name may be recorded over more than one parcel if all the parcels are to be included in the same scheme.

The Request may be made by the registered owner of the land or by another party on behalf of the proposed development. It must specify the name to be reserved for the proposed scheme and should also clearly identify the parcels to be included in the scheme land.

Prior to applying for reservation of a name for a community titles scheme, a search of previously reserved and registered names should be undertaken to ensure the envisaged name is available for reservation.

The reservation period is initially two years from the date of lodgement, however, it may be extended by a further one year if an application for extension is lodged during the initial two year period. A reservation ends if the applicant withdraws the reservation or a community titles scheme is established on the scheme land using the reserved name.

See Example 27.

[14-2510] to [14-2520] deleted

^{1,2}Duplication of Names**[14-2530]**

Names may be duplicated or similar only with the prior written approval of the Registrar. Depending on the circumstances, approval may be given subject to either:

- the written consent of the body corporate of the existing scheme; or
- a declaration stating that:
 - the name for the scheme being reserved is not in the same locality as the existing scheme, i.e. not in the same town or city or is not within 100 kilometres of the existing scheme; and
 - the existing scheme has been established for some time and is not currently being marketed.

The circumstances may also require other special conditions to be complied with before approval is given.

^{1,2}Extension of Reservation of Name**[14-2540]**

The period of reservation of name for a proposed scheme may be extended for a further period of one year provided the request to extend the reservation of name is lodged before the expiry of the term of the original reservation of name.

The request to extend reservation of a name must be made by the person who originally requested reservation of that name.

If the period of time for the original reservation of a name has expired a new request for reservation of the name may be lodged using the name previously reserved, providing a scheme has not been established using that name.

^{1,2}Withdrawal of Reservation of Name**[14-2550]**

A name that has been reserved for a proposed community titles scheme may be withdrawn. The person who originally requested that the name be reserved must be the applicant for the request to withdraw the reservation of that name.

Request to Record Community Management Statement

^{1,2}Community Management Statements**[14-2600]**

The following items are required to be lodged to record a CMS:

- Form 14 – General Request with:
 - the CMS in the appropriate form;
 - Schedules A to E that have been completed as they apply to the community titles scheme; and
 - if planning body notation to the CMS is required (i.e. if an exemption does not apply) – a properly completed Form 18C – Planning body community management statement notation signed by the planning body; and
- the related plan of subdivision (if applicable).

A Request to Record a First CMS must show the name of the community titles scheme in the following style: 'Brighton Villa community titles scheme'. A Request to Record a New CMS must show the name of the community titles scheme including the community titles scheme number in the following style: 'Brighton Villa community titles scheme 1246'.

It is very important that each CMS is accurate, complete and reliable for the benefit of the owners and other interested parties. As community management statements are important, the Registrar will examine them diligently to ensure they comply with the *Body Corporate and Community Management Act 1997* and the regulations that apply under the Act. The schedules comprise an integral part of the CMS and their compliance will also be examined thoroughly.

There are a number of variations in the appropriate information to be provided in a Form 14 – Request to Record a First or New CMS explained below.

When completing Item 2 in the Request to Record First CMS, the 'Lot [number] on [Plan reference]' and 'Title Reference(s)' of the lots being surveyed to create the scheme and any other lot/s intended to become scheme land must be inserted. However, for a New CMS, the Request to Record New CMS is recorded only on the title for the common property for the scheme land which should be referred to in Item 2 as follows: 'Common property of Brighton Villa community titles scheme 1246' followed by the title reference only. However, if additional lots are being added to the existing scheme land, the full description and title reference of the additional lots must also be shown.

Both the registered owner(s) and the applicant in a request to register a First CMS are the owner(s) shown on the titles for the scheme land shown in Item 2 of the Request. However, in a New CMS, the body corporate for the community titles scheme is the registered owner and the applicant and should be shown as follows: 'Body corporate for Brighton Villa community titles scheme 1246'.

The request to record a First CMS must also include the address for service of notices on the body corporate. This is not required in a New CMS unless the address is also being changed. The wording of the request in a First CMS should be as follows:

'I hereby request that the first community management statement deposited herewith be recorded as the community management statement for (for example) Brighton Villa community titles scheme and that... (insert full address and postcode)... be recorded as the address for service on the body corporate for the scheme.'

For a request to record a New CMS, the request should be stated as follows:

'I hereby request that the new community management statement deposited herewith which amends schedule(s)... and/or Item 2 regulation module of the existing community management statement be recorded as the community management statement for (for example) Brighton Villa community titles scheme 1246.'

Where a request to record a change of address is included in a request to record a New CMS an additional current prescribed fee is also payable.

The CMS and all sheets that comprise schedules to it must be numbered sequentially beginning with the CMS as 'Page 1 of ... pages'. More than one schedule may be contained on a sheet. With the exception of any sketch plans that are included and which may be prepared on international A3 paper folded to A4 size, the CMS must conform to the requirements set out in part 59 esp. [59-2000] to [59-2060]. See part 45 for detail of CMS, esp. [45-2140] to [45-2320].

See also Example 28.

[14-2610] deleted

Request to Record Change of Address for a Community Titles Scheme

^{1,2}Change of Address of Body Corporate

[14-2700]

This address for service of the body corporate is an integral component of every Request to Record First CMS that is lodged for a community titles scheme. The address disclosed in the First CMS is recorded on the indefeasible title for the common property.

That address may be changed by the body corporate lodging either a Request to Record Change of Address for Body Corporate in a Form 14 – General Request or as part of a request to record a New CMS.

A lodgement fee is applicable; however, there is no additional fee for lodging through the post.

See Examples 29, 30 and [14-2600].

Update of a Registered Power of Attorney

[14-2800]

A registered power of attorney may require updating following a change of name of a principal and/or an attorney, or following a change to the description of the property identified in the power of attorney. For an update of a registered power of attorney to record a change of a company name, the evidence provided must contain the date the change of name of the company was effective from, as this date is required to be entered into the power of attorney register. Updating the power of attorney will facilitate prompt registration of later transactions signed under the power of attorney.

Note: *Changed* names of attorneys resulting from incorrectly prepared documentation cannot be corrected. A new Power of Attorney must be lodged. The incorrect power of attorney should be revoked.

A power of attorney may be updated by the registration of an instrument or document to record the change. Form 14 – General Request is appropriate for the purpose. Copies of supporting evidence certified by the issuing agency must be deposited with the request. For information about options for deposit of supporting evidence see [60-1030]. If an update is required to be recorded against more than one registered power of attorney, separate requests are required to update each registered power of attorney. Evidence that has already been deposited in the registry may be referred to in item 5 in the following manner ‘Certificate of change of name [or other evidence] deposited with dealing number [number]’.

A lodgement fee applies for each power of attorney being updated. A duty notation is not required.

See Example 31.

^{1,2}Charge under the *Land Tax Act 2010*

[14-2810]

Section 60 of the Land Tax Act provides that unpaid land tax is a first charge on land and has priority over all other encumbrances. The Commissioner of State Revenue may lodge and register a charge under Part 4, Division 5 of the *Taxation Administration Act 2001*.

Under s. 47B of the Taxation Administration Act, a Form 14 – General Request executed by the Commissioner or delegate must be lodged. A certificate of the Commissioner stating there is a charge over the land for a stated outstanding amount of tax must be deposited with the request.

A duty notation is not required however lodgement fees are applicable.

^{1,2}Removal of Charge under the *Land Tax Act 2010*

[14-2820]

A charge under s. 60 of the Land Tax Act registered against an indefeasible title may be removed only by lodgement of a Form 14 – General Request to remove the charge executed by the Commissioner of State Revenue or delegate.

A duty notation is not required however lodgement fees are applicable.

¹Statutory Charge under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*

[14-2825]

Under the provisions of s. 53AX of the South-East Queensland Water (Distribution and Retail Restructuring) Act, the Northern SEQ Distributor-Retailer Authority, the Central SEQ Distributor-Retailer Authority and the Southern SEQ Distributor-Retailer Authority may record a charge over land for overdue water and sewerage charges.

Form 14 – General Request is appropriate for the purpose and should be executed by an authorised delegate of the relevant Distributor-Retailer Authority or a solicitor.

A certificate signed by the Chief Executive Officer stating the distributor-retailer's charge exists over the land must accompany the charge.

A duty notation is not required however lodgement fees are applicable.

¹Removal of Statutory Charge under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*

[14-2827]

A charge under s. 53AX of the South-East Queensland Water (Distribution and Retail Restructuring) Act registered against a title may be removed only by the lodgement of a Form 14 – General Request to remove the charge executed by an authorised delegate of the relevant Distributor-Retailer Authority or a solicitor.

A certificate signed by the Chief Executive Officer stating the amount has been paid must be deposited with the release of the charge.

A duty notation is not required however lodgement fees are applicable.

^{1,2}Statutory Charge under the *Retirement Villages Act 1999*

[14-2830]

Creation of Statutory Charge over Retirement Village Land

Section 116 of the Retirement Villages Act (the Act) provides for the creation of a statutory charge over the whole of retirement village land immediately the chief executive of the department administering the Act registers a retirement village.

The provisions require the chief executive to give written notice of the registration of a retirement village to the Registrar. Section 116(4) of the Act requires that the Registrar must record the charge in the register under the *Land Title Act 1994*.

The charge once recorded in the registry will not be removed from the indefeasible title without lodgement of appropriate documentation. This includes cases where retirement village land the subject of a charge is subdivided to create indefeasible titles for new lots.

Form 14 – General Request is appropriate for the purpose of recording the statutory charge. The Form 14 must identify the retirement village land and be executed by the chief executive or delegate.

No lodgement fees are payable and a duty notation is not required.

Additional Retirement Village Land

Section 117 of the Act provides that when any new land becomes retirement village land additional to the original retirement village land the charge over the original land is released and a charge is created over the original land and the new land. The chief executive as soon as practical after receiving notice by the scheme operator of the change to retirement village land must notify the Registrar of Titles.

A request to release the charge over the original land and a request to register a new charge over all land must be lodged. Form 14 – General Request is appropriate for each purpose. The request to register the new charge must identify all the retirement village land and the day on which the new land became retirement village land. The chief executive or delegate must execute each instrument.

No lodgement fees are payable and a duty notation is not required.

^{1,2}Release of Statutory Charge under the *Retirement Villages Act 1999*

[14-2840]

A statutory charge under s. 116 of the Retirement Villages Act registered against an indefeasible title may only be removed by lodgement of a Form 14 – General Request to remove the charge. The chief executive or delegate must execute the request to remove the charge.

No lodgement fees are payable and a duty notation is not required.

¹Charge under the *First Home Owners Grant Act 2000*

[14-2850]

Section 48 of the First Home Owners Grant Act provides for the Commissioner of State Revenue to recover an amount of money paid in error to an applicant or a former applicant for a first home owner grant. Section 49 authorises the Commissioner of State Revenue to register a charge over an interest in the land on which the home, for which the grant was sought, is fixed.

Form 14 – General Request is appropriate for the purpose and must be executed by the Commissioner or delegate. A certificate, issued by the Commissioner of State Revenue or delegate, stating that there is a charge over the land under s. 49 of the First Home Owners Grant Act and the amount owed in relation to the charge must be deposited as evidence of the charge.

Lodgement fees apply but a duty notation is not required.

¹Removal of Charge under the *First Home Owners Grant Act 2000*

[14-2860]

A charge under s. 49 of the First Home Owners Grant Act registered against a title may only be removed by lodgement of a Form 14 – General Request to remove the charge. A certificate, issued by the Commissioner of State Revenue or delegate, stating the amount owed in relation to the charge over the land has been paid must be deposited as evidence of the payment of the charge. The Commissioner of State Revenue or delegate must execute the request.

Lodgement fees apply but a duty notation is not required.

Charge under the *Duties Act 2001*

[14-2870]

Section 198 of the Duties Act provides that the Commissioner of State Revenue may register a charge over land owned by a corporation to pay outstanding land rich duty payable by a land rich corporation.

Form 14 – General Request is appropriate for the purpose and must be executed by the Commissioner or delegate. A certificate, issued by the Commissioner of State Revenue or delegate, stating that there is a charge under s. 198 of the Duties Act and the amount of land rich duty owed in relation to the charge over the land must be deposited as evidence of the charge.

Lodgement fees apply but a duty notation is not required.

Removal of Charge under the *Duties Act 2001*

[14-2880]

A charge under s. 198 of the Duties Act registered against a title may only be removed by lodgement of a Form 14 – General Request to remove the charge. The Commissioner of State Revenue or delegate must execute the request.

Lodgement fees apply but a duty notation is not required.

^{1,2}Charge by utility service provider under the *Body Corporate and Community Management Act 1997*

[14-2890]

Section 197 of the Body Corporate and Community Management Act (the BCCM Act) provides for a utility service provider, other than the Urban Land Development Authority or a local government, to ask the Registrar to register a charge for unpaid fees for services delivered to a body corporate. The unpaid amount is payable proportionately by each lot owner according to the contribution schedule lot entitlement for the lot and under the BCCM Act the amount payable by a lot owner is a charge on the lot.

Form 14 – General Request is appropriate for the purpose and the applicant must be the utility service provider. The request may be signed in accordance with the execution requirements for the applicant or by a solicitor for the applicant. A certificate signed by the utility service provider stating that there is a charge on all the lots under s. 196(10)(b) of the BCCM Act must be deposited with the request.

Normal lodgement fees apply but a duty notation is not required.

^{1,2}Removal of Charge by utility service provider under the *Body Corporate and Community Management Act 1997*

[14-2900]

Immediately after the amount secured by a charge registered pursuant to s. 197 of the Body Corporate and Community Management Act is paid the utility service provider must remove the charge. The charge may only be removed by lodgement of a Form 14 – Request to remove charge and must be removed from all the lots in the scheme. A partial removal of a charge is not permitted. The applicant must be the utility service provider and the request may be signed in accordance with the execution requirements for the applicant or by a solicitor for the applicant.

Normal lodgement fees apply but a duty notation is not required.

^{1,2}Statutory Charge under the *Building Industry Fairness (Security of Payment) Act 2017*

[14-2905]

Chapter 3 of the Building Industry Fairness (Security of Payment) Act (the BIF Act) provides for an adjudication process in relation to disputed progress payments. If an adjudicator decides that a respondent is required to pay an amount (the adjudicated amount) to the claimant an adjudication certificate providing details of the adjudicated amount is issued.

Section 100B of the BIF Act provides for a claimant (who must be a head contractor) to ask the Registrar to register a charge for the unpaid adjudicated amount over a relevant property if the respondent (or their related entity) is the registered owner of that relevant property. Pursuant to s. 100B(1)(d) of the BIF Act, prior to lodging a request to register the charge with the Registrar, the claimant is required to file the adjudication certificate as a judgement for debt in a court of competent jurisdiction.

Recording a Charge

Form 14 – General Request is the appropriate form and the applicant must be the claimant. The request may be signed in accordance with the execution requirements for the applicant or by a solicitor for the applicant.

The following must be deposited with the request:

- a copy of the adjudication certificate; and
- a statutory declaration that includes the following:
 - the lot on plan description of the relevant property;
 - a statement that the adjudicated amount has not been paid; and
 - if applicable – confirmation that the registered owner of the relevant property is a ‘related entity’ for the respondent.

Normal lodgement fees apply but a duty notation is not required.

Extension of Charge

The charge expires 24 months after the day it is registered, however section 100C(3) of the BIF Act provides for a charge to be extended. The claimant can apply to a court of competent jurisdiction for an extension (of an additional period of not more than 24 months), prior to the expiry of the charge.

The claimant must notify the Registrar of Titles of the extension.

Form 14 – General Request is the appropriate form. A copy of the Court Order extending the charge must be deposited with the request.

^{1,2}Removal of Charge under the *Building Industry Fairness (Security of Payment) Act 2017*

[14-2906]

The Building Industry Fairness (Security of Payment) Act (the BIF Act) provides for a charge under Section 100B of the BIF Act to be released or set aside.

Release of Charge

Request by Claimant

The claimant must release the charge as soon as practicable under section 100D(2) of the BIF Act when the charge expires or when the adjudicated amount is paid.

Form 14 – General Request is the appropriate form. The dealing number of the charge must be provided.

Normal lodgement fees apply but a duty notation is not required.

Request by Registered Owner

The registered owner of the relevant property can apply for a charge to be released under section 100D(4) of the BIF Act if the registered owner is satisfied the charge has expired or the adjudicated amount has been paid and the claimant has not released the charge.

Form 14 – General Request is the appropriate form. The dealing number of the charge must be provided. The request must be accompanied by a statutory declaration by the registered owner. The statutory declaration must include:

1. the lot on plan description of the relevant property; and
2. either:
 - (a) where the charge has expired:
 - (i) a statement that the charge has expired under:
 - s. 100C(1) of the BIF Act (24 months after the charge is registered); or
 - s. 100C(5)(a) of the BIF Act (adjudication decision set aside); or
 - s. 100C(5)(b) of the BIF Act (security payment by respondent); or
 - s. 100C(5)(c) of the BIF Act (court dismisses proceedings); and
 - (ii) if the charge expired under section 100C(1) of the BIF Act – a statement that a search of court records indicates that the claimant has not applied for an extension under section 100C(2) of the BIF Act; or
 - (b) confirmation that the adjudicated amount the subject of the charge has been paid to the claimant.

Normal lodgement fees apply but a duty notation is not required.

Setting aside a Charge

Section 100E of the BIF Act provides for the registered owner of the relevant property to apply to a court of competent jurisdiction to have a charge under Section 100B of the BIF Act set aside. If the court orders that the charge be set aside, the owner may request that the Registrar removes the charge.

Form 14 – General Request is the appropriate form. The request must be accompanied by a copy of the court order which sets aside the charge.

Normal lodgement fees apply but a duty notation is not required.

^{1,2}Request for separate indefeasible title for a lot

[14-2910]

Under provisions of s. 40 of the *Land Title Act 1994*, where the Registrar has created a single indefeasible title for two or more lots, the registered owner may request the Registrar to create separate indefeasible titles for any of the lots. Separate indefeasible titles can only issue for lots that:

- have the following depicted on the relevant survey plan:
 - a separate surveyed area;
 - dimensions;
 - a unique identifier; and
- have not been re-surveyed or cancelled.

A Form 14 – General Request is the appropriate form and must be signed by all of the registered owners. On registration of the request, a separate indefeasible title will be created for each of the lots contained in the title. The Registrar will not create an indefeasible title for multiple lots.

A duty notation is not required on the Request. Lodgement and creation of indefeasible title fees are applicable.

Where multiple parcels of land are compulsorily held in one title only by virtue of a condition of a local government consent on a plan, separate titles may be issued if the appropriate local government grants approval to the removal of the conditional consent and submits this decision in writing to the Registrar.

Prior to 1948 there was no legislative authority for local governments to conditionally consent to a plan of subdivision. The *Local Government Act 1936* was amended in 1948 to add s. 34A(3) (12 Geo. VI No 49, 1948, assented to and commenced 9 December 1948), and provide this authority. Accordingly, conditions placed on plans prior to 1948 are invalid. A common noting on these plans was ‘lots to be held in the one ownership’.

Where an application is lodged requesting separate indefeasible titles for lots over a plan that bears a notation of this nature the Registrar will:

- On plans with the local government approval dated on or after 9 December 1948, require local government consent before the titles can be issued. As a minimum, the council will have to provide their consent in writing on paper that contains their letterhead. The plan will then be noted that the conditional consent no longer applies.
- On plans with the local government approval dated before 9 December 1948, issue the titles with no further action.

²Request for separate title for a tenant in common

[14-2915]

A tenant in common of a share in a lot may request the Registrar to create a separate title for the share. A Form 14 – General Request is the appropriate form and must be signed by the tenant in common.

A duty notation is not required on the Request. Lodgement and creation of new title fees are applicable.

¹Local government charge

[14-2920]

Section 95 of the *Local Government Act 2009* provides that a local government may register a charge over land or a lease under the *Land Act 1994*, for the payment of overdue rates or charges.

¹Registration of a charge

[14-2930]

To register a charge a Form 14 – General Request is appropriate for the purpose and must be executed by the local government or by a lawyer. A certificate signed by chief executive of the local government stating that there is a charge over the land or the lease under the *Land Act 1994* must be deposited with the request.

A charge registered pursuant to s. 95 of the *Local Government Act 2009* has priority over all encumbrances over the land or the lease under the Land Act other than encumbrances in favour of the State or a government entity.

Lodgement fees are applicable. A duty notation is not required.

¹Removal of a charge

[14-2940]

A registered charge under s. 95 of the *Local Government Act 2009* against a title may only be removed by lodgement of a Form 14 – General Request to remove the charge and must be executed by the local government or by a lawyer. A certificate signed by the chief executive officer or delegate of the local government stating that the overdue rates or charges have been paid must be deposited with the request.

Lodgement fees are applicable. A duty notation is not required.

[14-2495] and [14-2947] deleted

^{2,3}Subdivision of a Water Allocation

[14-2950]

A registered owner of a water allocation seeking to subdivide it into two or more smaller allocations must first apply to the Chief Executive (s. 159(1) of the *Water Act 2000*) for the issue of a Water Allocation Dealing Certificate, whether or not the water allocation is managed under a Resource Operations Licence (ROL).

When the certificate approving the subdivision has been obtained, it must be deposited with a Form 14 – General Request Subdivision of a Water Allocation. Certificates are valid for 40 business days or until the expiry date shown on the certificate. A separate Form 14 – General Request is required to be lodged for each Water Allocation to be subdivided.

In addition for a subdivision of a water allocation managed under a ROL, a W2F152 – Notice of existence of water supply contract must also be deposited.

Lodgement fees (including a fee for each new water allocation title to be issued) apply. A duty notation is not required.

Where the water allocation is subject to a mortgage, the consent of the mortgagee in Form 18 – General Consent is required to be deposited with the request.

When a subdivision is lodged, no other dealings affecting the relevant title will be accepted for lodgement, until after the subdivision is registered.

See Example 32.

2,³Amalgamation of Water Allocations

[14-2960]

A registered owner of two or more water allocations seeking to amalgamate them into a single water allocation must first apply to the Chief Executive (s. 159(1) of the *Water Act 2000*) for the issue of a Water Allocation Dealing Certificate, whether or not the water allocations are managed under a Resource Operations Licence (ROL).

When the certificate approving the amalgamation has been obtained, it must be deposited with a Form 14 – General Request Amalgamation of Water Allocations. Certificates are valid for 40 business days or until the expiry date shown on the certificate. A separate Form 14 – General Request is required to be lodged for each amalgamation request.

In addition for an amalgamation of water allocations managed under a ROL, a W2F152 – Notice of existence of water supply contract must also be deposited.

Lodgement fees (including a fee for each new water allocation title to be issued) apply. A duty notation is not required.

Where the water allocation is subject to a mortgage, the consent of the mortgagee in Form 18 – General Consent is required to be deposited with the request.

When an amalgamation is lodged, no other dealings affecting the relevant title will be accepted for lodgement, until after the amalgamation is registered. This includes a collateral mortgage (see part 2 – Mortgage (National Mortgage Form), esp. [2-2080])

Where any resource related element of the water allocations to be amalgamated are not the same, the holder must change to the elements so that the water allocations being amalgamated have the same attributes. See [49-2970]. The Request to Change Water Allocation must be lodged prior to the Request to Amalgamate Water Allocations.

See Example 33.

2,³Change of Water Allocation

[14-2970]

A registered owner of a water allocation seeking to change a resource related element must apply to the Chief Executive (s. 159(1) of the *Water Act 2000*) for a Water Allocation Dealing Certificate approving such change to the resource related elements.

When the certificate approving the change has been obtained, it must be deposited with a Form 14 – General Request Change of a Water Allocation. Certificates are valid for 40 business days or until the expiry date shown on the certificate. A separate Form 14 – General Request is required to be lodged for each Water Allocation to be changed.

In addition, where the water allocation is managed by a Resource Operations Licence (ROL) holder a Form W2F152 – Notice of Existence of Water Supply Contract – issued by the ROL holder, is also required to be deposited with the request for change. See part 49 – Water Allocations, esp. [49-0030].

Lodgement fees are applicable. A duty notation is not required.

See Example 34.

1,²Charge under the *Water Supply (Safety and Reliability) Act 2008* **[14-2980]**

Under s. 361 of the Water Supply (Safety and Reliability) Act where the Chief Executive gives a debt notice in relation to land that is not leased from the State under the *Land Act 1994*, the

debt becomes a charge on the land. The Chief Executive must lodge a request to register a charge. The request must be on a Form 14 – General Request and state that the request is under Chapter 4 Part 1 Division 4 of the Water Supply (Safety and Reliability) Act. The request must be accompanied by:

- a certificate signed by the Chief Executive stating the debt is a charge over the land under Chapter 4 Part 1 Division 4 of the Water Supply (Safety and Reliability) Act; and
- a copy of the debt notice.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

The charge once registered on the title will not impede registration of other dealings. However, the charge attaches to the land and binds the owner and the owner's successors.

^{1,2}Release of Charge under the *Water Supply (Safety and Reliability) Act 2008*

[14-2990]

A charge under Chapter 4 Part 1 of Division 4 of the Water Supply (Safety and Reliability) Act (the Act) registered over land that is not leased from the State under the *Land Act 1994* may be released on the payment of the debt (s. 361(2) of the Act).

A request to release a charge under the above provision must be on a Form 14 – General Request which:

- shows the dealing number to be released; and
- is accompanied by a certificate stating that the debt has been paid.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

The Chief Executive is also authorised to lodge at any time a request to release a charge (s. 361(3) of the Act). A request to release the charge under s. 361(3) of the Act must be on a Form 14 – General Request which states:

- the dealing number to be released; and
- that the release is under s. 361(3) of the *Water Supply (Safety and Reliability) Act 2008*.

The request requires no supporting evidence.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

^{1,2}Amendment of Charge under the *Water Supply (Safety and Reliability) Act 2008*

[14-3000]

A charge under Chapter 4 Part 1 Division 4 of the Water Supply (Safety and Reliability) Act (the Act) registered over land that is not leased from the State under the *Land Act 1994* may be varied at any time by the Chief Executive under s. 361(3) of the Act.

A request to record a variation of charge must be on a Form 14 – General Request which:

- states the dealing number of the charge being varied; and
- is accompanied by a certificate stating the type of variation requested.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

^{1,3}Condition under s. 362 of the *Water Supply (Safety and Reliability) Act 2008*

[14-3010]

Under s. 362 of the Water Supply (Safety and Reliability) Act where the Chief Executive gives a debt notice in relation to land leased from the State under the *Land Act 1994*, the debt is a condition of the lease. The Chief Executive must lodge a request to register the condition. The request must be on a Form 14 – General Request and state the details of the condition and that the request is under Chapter 4 Part 1 Division 4 of the Water Supply (Safety and Reliability) Act. The request must be accompanied by:

- a certificate signed by the Chief Executive stating the details of the debt; and
- a copy of the debt notice.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

¹Removal of a Carbon Abatement Interest

[14-3015]

Under the provision of s. 97U(3) of the *Land Title Act 1994* or s. 373Y(3) of the *Land Act 1994*, a carbon abatement interest may be removed if:

- (a) a request to remove the carbon abatement interest is lodged, and the request establishes that—
 - (i) the period of time for which the carbon abatement interest was intended to exist has ended; or
 - (ii) an event upon which the carbon sequestration was intended to end has happened; or
- (b) the registrar receives a request to remove the interest under an Act of the Commonwealth.

The removal is lodged in a Form 14 – General Request. Any interested party can apply. If the removal is based upon the happening of an event then evidence that clearly establishes the occurrence of that event must be deposited.

~~If non-freehold land is involved, the Minister administering the Act must consent to the removal on a Form 18—General Consent.~~

Lodgement fees are applicable. A duty notation is not required.

¹Notice of Agreement under the *Nature Conservation Act 1992* **[14-3020]**

Under the Nature Conservation Act, a land-holder and the minister administering the Act can enter into a conservation agreement in relation to the land-holder's land.

Pursuant to s. 43B of the Nature Conservation Act, a conservation agreement may be entered into for declaration of a special wildlife reserve. Section 45 of the Nature Conservation Act provides that a conservation agreement may also be entered into for establishing a nature refuge.

If a conservation agreement is entered into in relation to specified private land (which is defined as land other than State land), then the chief executive of the administering authority must give the Registrar notice of the agreement within 14 days of the making of the conservation agreement (s. 134(2) of the Act).

A conservation agreement that is recorded by the Registrar is binding on the landholder, the landholder's successors in title and other persons who have an interest in the title (s. 43C(1)(b) and s. 51(1) of the Act).

A deposit fee is not applicable.

Removal

When a conservation agreement is terminated or varied in terms of its effect on the subject land, the chief executive must notify the Registrar (s. 134(6) of the Act). The Registrar must remove the particulars of the land from the Registrar's records (s. 134(7) of the Act).

Forms

General Guide to Completion of Forms

[14-4000]

For general requirements for completion of forms see part 59.

Guide to Completion of Form 14 for Examples 1 to 25

Item 1

[14-4010]

Insert nature of request.

Item 2

[14-4020]

^{1,2}Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for Crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

^{2,3}Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

e.g.	Lot on Plan Description	Title reference
	WA 27 on AP 7900	46012345

^{1, 3}State Tenure Description

The description of the relevant State tenure should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘CP’ for a crown plan).

e.g.	Lot on Plan Description	Title reference
	Lot 27 on CP LIV1234	40567123

Item 3

[14-4030]

Insert, as the case requires, the full name of the person/entity owning or holding the interest which is the subject of the request and shown in Item 4, for example:

- the registered owner of a freehold lot; or the holder of a lease or licence under the *Land Act 1994*, or the holder of a water allocation; or
- the registered proprietor or holder of a secondary interest (e.g. mortgagee or lessee of a lease of freehold).

Item 4

[14-4040]

Insert interest, either fee simple, water allocation, the type of State tenure e.g. State Lease, or lease or mortgage number.

Item 5**[14-4050]**

Insert full name of applicant.

Complete the postal address of the applicant for service of notice for a request that changes:

- the registered owner of a freehold lot; or
- the holder of a lease or licence under the *Land Act 1994*; or
- the holder of a water allocation; or
- the name or any part of the name of the above, for example a Request to Change Name or Request to Correct Name.

Item 6**[14-4060]**

Insert details of the Request.

Item 7**[14-4070]**

Complete and execute where indicated.

Example 1 – Request to Record Correction of Name (Natural Person) supported by a declaration from the solicitor's firm that prepared the original instrument or document

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 14 ON RP238942

Title Reference

11345070

3. Registered Proprietor/State Lessee

WAYNE KYLE PEARSON and MEREDITH JULIE PEARSON

4. Interest

FEE SIMPLE

5. Applicant

DWAYNE KYLE PEARSON

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: the name of one of the Registered Owners be corrected from Wayne Kyle Pearson to Dwayne Kyle Pearson in accordance with the declaration deposited herewith.

7. Execution by applicant

L J Fung
LOIS JANE FUNG

21/11/2007

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 1 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [11345070]

I, **LOIS JANE FUNG** of 24 Logan Road, Logan in the State of Queensland, Solicitor, do solemnly and sincerely declare as follows:

1. My firm, Smith & Co prepared a Form 1 – Transfer in the name of WAYNE Kyle Pearson and Meredith Julie Pearson lodged under Dealing No. 710478823.
2. The name WAYNE Kyle Pearson in item 5 of the transfer was shown incorrectly.
3. The name should have been shown as DWAYNE Kyle Pearson.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

L J Fung

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 1A – Request to Record Correction of Name (Natural Person) supported by a declaration by the registered owner

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 14 ON RP238942

Title Reference

11345070

3. Registered Proprietor/State Lessee

WAYNE KYLE PEARSON and MEREDITH JULIE PEARSON

4. Interest

FEE SIMPLE

5. Applicant

DWAYNE KYLE PEARSON

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: the name of one of the Registered Owners be corrected from Wayne Kyle Pearson to Dwayne Kyle Pearson in accordance with the declaration deposited herewith.

7. Execution by applicant

L J Fung
LOIS JANE FUNG

21/11/2007

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 1A (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [11345070]

I, **DWAYNE KYLE PEARSON** of 24 Hideaway Close, Narangba in the State of Queensland, do solemnly and sincerely declare as follows:

1. On 20 May 2003 a transfer to Wayne Kyle Pearson and Meredith Julie Pearson was lodged under dealing 710478823.
2. My name in item 5 on the transfer was shown incorrectly as WAYNE Kyle Pearson.
3. My name should have been shown as DWAYNE Kyle Pearson as evidenced by the name shown in the copy of my certificate of birth deposited herewith.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

D K Pearson

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 2 – Request to Record Change of Name of Registered Owner (Natural Person)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number

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1. Nature of request

REQUEST TO RECORD A CHANGE OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 10 ON RP225533

Title Reference

17688021

3. Registered Proprietor/State Lessee

GEOFFREY MATTHEW WINDSOR and LAURA MARGARET BARNARD

4. Interest

FEE SIMPLE

5. Applicant

LAURA MARGARET WINDSOR

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: in accordance with the declaration dated 21 November 2007 deposited herewith, the change of name of Laura Margaret Barnard to Laura Margaret Windsor be registered.

7. Execution by applicant

21/11/07
Execution Date

L M Windsor
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 2 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [17688021]

I, **LAURA MARGARET WINDSOR**, do solemnly and sincerely declare as follows:

I am the person identical with Registered Owner **LAURA MARGARET BARNARD** named in Item 3 on the attached Form 14 – General Request.

My true and correct name is as shown in Item 5 on the Form 14 – General Request as **LAURA MARGARET WINDSOR** as on the 14th day of August 2007 I married **GEOFFREY MATTHEW WINDSOR**, as evidenced by the office copy Certificate of Marriage deposited herewith.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1867.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

L M Windsor

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 3 – Request to Record Change of Name of Registered Owner (Corporation)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number

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1. Nature of request

REQUEST TO RECORD CHANGE OF NAME

Lodger (Name, address, E-mail & phone number) **Lodger Code**

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 14 ON RP977000

Title Reference

11326072

3. Registered Proprietor/State Lessee

XYZ CORPORATION LIMITED ACN 001 311 711

4. Interest

FEE SIMPLE

5. Applicant

EXIT CORPORATION LIMITED ACN 001 311 711

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: the change of name of the registered owner from XYZ Corporation Limited ACN 001 311 711 to Exit Corporation Limited ACN 001 311 711 be recorded.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

S Brown, Director
SAMUEL DENIS BROWN

.....
G Wolfe, Director/Secretary
GERALD JOSEPH WOLFE

.....
Applicant's or Solicitor's Signature

Example 4 – Request to Record Removal of Expired Lease from Title

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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1. Nature of request

REQUEST TO RECORD REMOVAL
OF EXPIRED LEASE FROM TITLE

Lodger (Name, address, E-mail & phone number) **Lodger
Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 27 ON RP131121

Title Reference

18329006

3. Registered Proprietor/State Lessee

SWANSDOWN PTY LTD ACN 020 777 420

4. Interest

LEASE NO. 300290364 (L336621P)

5. Applicant

BLACKDON PTY LTD ACN 030 662 421

6. Request

I hereby request that: the dealing noted in the attached statutory declaration marked Annexure "A" be removed from the title.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

D A Smith, Director
DIANNE ALLYSON SMITH

M Hudson, Director/Secretary
MARGARET ALICE HUDSON

Applicant's or Solicitor's Signature

Example 4 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

ANNEXURE "A"

FORM 20 Version 2
Page 2 of 2

Title Reference [18329006]

This is annexure "A" referred to in the Form 14 – General Request executed for Blackdon Pty Ltd ACN 030 662 421 dated 21 November 2007.

I, **DIANNE ALLYSON SMITH** of Brisbane, in the State of Queensland, Director of Blackdon Pty Ltd ACN 030 662 421 do hereby solemnly and sincerely declare as follows:

1. I am duly authorised to make this declaration.
2. Lease registered under Dealing No 600290364 (L336621P) on Title Reference 18329006 may be removed, as the option to renew has not been exercised.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

D A Smith

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 5 – Request to Register Merger of Lease

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO REGISTER MERGER OF LEASE

Lodger (Name, address, E-mail & phone number)

Lodger Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 1 ON RP112233

Title Reference

11223244

3. Registered Proprietor/State Lessee

JANE ELIZABETH SMITH

4. Interest

FEE SIMPLE

5. Applicant

JANE ELIZABETH SMITH

6. Request

I hereby request that: Lease No. 600555333 be merged in the fee simple.

7. Execution by applicant

21/11/07

Execution Date

J E Smith

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 6 – Request to Register Merger of Easement

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO REGISTER MERGER
OF EASEMENT NO. 623456789

Lodger (Name, address, E-mail & phone number) **Lodger Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

Title Reference

DOMINANT TENEMENT

LOT 3 ON RP877500

21138062

SERVIENT TENEMENT

EASEMENT A IN LOT 4 ON RP877500

21138063

3. Registered Proprietor/State Lessee

XYZ CORPORATION LIMITED ACN 001 222 349

4. Interest

FEE SIMPLE

5. Applicant

XYZ CORPORATION LIMITED ACN 001 222 349

6. Request

I hereby request that: Easement No. 623456789 be merged in the fee simple of the land described above.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07
Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

P D Mazwell, Director
PETER DOUGLAS MAZWELL

.....
M S Hudson, Director/Secretary
MATTHEW STANLEY HUDSON

.....
Applicant's or Solicitor's Signature

Example 7 – Request to Register Discharge of Writ of Execution

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO REGISTER DISCHARGE OF WRIT
OF EXECUTION BY ENFORCEMENT CREDITOR

Lodger (Name, address, E-mail & phone number) **Lodger
Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 10 ON RP100006

Title Reference

16679023

3. Registered Proprietor/State Lessee

DALE RAYMOND WHITE

4. Interest

FEE SIMPLE

5. Applicant

ERICA JUNE JONES

6. Request

I hereby request that: the discharge of Writ of Execution No 700334991 be registered.

7. Execution by applicant

21/11/07

Execution Date

E J Jones

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: If executed by the enforcement creditor no evidence is required
If executed by a solicitor for the enforcement credit, evidence of satisfaction of the debt is required see Part 12 esp. clause [12-2060]

SAMPLE

Example 9 – Request to Register Satisfaction of Writ of Execution

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

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1. Nature of request

REQUEST TO REGISTER SATISFACTION
OF WRIT OF EXECUTION

Lodger (Name, address, E-mail & phone number)

Lodger
Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 2 ON RP223311

Title Reference

12255187

3. Registered Proprietor/State Lessee

JANET DESLEY BROWNE

4. Interest

FEE SIMPLE

5. Applicant

JANET DESLEY BROWNE

6. Request

I hereby request that: Writ of Execution No 600721789 be discharged upon the grounds that the writ of execution has been satisfied, as evidenced by the [certificate of search issued by the Supreme Court Registrar or other evidence] deposited herewith.

7. Execution by applicant

J D Browne

21/11/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Evidence of satisfaction of the debt is required to be deposited see Part 12 esp. clause [12-2070]

Example 10 – Request to Record Extension of Writ of Execution

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

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1. Nature of request

REQUEST TO RECORD EXTENSION OF
WRIT OF EXECUTION

Lodger (Name, address, E-mail & phone number)

Lodger
Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 2 ON RP223311

Title Reference

15023186

3. Registered Proprietor/State Lessee

DALE RODNEY CROSS

4. Interest

FEE SIMPLE

5. Applicant

CREDIT QUICK CORPORATION PTY LTD ACN 002 390 480

6. Request

I hereby request that: in accordance with the court order dated 13 April 2007 deposited herewith, you record an extension for a period of three months of Writ of Execution No. 634882911.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

M P Laidlaw, Director
MARTIN PETRIE LAIDLAW

.....
D T Wright, Director/Secretary
DOUGLAS THOMAS WRIGHT

.....
Applicant's or Solicitor's Signature

Example 11 – Request to Register Standard Terms Document

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO REGISTER STANDARD
TERMS DOCUMENT FOR LEASE

Lodger (Name, address, E-mail & phone number)

Lodger
Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

Title Reference

NOT APPLICABLE

3. Registered Proprietor/State Lessee

NOT APPLICABLE

4. Interest

NOT APPLICABLE

5. Applicant

ADVANCED LIFE PTY LTD ACN 010 330 730

6. Request

I hereby request that: pursuant to s.169 of the Land Title Act 1994 the attached Standard Terms Document containing Lease covenants for Advanced Life Pty Ltd ACN 010 330 730 be registered.

7. Execution by applicant

F B Chan

FRED BRIAN CHAN

21/11/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 12 – Request to Record Transmission by Bankruptcy (Request by Official Trustee)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 3

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD
TRANSMISSION BY BANKRUPTCY

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

Lodger
Code
21

2. Lot on Plan Description

LOT 2 ON RP571535

Title Reference

30066134

3. Registered Proprietor/State Lessee

EDWARD ROBERT SULLIVAN

4. Interest

FEE SIMPLE

5. Applicant

THE OFFICIAL TRUSTEE IN BANKRUPTCY

Address for the service of notices to the applicant: USE CURRENT RECORDED ADDRESS

6. Request

I hereby request that: the applicant be registered as a proprietor of the estate or interest specified in Item 4 in the and described in Item 2 in consequence of the bankruptcy of EDWARD ROBERT SULLIVAN as evidenced by the National Personal Insolvency index extract and declaration deposited herewith.

7. Execution by applicant

The seal of the Official Trustee in
Bankruptcy was hereto affixed by me,
Digby Nicholas Bartholomew Ross,
the Official Receiver for the Bankruptcy
District of the State of Queensland

(seal)

D N B Ross

21/10/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Extract from the National Personal Insolvency Index;
- Supporting declaration/s.

Example 12 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 3

Title Reference [3006134]

I, **DIGBY NICHOLAS BARTHOLOMEW ROSS** of c/- 13th Level, 340 Adelaide Street, Brisbane in the State of Queensland, a Commonwealth Public Servant, do solemnly and sincerely declare that:

1. I am the Official Receiver for the Bankruptcy District of the State of Queensland under the *Bankruptcy Act 1966* (Cth) and am authorised to act on behalf of the Official Trustee in Bankruptcy pursuant to s. 18(8) of the Act.
2. Edward Robert Sullivan is registered as proprietor of an estate in fee simple in that land comprised in Indefeasible Title 30066334 being Lot 2 RP571535.
3. The said Edward Robert Sullivan registered as proprietor in the said Indefeasible Title is one and the same person as and identical with the Edward Robert Sullivan mentioned in extract from the National Personal Insolvency Index deposited herewith who disclosed his interest in the said land as an asset of his estate.
4. I am advised and verily believe that by virtue of section 58 of the *Bankruptcy Act 1966* (Cth) the Official Trustee in Bankruptcy is entitled to be registered as proprietor of the interest of Edward Robert Sullivan in the said land.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED by **DIGBY NICHOLAS BARTHOLOMEW ROSS** at Brisbane in the State of Queensland this 21st day of October 2007)
)
)

D B N Ross

.....
(Signature of Declarant)

H P Thomas JP (Qual.) #19833

.....
(Signature of a Justice of the Peace/Solicitor)

HAROLD PETER THOMAS

.....
(Name of Witness in Full)



**National Personal Insolvency Index
Insolvency Trustee Service Australia
Extract as at 04:18 pm 21-Nov-2007**

Name	SULLIVAN, EDWARD ROBERT		
Date of Birth	16-Sep-1942	Administration Type	Bankruptcy
Administration Number	QLD 2541/3/0	Petition Type	Debtor Petition
Date Filed	20-Oct-2006		
Date SA Filed	20-Oct-2006		
Entered on NPII	20-Oct-2006		
Date Ended	<No Data Held>		
Result	<No Result>		
Address	1 Choonda Street CORINDA QLD 4075		
Occupation	UNEMPLOYED		
Business Name	<No Data Held>		
Business Address	<No Data Held>		
Trustee	OFFICIAL TRUSTEE IN BANKRUPTCY		
Overall Summary	This individual is an undischarged bankrupt.		

**End of
Report**

Example 13 – Request to Record Transmission by Bankruptcy (Request by Trustee other than Official Trustee)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number

**OFFICE USE ONLY****Privacy Statement**

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1. Nature of request

REQUEST TO RECORD
TRANSMISSION BY BANKRUPTCY

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 33 ON RP213130

Title Reference

34567112

3. Registered Proprietor/State Lessee

ROBERT TIMOTHY MCCARTHY and ANNA JANE MCCARTHY

4. Interest

THE ½ SHARE OF AN ESTATE IN FEE SIMPLE HELD BY ROBERT TIMOTHY MCCARTHY IN THE LOT DESCRIBED IN ITEM 2.

5. Applicant

THE TRUSTEE OF THE PROPERTY OF ROBERT TIMOTHY MCCARTHY (a bankrupt)
ADDRESS FOR THE SERVICE OF NOTICES TO THE APPLICANT: LEVEL 30, 1 EAGLE STREET,
BRISBANE, 4000

6. Request

I hereby request that the applicant be registered as proprietor of the estate or interest specified in Item 4 in the land described in item 2 in consequence of the bankruptcy of ROBERT TIMOTHY MCCARTHY as evidenced by the National Personal Insolvency Index extract and in accordance with the declaration of Arthur Wayne Lachlan deposited herewith.

7. Execution by applicant

A W Lachlan

Arthur Wayne Lachlan as Trustee in Bankruptcy

21/11/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Extract from the National Personal Insolvency Index (see Example 12);
- Supporting documentation.

Example 13 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [34567112]

I, **ARTHUR WAYNE LACHLAN**, Chartered Accountant of c/- Level 30, Waterfront Place, 1 Eagle Street, Brisbane, Queensland do solemnly declare as follows:

1. On 1 November 2006 I became the trustee in bankruptcy of the estate of Robert Timothy McCarthy pursuant to a sequestration order made that day in the Federal Court by District Registrar McPherson sitting in the General Division of the Bankruptcy Division of the State of Queensland, the order having been made after all requirements of s. 52 of the *Bankruptcy Act 1966* (Cth) were satisfied.
2. Pursuant to s58 of the *Bankruptcy Act 1966* (Cth), upon the making of the said sequestration order, all the divisible property of Robert Timothy McCarthy vested in me. That divisible property includes the right title and interest of Robert Timothy McCarthy.
3. The said Robert Timothy McCarthy is one and the same person and identical with the Robert Timothy McCarthy mentioned in the extract from the National Personal Insolvency Index deposited herewith.
4. The said Robert Timothy McCarthy disclosed his interest in the property described as Lot 33 on RP 213130 contained in Indefeasible Title 34567112 as an asset of his estate.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED by **ARTHUR WAYNE**)
LACHLAN at Brisbane in the State of Queensland this)
21st day of November 2007)

A W Lachlan

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

SAMPLE

Example 15 – Request to Record Annulment of Bankruptcy

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD ANNULMENT
OF BANKRUPTCY

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 811 ON RP993662

Title Reference

13182248

3. Registered Proprietor/State Lessee

TRUSTEE OF THE PROPERTY OF KAREN ELIZABETH JOHNSTONE (A BANKRUPT)

4. Interest

FEE SIMPLE

5. Applicant

KAREN ELIZABETH JOHNSTONE

ADDRESS FOR THE SERVICE OF NOTICES TO THE APPLICANT: 160 MARSDEN ROAD KALINGA QLD 4030

6. Request

I hereby request that: the above land be vested in the applicant in consequence of the annulment of the bankruptcy of KAREN ELIZABETH JOHNSTONE as evidenced by the extract from the National Personal Insolvency deposited herewith.

7. Execution by applicant

21/11/07

Execution Date

K E Johnstone

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Extract from the National Personal Insolvency Index (see Example 12);
- If executed by the trustee, no further evidence. If executed by the former bankrupt or a solicitor a Form 18 – General Consent from the trustee or a statutory declaration by the trustee authorising the transaction (see clause [14-2250])

Example 16 – Request to Record Removal of Life Estate Charge

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

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1. Nature of request

REQUEST TO RECORD REMOVAL
OF LIFE ESTATE CHARGE

Lodger (Name, address, E-mail & phone number)

Lodger
Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 10 ON RP224436

Title Reference

17317021

3. Registered Proprietor/State Lessee

JAMES EDWARD CORNWALL AS PERSONAL REPRESENTATIVE

4. Interest

ESTATE FOR LIFE

5. Applicant

JAMES EDWARD CORNWALL

6. Request

I hereby request that: in accordance with the copy of the death certificate of the life tenant deposited herewith, the life estate charge under instrument No. 611223345 entered against the above lot be removed.

7. Execution by applicant

21/11/07

Execution Date

J E Cornwall

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Certified copy of certificate of death, or evidence of relinquishment of life interest, as applicable.

Example 17 – Request for Title by Adverse Possession

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 4

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST FOR TITLE BY ADVERSE POSSESSION

Lodger (Name, address, E-mail & phone number)

Lodger Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 4 ON RP955211

Title Reference

19229134

3. Registered Proprietor/State Lessee

ANGUS THOMAS BLACK

4. Interest

FEE SIMPLE

5. Applicant

LAWRENCE FABIAN FORBES

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 3 Brisbane Road, Brisbane 4000

6. Request

I hereby request that: pursuant to Part 6, Division 5 of the Land Title Act 1994 and in accordance with the declarations and the other evidence deposited herewith, I be recorded as Registered Owner in fee simple by adverse possession of the land described above.

7. Execution by applicant

L F Forbes

8/10/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:
▪ Supporting declaration and evidence.

Example 17 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 4

Title Reference [19229134]

I, **LAWRENCE FABIAN FORBES**, of 3 Brisbane Road, Brisbane in the State of Queensland do solemnly and sincerely declare that:

1. I am the applicant in an application for title by adverse possession dated 8 October 2007 lodged with the Registrar of Titles.
2. I began occupying the subject land on or about 7 January 1975. To the best of my knowledge the land had not been occupied for some time. The land was vacant.
3. On 30 June 1975 I completed construction of a dwelling house on the land. I have continued to use the land for residential purposes up to the date of this application.
4. Since 30 June 1975 I have paid rates on the land to the Brisbane City Council as evidenced by the attached certificate.
5. I enclose declaration by Edith Dora Leary and Francis Terrence Darville, residents of No. 2 and No. 7 Brisbane Road, Brisbane respectively testifying as to my occupation of the land.
6. There is no person in possession or occupation of the land adversely to my estate or interest therein.
7. I am not aware of any mortgage, encumbrance or claim affecting the land or that any person other than the registered owner has any claim, estate or interest in the land in law or in equity.
8. I have never been the tenant of the registered owner of the land and I have never been contacted by him or anyone acting on his behalf.
9. I have no documents, receipts or contracts in my possession or under my control from the registered owner of any other person deriving title thereunder relating to the land.
10. In consequence of the evidence herein set forth I verily believe and claim that I am entitled to be registered as owner of the land described above under Part 6, Division 5 of the *Land Title Act 1994*.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED before me at Brisbane)
this 8th day of October 2007)

L F Forbes

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 17 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 3 of 4

Title Reference [19229134]

I, **EDITH DORA LEARY**, of 2 Brisbane Road, Brisbane in the State of Queensland do solemnly and sincerely declare that:

1. I have occupied 2 Brisbane Road, Brisbane since 1972.
2. I recall that Lawrence Fabian Forbes commenced occupation of the property at 3 Brisbane Road, Brisbane on or about January 1975.
3. I remember that shortly after that time Lawrence Fabian Forbes constructed a home on the land.
4. Since that time Lawrence Fabian Forbes has used the land for his residence.
5. To the best of my knowledge at no time has any person come forward claiming an interest in the land.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED before me at Brisbane)
this 8th day of October 2007)

E D Leary

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 17 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 4 of 4

Title Reference [19229134]

I, **FRANCIS TERRENCE DARVILLE** of 7 Brisbane Road, Brisbane in the State of Queensland do solemnly and sincerely declare that:

1. On 13 September 1970 I purchased 7 Brisbane Road, Brisbane. I have lived at that address since that time.
2. I remember that around January 1975 Lawrence Fabian Forbes was occupying 3 Brisbane Road, Brisbane. I remember that in the winter of 1975 Lawrence Fabian Forbes built a home on the land.
3. I have not noticed any other person come forward claiming an interest in that land.
4. Lawrence Fabian Forbes has occupied the land since 1975.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED before me at Brisbane)
this 8th day of October 2007)

F T Darville

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 18 – Request to Register Order of Foreclosure and Vesting

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

1. Nature of request

REQUEST TO REGISTER ORDER OF
FORECLOSURE AND VESTING

Lodger (Name, address, E-mail & phone number)

**Lodger
Code**

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 6 ON RP177662

Title Reference

13352117

3. Registered Proprietor/State Lessee

XYZ CORPORATION PTY LTD ACN 003 976 423 (IN LIQUIDATION)

4. Interest

FEE SIMPLE

5. Applicant

BRISBANE BANKING CORPORATION LIMITED ACN 003 421 600

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE QLD 4060

6. Request

I hereby request that: in accordance with the court order dated 20 July 2007 deposited herewith you register the order for foreclosure and vesting of the interest of the Registered Owner shown in Item 4 above in the applicant.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

M J Kendall, Director
MARCUS JOHN KENDALL

K M Chan, Director/Secretary
KEVIN MICHAEL CHAN

Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Court issued copy of the order;
- If the court order stipulates conditions for foreclosure and vesting to occur – a statutory declaration from the mortgagee or their solicitor declaring that the conditions have been met.

Example 19 – Request to Record Revocation of Resumption

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD REVOCATION
OF RESUMPTION

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 10 ON RP223344

Title Reference

13123066

3. Registered Proprietor/State Lessee

MORETON BAY REGIONAL COUNCIL (FORMERLY CABOOLTURE SHIRE COUNCIL)

4. Interest

FEE SIMPLE

5. Applicant

MORETON BAY REGIONAL COUNCIL

ADDRESS FOR SERVICE OF NOTICES: 22 REAL STREET, NARANGBA QLD 4460

6. Request

I hereby request that: in accordance with the gazette notice dated 11 May 2007 revoking a previous gazette notice registered under dealing 6032214/88 you record the revesting of the above described land in the name of DEVELOPMENT CO PTY LTD ACN 003 520 397 for an estate in fee simple.

7. Execution by applicant

S Jones,

.....
MORETON BAY REGIONAL COUNCIL
Stephen James Jones Chief Executive Officer

21/11/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Proclamation revoking resumption.

SAMPLE

Example 21 – Request to Record Determination of Lease

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD
DETERMINATION OF LEASE

Lodger (Name, address, E-mail & phone number) **Lodger Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 12 ON RP674555

Title Reference

13088190

3. Registered Proprietor/State Lessee

XYZ COPORATION LIMITED ACN 003 976 423

4. Interest

LEASE NO. 718654213

5. Applicant

ABC CORPORATION LTD ACN 011 632 911

6. Request

I hereby request that: Lease No. 718654213 be determined and cancelled from the above title in accordance with the attached statutory declaration.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

L Blundell, Director
LAUREL BLUNDELL

.....
J Smith, Director/Secretary
JORDAN RAYMOND SMITH

.....
Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Supporting documentation.

Example 21 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [13088190]

I, **LAUREL BLUNDELL** of 122 Edward Street, Brisbane, Queensland do solemnly and sincerely declare as follows:

1. I am a director of ABC Corporation Ltd ACN 011 632 911 and am duly authorised to make this declaration on its behalf.
2. On 5 November 2002 ABC Corporation Ltd as lessor entered into Lease No. 718654213 with XYZ Corporation Limited ACN 003 976 423 as lessee of the premises known as Sunshine Place situated at 14 Sunny Street, Brisbane and described as Lot 12 on RP674555.
3. On 1 March 2007 ABC Corporation Ltd served the two notices annexed hereto ("**Notices**") claiming breaches of the lease on the Principal Executive Officer, Richard Manuel Morrow at the lessee's registered office at 222 Bowen Road, Manly.
4. The breaches stated in the Notices were not remedied by the lessee and the lease was subsequently determined by the Registered Owner who re-entered and took possession of the premises.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED before me at Brisbane)
this 21st day of November 2007)

L Blundell

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 22 – Request to Record Retirement (or Discharge) of Trustee

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD THE RETIREMENT
(OR DISCHARGE) OF TRUSTEE

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 17 ON RP113268

Title Reference

13088190

3. Registered Proprietor/State Lessee

JONATHON MATTHEW BRADY AS TRUSTEE UNDER INSTRUMENT NO. 732468931

4. Interest

FEE SIMPLE

5. Applicant

ANTHEA NICOLA RICHARDS

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE QLD 4060

6. Request

I hereby request that: you record the retirement/discharge of the above named Jonathon Matthew Brady in accordance with terms of the deed of retirement (or discharge) deposited.

7. Execution by applicant

21/11/07

Execution Date

A N Richards

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Certified copy of original deed of retirement (or discharge).

Example 23 – Request to Record Merger of Estates

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD MERGER OF ESTATES

Lodger (Name, address, E-mail & phone number)

Lodger
Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 3 ON RP32044

Title Reference

22383085

3. Registered Proprietor/State Lessee

JONATHAN COLIN MIDDLETON AS DEVISEE IN TRUST

4. Interest

FEE SIMPLE

5. Applicant

JONATHAN COLIN MIDDLETON

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 30 INALA AVENUE, BROWNS PLAINS QLD 4060

6. Request

I hereby request that: you register the applicant as the registered owner of the lot pursuant to a merger of the beneficial and legal estate.

7. Execution by applicant

10/11/07

Execution Date

J C Middleton

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:
• Supporting declaration.

N.B. – The request requires a duty notation.

Example 23 (contd)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994
and Water Act 2000

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [23383085]

I, **JONATHAN COLIN MIDDLETON** of 30 Inala Avenue, Browns Plains in the State of Queensland do solemnly and sincerely declare as follows:

1. I am the executor of the estate of Rose Middleton, and the registered owner of the lot described in the attached Form 14 – General Request as devisee in trust.
2. Pursuant to the will of Rose Middleton, deposited with Transmission by Death No. 700015762, Joyce Elva Middleton is the life tenant of the said lot, and I am the devisee in trust.
3. The life tenant, Joyce Elva Middleton, died on 14 September 2007 as appears by the certificate of death deposited herewith. I am the sole beneficiary.
4. I have effected all executorial duties in respect of the administration of the estate of Rose Middleton deceased.
5. The legal and beneficial estates have merged and are vested in me.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

SIGNED AND DECLARED before me at Brisbane)
this 10th day of November 2007)

J C Middleton

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 24 – Request to Record Incorporated Association

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

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1. Nature of request

RECORDING UNDER THE ASSOCIATIONS
INCORPORATION ACT 1981

Lodger (Name, address, E-mail & phone number) **Lodger Code**

JOHN WATERHEAD.
24 FLATHEAD COURT
SURFHAVEN QLD 4999
(07) 3278 5943

2. Lot on Plan Description

LOT 999 ON RP999999

Title Reference

14399224

3. Registered Proprietor/State Lessee

WILLIAM SANDMAN and NORMAN BEACHCOMBER AS TRUSTEE OF THE COASTAL GOLF CLUB UNDER
NOMINATION OF TRUSTEES 666655554

4. Interest

FEE SIMPLE

5. Applicant

COASTAL GOLF CLUB INCORPORATED

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE QLD 4060

6. Request

I hereby request that: the Registrar of Titles record the interest of the above registered proprietors in the name of the applicant in accordance with s. 24 of the Associations Incorporation Act 1981 and certify that the applicant is incorporated as evidenced by the certificate of incorporation deposited.

7. Execution by applicant

J D Surfboard
JOHN DAVID SURFBOARD
Secretary, Coastal Golf Club Incorporated

21/11/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: It should be noted that:

- the registered proprietor/State Lessee in Item 3 should be as shown on the current title/lease; and
- the applicant in Item 5 is the incorporated association; and
- the request in Item 6 should be substantially as shown in the example; and
- the signing of Item 7 must be by the secretary of the association (see ss24(1), (2) and (3) of the *Associations Incorporation Act 1981*; and
- these Requests attract normal lodgement fees; and
- there is no duty payable; and
- a copy of the certificate of incorporation, issued by the relevant agency and certified by an appropriate officer of that agency is to be provided; or
- the alternative arrangements whereby the original certificate and a photocopy are presented, checked and the photocopy noted by the Receiving Officer as being a true copy of the original, the noted copy retained and the original returned to the lodger is acceptable.

Example 25 – Application by Local Government under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

APPLICATION BY LOCAL GOVERNMENT UNDER
CHAPTER 4 PART 12 DIVISION 3 OF THE
LOCAL GOVERNMENT REGULATION 2012

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 10 ON RP120610

Title Reference

11223134

3. Registered Proprietor/State Lessee

JOHN DAVID BROWN

4. Interest

FEE SIMPLE

5. Applicant

SMITHSON CITY COUNCIL

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: PO BOX 31 SMITHSON QLD 4878

6. Request

I hereby request that: under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012 the land in item 2 be registered in the name of the applicant in Item 5.

7. Execution by applicant

(local government seal)

22/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

J Bloggs
Authorised Officer

.....
Applicant's or Solicitor's Signature

Example 26 – Request to Remove a Profit a Prendre

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

REQUEST TO REMOVE PROFIT A PRENDRE

Lodger (Name, address, E-mail & phone number)

Lodger Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 5 ON RP900432

Title Reference

50008710

3. Registered Proprietor/State Lessee

KRISTINA MARIA JOHNSON

4. Interest

PROFIT A PRENDRE NO. 700258637

5. Applicant

KRISTINA MARIA JOHNSON

6. Request

I hereby request that: Profit a Prendre No. 700258637 be removed as the term specified in instrument expired on 20/09/2007.

7. Execution by applicant

F B Chan
FRED BRIAN CHAN

21/9/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

¹Guide to Completion of Form 14 for Example 26

Item 1 [14-4090]

Insert the nature of the request.

Item 2 [14-4100]

Insert the ‘Lot on Plan’ descriptions and identify all burdened and, if applicable, benefited lots comprised in the profit a prendre.

Item 3 [14-4110]

Insert the full name(s) of the registered proprietor(s) or holder(s) of the lot(s) affected by the profit a prendre.

Item 4 [14-4120]

Insert the profit a prendre number.

Item 5 [14-4130]

Insert the full name of the applicant.

Item 6 [14-4133]

Insert the appropriate words for the relevant request.

Item 7 [14-4136]

Execute as required.

Example 27 – Request to Record Reservation of Name for a Community Titles Scheme

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

REQUEST TO RECORD RESERVATION OF NAME
FOR COMMUNITY TITLES SCHEME

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 70 ON SP900432

Title Reference

50046270

3. Registered Proprietor/State Lessee

BRIGHTON PTY LTD ACN 007 768 903

4. Interest

FEE SIMPLE

5. Applicant

BRIGHTON PTY LTD ACN 007 768 903

6. Request

I hereby request that: the name Brighton Villa be reserved for the community titles scheme proposed for the land described in item 2.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/9/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

C Johns, Director
CHARLES ANTHONY JOHNS

K Brown, Director/Secretary
KENNETH ROBERT BROWN

Applicant's or Solicitor's Signature

^{1, 2}Guide to Completion of Form 14 for Example 27

Item 1

[14-4140]

Insert the nature of the request (i.e. ‘Request for reservation of name/extension of reservation of name/withdrawal of reservation of name’).

Item 2

[14-4150]

Insert the full description of:

- the land for the proposed scheme; or
- the common property, if the name is to be reserved over an existing scheme.

Item 3

[14-4160]

Insert the full name(s) of the registered owner(s).

Item 4

[14-4170]

Insert fee simple.

Item 5

[14-4180]

Insert the full name of the applicant.

Item 6

[14-4190]

Insert the appropriate words for the relevant request.

Item 7

[14-4200]

Execute as required.

Example 28 – Request to Record “First” Community Management Statement

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

REQUEST TO RECORD FIRST COMMUNITY
MANAGEMENT STATEMENT FOR BRIGHTON
VILLA COMMUNITY TITLES SCHEME

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 70 ON SP900432

Title Reference

50046270

3. Registered Proprietor/State Lessee

BRIGHTON PTY LTD ACN 007 768 903

4. Interest

NOT APPLICABLE

5. Applicant

BRIGHTON PTY LTD ACN 007 768 903

6. Request

I hereby request that: the first CMS deposited herewith be recorded as the CMS for Brighton Villa Community Titles Scheme and that 32 This Rd Indooroopilly Qld 4068 be recorded as address for service on the body corporate for the scheme.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/10/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

C Johns, Director
CHARLES ANTHONY JOHNS

K R Brown, Director/Secretary
KENNETH ROBERT BROWN

Applicant's or Solicitor's Signature

^{1, 2}Guide to Completion of Form 14 for Example 28

Lodger Details

[14-4218]

The name, address, contact phone number and lodger code (if applicable) should be completed by the person/firm actually lodging the request for registration.

Item 1

[14-4220]

Insert the nature of the request.

Example:

‘Request to record first community management statement for Brighton Villa community titles scheme’.

Item 2

[14-4230]

Insert the lot on plan description and title reference for each current parcel which will be subdivided to create the scheme land.

Example:

2.	Lot on Plan Description	Title Reference
	Lot 70 on RP885798	50046270

Item 3

[14-4240]

Insert the name(s) of the registered owner(s) as per the title(s).

Item 4

[14-4250]

Insert not applicable.

Item 5

[14-4260]

Insert the name of the applicant – registered owner(s).

Item 6

[14-4270]

Insert the appropriate words of request including the address for service.

Example:

‘... the first CMS deposited herewith be recorded as the CMS for Brighton Villa community titles scheme and that (show postal address) be recorded as the address for the service of the body corporate for the scheme’.

Item 7

[14-4280]

Execution may be by the applicant or applicant’s solicitor. If signed by a solicitor print the full name of the solicitor signing.

Example 29 – Request to Record “New” Community Management Statement

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD NEW COMMUNITY
MANAGEMENT STATEMENT FOR FAWLTY
TOWERS COMMUNITY TITLES SCHEME 2345

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

COMMON PROPERTY OF FAWLTY
TOWERS COMMUNITY TITLES
SCHEME 2345

Title Reference
19203231

3. Registered Proprietor/State Lessee

BODY CORPORATE FOR FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

4. Interest

NOT APPLICABLE

5. Applicant

BODY CORPORATE FOR FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

6. Request

I hereby request that: the new CMS deposited herewith which amends (insert appropriate Item and schedule e.g. Item 2 (regulation module) and Schedule C) of the existing CMS be recorded as the CMS for Fawltly Towers Community Titles Scheme 2345.

7. Execution by applicant

(seal of body corporate)

J Cleese, Chairperson
JASON JOHN CLEESE

.....
C Booth, Secretary/Treasurer
CELESTE SYBIL BOOTH

21/10/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

^{1, 2}Guide to Completion of Form 14 for Example 29

Lodger Details

[14-4290]

The name, address, contact phone number and lodger code (if applicable) should be completed by the person/firm actually lodging the request for registration

Item 1

[14-4300]

Insert the nature of the request.

Example:

‘Request to record new community management statement for Fawltly Towers community titles scheme 2345.’

Item 2

[14-4310]

Insert the description and title reference for the common property for the scheme.

Example:

2.	Lot on Plan Description	Title Reference
	Common property of Fawltly Towers community titles scheme 2345	19201331

Item 3

[14-4320]

Insert the name of the body corporate e.g. ‘Body corporate for Fawltly Towers community titles scheme 2345’.

Item 4

[14-4330]

Insert not applicable.

Item 5

[14-4340]

Insert the name of the body corporate e.g. ‘Body corporate for Fawltly Towers community titles scheme 2345’.

Item 6

[14-4350]

Insert the appropriate words of request.

Example:

‘... the new CMS deposited herewith which amends (for example) Schedule(s) (A etc) and/or (for example) Item 2 (regulation module) of the existing CMS be recorded as the CMS for Fawltly Towers community titles scheme 2345.’

Item 7

[14-4360]

Execution may be by the applicant or applicant’s solicitor. If signed by a solicitor print the full name of the solicitor signing.

Example 30 – Request to Record Change of Address for Body Corporate

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

REQUEST TO RECORD CHANGE OF
ADDRESS FOR THE BODY CORPORATE

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

COMMON PROPERTY OF BRIGHTON
VILLA COMMUNITY TITLES SCHEME
1246

Title Reference
50055887

3. Registered Proprietor/State Lessee

BODY CORPORATE FOR BRIGHTON VILLA COMMUNITY TITLES SCHEME 1246

4. Interest

NOT APPLICABLE

5. Applicant

BODY CORPORATE FOR BRIGHTON VILLA COMMUNITY TITLES SCHEME 1246

6. Request

I hereby request that: the address for the service of body corporate under s. 315 of the Body Corporate and Community Management Act 1997 be recorded as 32 Any Road, Indooroopilly Q 4068.

7. Execution by applicant

(seal)

C Johns, Chairperson
CHARLES ANTHONY JOHNS

K R Brown, Secretary
KENNETH ROBERT BROWN

21/10/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

^{1, 2}Guide to Completion of Form 14 for Example 30

Item 1 [14-4370]

Insert the nature of the request.

Item 2 [14-4380]

Insert the description and title reference of the common property e.g. ‘Common property of Brighton Villa community titles scheme 1246’.

Item 3 [14-4390]

Insert the name of the body corporate e.g. ‘Body corporate for Brighton Villa community titles scheme 1246’.

Item 4 [14-4400]

Insert not applicable.

Item 5 [14-4410]

Insert the name of the body corporate.

Item 6 [14-4420]

Insert the appropriate request which includes the new address for service of the body corporate.

Item 7 [14-4430]

Execute as required.

Example 31 – Request to Record Update of Power of Attorney

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

REQUEST TO RECORD UPDATE
OF POWER OF ATTORNEY

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

NOT APPLICABLE

Title Reference

3. Registered Proprietor/State Lessee

ABC PTY LTD ACN 001 002 003

4. Interest

POWER OF ATTORNEY NO. 701234567

5. Applicant

XYZ PTY LTD ACN 001 002 003

6. Request

I hereby request that: XYZ Pty Ltd ACN 001 002 003 be recorded as the principal [or attorney] in Power of Attorney No 701234567 in accordance with the certified copy of the certificate of change of name [or other relevant evidence] deposited herewith.

7. Execution by applicant

W G Smith
WILLIAM GRAHAME SMITH

21/9/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Copy of evidence certified by the relevant issuing agency

Guide to Completion of Form 14 for Example 31

Item 1 [14-4440]

Insert the nature of the request.

Item 2 [14-4450]

Insert not applicable.

Item 3 [14-4460]

Insert the name of the principal/attorney as registered.

Item 4 [14-4470]

Insert the reference to the power of attorney to be updated.

Item 5 [14-4480]

Insert full name of principal/attorney to be registered.

Item 6 [14-4490]

Insert details of the request.

Item 7 [14-4500]

Execute as required.

Example 32 – Subdivision of Water Allocation

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

SUBDIVISION OF WATER ALLOCATION

Lodger (Name, address, E-mail & phone number) Lodger Code

A. Water-Owner
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

2. Lot on Plan Description

LOT 1234 ON AP1234

Title Reference

46009999

3. Registered Proprietor/State Lessee

ALFRED BRIAN WATER-OWNER and BETTY BEATRICE WATER-OWNER

4. Interest

WATER ALLOCATION

5. Applicant

ALFRED BRIAN WATER-OWNER and BETTY BEATRICE WATER-OWNER

6. Request

I hereby request that: the Water Allocation shown in Item 2 be subdivided in accordance with Dealing Certificate No. 199999 deposited herewith.

7. Execution by applicant

A B Water-Owner
B B Water-Owner

21/9/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Water Allocation Dealing Certificate
- If managed under a Resource Operations Plan: Notice to registrar of water allocations of Existence of Supply Contract (W2F152)

^{2, 3}Guide to Completion of Form 14 for Example 32

Item 1 [14-4510]

Insert the nature of the request.

Item 2 [14-4520]

Insert Lot/Plan description of water allocation to be subdivided. Only one Water Allocation is permitted on each Form 14 –General Request.

Item 3 [14-4530]

Insert the full name(s) of the registered owner(s).

Item 4 [14-4540]

Insert: Water Allocation.

Item 5 [14-4550]

Insert the full name of the applicant.

Item 6 [14-4560]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: the water allocation shown in Item 2 be subdivided in accordance with Dealing Certificate No. 199999 deposited herewith.

Item 7 [14-4570]

Execute as required.

Example 33 – Amalgamation of Water Allocation

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

AMALGAMATION OF WATER ALLOCATION

Lodger (Name, address, E-mail & phone number) **Lodger Code**

A. Water-Owner
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

2. Lot on Plan Description

Title Reference

LOT 1234 ON AP1234
LOT 1235 ON AP1234

46009999
46008888

3. Registered Proprietor/State Lessee

AQUA OWNERS PTY LTD A.C.N. 999 999 999

4. Interest

WATER ALLOCATION

5. Applicant

AQUA OWNERS PTY LTD A.C.N. 999 999 999

6. Request

I hereby request that: the Water Allocations shown in Item 2 be amalgamated in accordance with Dealing Certificate No. 199998 deposited herewith.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/9/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

A Water-Owner, Director
ALFRED BRIAN WATER-OWNER

.....
B Water-Owner, Director/Secretary
BETTY BEATRICE WATER-OWNER

.....
Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Water Allocation Dealing Certificate
- If managed under a Resource Operations Plan: Notice to registrar of water allocations of Existence of Supply Contract (W2F152)

^{2, 3}**Guide to Completion of Form 14 for Example 33**

Item 1 [14-4580]

Insert the nature of the request.

Item 2 [14-4590]

Insert Lot/Plan description of all Water Allocations to be amalgamated. Only one amalgamation request is permitted on each Form 14 – General Request.

Item 3 [14-4600]

Insert the full name(s) of the registered owner(s).

Item 4 [14-4610]

Insert: Water Allocation.

Item 5 [14-4620]

Insert the full name of the applicant.

Item 6 [14-4630]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: the water allocations shown in Item 2 be amalgamated in accordance with Dealing Certificate No. 199998 deposited herewith.

Item 7 [14-4640]

Execute as required.

Example 34 – Change of Water Allocation

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

CHANGE OF WATER ALLOCATION

Lodger (Name, address, E-mail & phone number) Lodger Code

B. F. Pioneer
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

2. Lot on Plan Description

LOT 1234 ON AP1234

Title Reference

46009999

3. Registered Proprietor/State Lessee

BURNETT FITZROY PIONEER

4. Interest

WATER ALLOCATION

5. Applicant

BURNETT FITZROY PIONEER

6. Request

I hereby request that: the Water Allocation shown in Item 2 be changed in accordance with Dealing Certificate No. 199998 deposited herewith.

7. Execution by applicant

21/9/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

B F Pioneer

Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Water Allocation Dealing Certificate
- If managed under a Resource Operations Plan: Notice to registrar of water allocations of Existence of Supply Contract (W2F152)

^{2, 3}**Guide to Completion of Form 14 for Example 34**

Item 1 [14-4650]

Insert the nature of the request.

Item 2 [14-4660]

Insert Lot/Plan description of the water allocation to be changed. Only one Water Allocation is permitted on each Form 14 –General Request.

Item 3 [14-4670]

Insert the full name(s) of the registered owner(s).

Item 4 [14-4680]

Insert: Water Allocation.

Item 5 [14-4690]

Insert the full name of the applicant.

Item 6 [14-4700]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: the water allocation shown in Item 2 be changed in accordance with Dealing Certificate No. 199998 deposited herewith.

Item 7 [14-4710]

Execute as required.

Example 35 – Statutory Charge under the *Building Industry Fairness (Security of Payment) Act 2017*

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

RECORD STATUTORY CHARGE

Lodger (Name, address, E-mail & phone number) **Lodger Code**

TR CONSTRUCTIONS P/L
PO BOX 53
BRISBANE 4001
trconstructions@email.com

2. Lot on Plan Description

LOT 9876 ON SP 313131

Title Reference

51099977

3. Registered Proprietor/State Lessee

CHRISTOPHER ROGER TAYLOR

4. Interest

FEE SIMPLE

5. Applicant

TR CONSTRUCTIONS PTY LIMITED A.C.N. 111 999 555

6. Request

I hereby request that: A Charge under section 100B of the Building Industry Fairness Act (Security of Payment) Act 2017 and as set out in the attached evidence be recorded against the land referred to in item 2

7. Execution by applicant

TR CONSTRUCTIONS PTY LTD
A.C.N. 111 999 555

Trevor Roberts

Sole Director and Sole Secretary

1 / 10 / 2020

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Adjudication Certificate
- Statutory Declaration

^{1,2}Guide to Completion of Form 14 for Example 35

Item 1 [14-4720]

Insert the nature of the request.

Item 2 [14-4725]

Insert Lot/Plan description/s and title reference/s.

Item 3 [14-4730]

Insert the full name(s) of the registered owner(s) (the respondent).

Item 4 [14-4735]

Insert: Fee Simple.

Item 5 [14-4740]

Insert the full name of the applicant (the claimant). If the applicant is a company include the Australian Company Number.

Item 6 [14-4745]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: A Charge under section 100B of the Building Industry Fairness Act (Security of Payment) Act 2017 and as set out in the attached evidence be recorded against the land referred to in item 2.

Item 7 [14-4750]

Execute as required.

Example 36 – Extension of Charge under the Building Industry Fairness (Security of Payment) Act

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

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1. Nature of request

RECORD THE EXTENSION OF STATUTORY
CHARGE 960000677

Lodger (Name, address, E-mail & phone number) **Lodger Code**

TR CONSTRUCTIONS P/L
PO BOX 53
BRISBANE 4001
trconstructions@email.com

2. Lot on Plan Description

LOT 9876 ON SP 313131

Title Reference

51099977

3. Registered Proprietor/State Lessee

CHRISTOPHER ROGER TAYLOR

4. Interest

STATUTORY CHARGE 960000677

5. Applicant

TR CONSTRUCTIONS PTY LIMITED A.C.N. 111 999 555

6. Request

I hereby request that: Statutory Charge dealing number 960000677 be extended pursuant to section 100C(2) and (4) of the Building Industry Fairness (Security of Payment) Act 2017 and in accordance with the attached evidence.

7. Execution by applicant

TR CONSTRUCTIONS PTY LTD
A.C.N. 111 999 555

Trevor Roberts

Sole Director and Sole Secretary

1 / 10 / 2020

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Copy of Court Order extending the charge

^{1,2}Guide to Completion of Form 14 for Example 36

Item 1 [14-4755]

Insert the nature of the request.

Item 2 [14-4760]

Insert Lot/Plan description/s and title reference/s.

Item 3 [14-4765]

Insert the full name(s) of the registered owner(s) (the respondent).

Item 4 [14-4770]

Insert: the dealing number of the Statutory Charge to be extended.

Item 5 [14-4775]

Insert the full name of the applicant (the claimant). If the applicant is a company include the Australian Company Number.

Item 6 [14-4780]

Insert the appropriate words for the relevant request.

For example:

Statutory Charge dealing number XXXXXXXXXX be extended pursuant to section 100C(2) and (4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached evidence.

Item 7 [14-4785]

Execute as required.

Example 37 – Removal of a Charge under the Building Industry Fairness (Security of Payment) Act

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number

**OFFICE USE ONLY****Privacy Statement**

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

1. Nature of request

RECORD THE RELEASE OF
STATUTORY CHARGE 960000677

Lodger (Name, address, E-mail & phone number) **Lodger Code**

RHODES AND ASSOCIATES
SOLICITORS
PO BOX 99
BRISBANE 4001
Nicholas.Rhodes@rhodesandassoc.com.au

2. Lot on Plan Description

LOT 9876 ON SP 313131

Title Reference

51099977

3. Registered Proprietor/State Lessee

CHRISTOPHER ROGER TAYLOR

4. Interest

STATUTORY CHARGE 960000677

5. Applicant

CHRISTOPHER ROGER TAYLOR

6. Request

I hereby request that: Statutory Charge dealing number 960000677 be removed pursuant to section 100D(4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached statutory declaration.

7. Execution by applicant

Nicholas Rhodes

SOLICITOR

15 / 1 / 2021

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- For a Release where the request is made by the registered owner: Statutory Declaration by Applicant (respondent/registered owner)
- For a Setting Aside: Copy of Court Order setting the Statutory Charge aside.

^{1,2}Guide to Completion of Form 14 for Example 37

Item 1 [14-4790]

Insert the nature of the request. (Either Release or Setting Aside)

Item 2 [14-4795]

Insert Lot/Plan description/s and title reference/s.

Item 3 [14-4800]

Insert the full name(s) of the registered owner(s) (the respondent(s)).

Item 4 [14-4805]

Insert: the dealing number of the Statutory Charge.

Item 5 [14-4810]

Insert the full name of the applicant. If the applicant is a company include the Australian Company Number.

The applicant will be:

- *For a Release - request by claimant* – the claimant;
- *For a Release – request by registered owner* – the registered owner;
- *For a Setting Aside* – the registered owner.

Item 6 [14-4815]

Insert the appropriate words for the relevant request.

For example:

- *For a Release - request by claimant:*
Statutory Charge dealing number XXXXXXXXXX be removed pursuant to section 100D(2) of the Building Industry Fairness Act (Security of Payment) Act 2017.
- *For a Release – request by registered owner:*
Statutory Charge dealing number XXXXXXXXXX be removed pursuant to section 100D(4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached statutory declaration.
- *For a Setting Aside:*
Statutory Charge dealing number XXXXXXXXXX be removed pursuant to section 100E(4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached court order.

Item 7 [14-4820]

Execute as required.

Duty

[14-5500]

Set out below is an alphabetical list of likely Form 14 – General Requests, with information as to whether a request requires a Queensland duty notation. The list was prepared in consultation with the Office of State Revenue.

Form 14 – General Request list of likely requests	Duty Notation Required
Abolishment of council and vesting in another	yes
Acquisition of land by Commonwealth	no
Agreement – <i>River Improvement Trust Act 1940</i>	no
Amalgamation of Water Allocation	no
Annulment of bankruptcy	yes
Application for title by possession (executed after 1 March 2002)	yes
Application under Chapter 4 Part 12 Division 3 of the <i>Local Government Regulation 2012</i>	yes
Cancellation of a caveat	no
Cancellation of expired lease of freehold or water allocation lodged in the first unexercised option period see part 7, esp. [7-2200])	Yes*
Cancellation of expired lease over freehold or water allocation lodged after the first unexercised option period see part 7, esp. [7-2200])	no
Cancellation of an Agreement – <i>Local Government (Planning and Environment) Act 1990</i>	no
Cessation of Public Trustee as administrator	no
Change or correction of name of corporation	no
Change or correction of name of natural person	no
Change of Water Allocation	no
Correction of deed of grant (s. 359 of the <i>Land Act 1994</i>)	no
Determination of lease	Yes*
Discharge of trustee only	yes
Discharge/Satisfaction/Cancellation of Writ	no
Disclaimer of lease	Yes*
Divest and Vest – changing registered proprietor details	yes
Divest and Vest – no change to registered proprietor details	yes
Extinguishment of lease other than surrender	yes
Merger of lease	no
Notice of forfeiture, foreclosure and vesting	yes
Order of the court – changing registered proprietor details	yes
Order of the court –no change to registered proprietor details	yes
Order in Council	no
Proclamation resuming land (State)	yes
Proclamation resuming easement (State)	yes
Realignment of a road – notification	no
Realignment of a road – determination	no
Removal of trustee only	yes
Resignation of trustee only	yes
Retirement of trustee only	yes
Register any direction, licence or order of the Supreme Court not being a vesting order	no

Form 14 – General Request list of likely requests	Duty Notation Required
Removal of carbon abatement interest	no
Removal of charge created by a will	yes
Removal of instalment contract caveat	no
Revocation of proclamation resuming land	no
Revocation of proclamation resuming easement	no
Request for separate indefeasible titles	no
Request to record change of name by a corporation	no
Request to record change of name by a natural person	no
Request to record correction of name	no
Request to record first CMS	no
Request to record new CMS	no
Request to record reservation of name for a community titles scheme	no
Request to record change of address of a body corporate	no
Request to record removal of profit a prendre	no
Request to register standard terms document (s. 169 of the <i>Land Title Act 1994</i> or s. 317 of the <i>Land Act 1994</i>)	no
Subdivision of Water Allocation	no
Transmission by bankruptcy – registered proprietor	yes
Transmission by bankruptcy – lessee, etc	yes
Vesting order – land	yes
Vesting order – not land	yes
Withdrawal of caveat (by equitable mortgagee)	no
Withdrawal of caveat (other than by equitable mortgagee)	no

*only where the lease commenced before 1 January 2006 and no Form 13 – Amendment of Lease altering the commencement date has been registered.

[14-6000] deleted

[14-7000] deleted

Fees

[14-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60-8000].

Cross References and Further Reading

[14-9000]

Part 1 – Transfer

Part 2 – Mortgage (National Mortgage Form)

Part 11 – Caveat

Part 12 – Request to Register Writ or Warrant of Execution

Part 20 – Schedule, Enlarged Panel, Additional Page, Declaration or Standard Terms Document

Part 45 – Body Corporate and Community Management Schemes

Part 49 – Water Allocations

Megarry, RE and Wade, WHR, *The Law of Real Property*, 5th edn, London Stevens, 1984

Butt, P, *Land Law*, 2nd edn, Law Book Company, 1988

Bradbrook, A, MacCallum, S and Moore, AP, *Australian Real Property Law*, Law Book Company, 1990

Darvall, C and Fernon, NT, McDonald, Henry and Meek: *Australian Bankruptcy Law and Practice*, Law Book Company (loose-leaf service)

Notes in text

[14-9050]

Note¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land.

¹Part 21 – Plans and Associated Documents

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Part 24 – Property Information (Transfer) and Property Information (Transmission Application)

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Part 24 – Property Information (Transfer) and Property Information (Transmission Application)

General Law

[24-0000]

Form 24 – Property Information (Transfer) and Form 24A Property Information (Transmission Application) are common forms deposited with the Titles Registry to collect information on behalf of government agencies other than the Titles Registry.

The information is required by the following agencies and for the purposes stated:

- Office of State Revenue (Queensland Treasury) – to assist with statutory obligations for the administration and collection of land tax and duty on land
- [Electrical Safety Office](#) – to monitor compliance with legislative requirements relating to electrical safety switches
- [Queensland Fire and Emergency Services](#) – to monitor compliance with legislative requirements relating to smoke alarms
- [State Valuation Service](#) (Department of Resources) – to update information held on the valuation and sales database
- [Land Administration & Acquisition](#) – to update information in the Land Tenure Ledger
- [Water Catchment Services](#) (Department of Regional Development, Manufacturing and Water) – to assist with the maintenance of the water management system
- Local governments – to assist with the updating of local government rates records and water.
- Water distributor-retailers – to assist with the maintenance of records relating to supply of retail water.

Legislation

[24-1000]

^{2,3}Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, an interest or dealing may be registered in a way mentioned in the Land Title Act, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act:

- as if a reference to the freehold land register is a reference to the water allocations register; and
- as if a reference to freehold land or land is a reference to a water allocation; and
- as if a reference to a lot is a reference to a water allocation; and
- with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8200] and [0-8300].

Practice

[24-2000] deleted

Lodgement

[24-2010]

The Guides to Completion of the Form 24 or the Form 24A are not to be deposited in the Titles Registry with the respective form.

Images of the Form 24 are not available to the public, and the information contained in these forms is not available from the Titles Registry.

Form 24 must accompany the Form 1 – Transfer while the Form 24A must accompany the Form 6 – Transmission Application for Registration as Devisee/Legatee of:

- ¹land where the registered proprietor is responsible for the payment of local government rates and charges (namely the fee simple, a State lease or licence, or a lease under *South Bank Corporation Act 1989*); or
- a water allocation.

^{1,3}However, a Form 24 is not required to be deposited with a transfer pursuant to s. 327 of the *Land Act 1994* (an absolute surrender to the State) or a transfer that temporarily surrenders land to the State to allow action under s. 358 of the *Land Act*.

²A Form 1 – Transfer with an intermediate party will necessitate a Form 24 for each contract, to supply details of the intermediaries. Only the current owner and new registered owner details are to be contained on the Form 1.

^{1,3}Version 2 of Forms 1 or 6 will be accepted with a Form 100 – Common Form, provided both were executed before 31 December 1995. A transfer, record of death or transmission by death of the fee simple that were executed between 1 May 1992 and 24 April 1994 must also be deposited with a Form 100. A Form 100 is processed as if it were a Form 24.

[24-2020] deleted

Supply of Correct or Additional Information

[24-2030]

State Valuation Service staff of the department examine details on the Form 24 and Form 24A when received from the Automated Titles System. If information is subsequently found to be deficient when examined, the Valuer-General or delegate may issue a notice to fix the defect to obtain the necessary information to complete the form (s. 246 of the *Land Valuation Act 2010*).

The lodger of the Form 24/Form 24A or the registered owner or holder may provide correct or additional information relevant to the form to either the Titles Registry or State Valuation Service.

The following procedures will apply for notification of correct or additional information:

- (A) If the notification is from a lawyer it may be either by –

- a statutory declaration signed by a lawyer; or
 - a letter on the firm's letterhead signed by a lawyer.
- (B) If the notification is from a private individual it must be by way of a statutory declaration.
- In either case a new Form 24/Form 24A may be also deposited but is not mandatory.
 - Following formal notification of correct or additional information –
 - The original data in the Automated Titles System is updated by regional State Valuation Service or Titles Registry staff depending on where the notification was received.
 - A copy of the originally deposited Form 24/Form 24A together with the notification and any supporting documentation are scanned in to the registry imaging system.
 - An Update Report will be produced by the Automated Titles System and be supplied with the next data distribution to relevant agencies.

Forms

General Guide to Completion of Forms

[24-4000]

For general requirements for completion of forms see part 59 – Forms.

(This form must accompany **Titles Registry Form 1 – Transfer** when lodged in the Land Registry)*Foreign Ownership of Land Register Act 1988, Duties Act 2001, Land Valuation Act 2010, Land Tax Act 2010, Local Government Act 2009, Water Act 2000, Electrical Safety Act 2002, Fire and Emergency Services Act 1990 and South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, Taxation Administration Act 2001***PART A – Transferee to complete**

Title reference [14365032]

Page 1 of 2

Electronic version – for completion before printing one-sided only.

Where insufficient space in an item, use Form 20
(Enlarged Panel).**Mark appropriate [] with 'X'**Refer to guide for completion for further information and details
about the purpose of the collection of information.**Official use only****1. Transferee**

- (a) Given names & surname or Company & ACN/ABN
ANN MAREE FRASER
JOHN ANDREW FRASER
- (b) Date of birth (dd/mm/yyyy)
23/5/1965
15/6/1962
- (c) Residential or business address after possession
6 HOWSON ST, MT GRAVATT 4122
6 HOWSON ST, MT GRAVATT 4122
- (d) Contact details after possession
(i) Phone number - 07 3222 5151
(ii) Postal address - As above [] OR complete address below
PO BOX 359, BULIMBA QLD 4121
(iii) Email address – thefrasers@myisp.com.au
- (e) Name of trust - **N/A** [X] or complete -
- (f) Is transferee a foreign person / corporation? **N/A** [] **NO** [X] **YES** [] ➤ Attach completed Form 25
(Foreign Ownership Information)
- Note:** The definition of a foreign person or corporation is defined in the Foreign Ownership of Land Register Act 1988. Refer to guide for completion for more information. (N/A if only for a Water Allocation)
- (g) Does transferee ordinarily reside in Australia? **N/A** [] **NO** [] **YES** [X]
(N/A if only for a Water Allocation)

2. Transaction

- (a) Date of possession (dd/mm/yyyy) – 30/11/2011 ➤ The date of possession is the actual date the transferee has legal control or ownership of the property. Usually, this is the date of settlement, or the date as agreed to by both parties.
- (b) Date of settlement (dd/mm/yyyy) – 30/11/2011 ➤ The date of settlement must be completed even where it is the same as the date of possession.

This form is comprised of two Parts –

- Part A – Transferee to complete
- Part B – Transferor to complete

**BOTH parts must be submitted
with the Form 1 Transfer.**

Information from this form is collected and used under the authority of legislation stated at the top of this form. It is provided to Qld Government departments, local authorities and water distribution entities. Some information may be included in publicly searchable records maintained by those agencies. Information from the Valuation & Sales database may be provided to data brokers who may sell it as part of an information package.

Electronic version – for completion before printing one-sided
Where insufficient space in an item, use Form 20 (Enlarged Panel).

Mark appropriate [] with 'X'
Refer to guide for completion for further information and details about the purpose of the collection of information.

3. Transferor's residential or business address after settlement

357 VICTORIA RD, WYNNUM QLD 4170

4. Details of sale price (Sale price must include GST if applicable)

(a) Property excluding water allocation		(b) Water allocation - N/A [X] OR complete below	
Cash	\$460,000.00	Cash	\$
Vendor terms	\$	Vendor terms	\$
Assumption of liabilities	\$	Assumption of liabilities	\$
	\$		\$
Other (specify above)		Other (specify above)	
Total \$460,000.00		Total \$	

5. Property details

(a) Land / Water allocation description

(b) Property address (leave blank for water allocations)

Lot	Plan type & no.	Street no.	Street name	Suburb/Town/Locality	Postcode
16	RP888123	15	JOHNSON RD	CLEVELAND	4163

(c) Property transferred includes:

(d) Current land use

(e) Water allocation - N/A [X] OR complete below

Plant & machinery	[]	Vacant land	[]	(i) Is water allocation unsupplemented?	
Livestock	[]	Dwelling	[X]	NO [] YES []	> complete (ii) below
Crops	[]	Multi-unit	[]		
Existing right	[]	Flats	[]	(ii) Reference number of the water allocation	
Movable chattels	[]	Guest house / Private hotel	[]	dealing certificate - unsupplemented	
Water licence	[]	Farming	[]		
Interim water allocation	[]	Industrial	[]		
Other:	[]	Commercial	[]		
		Other:	[]		

(f) Safety switch

(i) Is an electrical safety switch installed?

(ii) Has transferee been informed in writing about its existence?

N/A [] NO [] YES [X]

N/A [] NO [] YES [X]

(g) Smoke alarm

(i) Is a compliant smoke alarm/s installed?

(ii) Has transferee been informed in writing about its existence?

N/A [] NO [] YES [X]

N/A [] NO [] YES [X]

6. Transaction information

(a) Is there an agreement in writing for the transfer of dutiable property?

NO [] YES [X]

> If Yes, complete (b) below

(b) If Yes, provide the date of the written agreement (dd/mm/yyyy) -

1/10/2007 (leave blank if No above)

(c) Were any transferees related to or associated with any transferors at the date of the dutiable transaction?

NO [X] YES []

> If Yes, complete (d) below

(d) If Yes above, state the degree of relationship / association and supply evidence of value to Office of State Revenue -

> See guide for completion

(e) Is the consideration less than the unencumbered value of the property included in this transaction?

NO [X] YES []

> See guide for completion

(f) Is this transaction part of an arrangement that includes other dutiable transactions?

NO [X] YES []

> See guide for completion

(g) Is GST payable on this transaction? See guide for completion

NO [] YES [X]

> If Yes, complete (h) below

(h) If GST is payable, is the transaction under the margin scheme?

NO [] YES [X]

(i) Is any transferor a non-Australian entity?

NO [X] YES []

> See guide for completion

Guide to Completion of Form 24

[24-4010]

This Guide for Completion is *not* part of the Form 24 and must *not* accompany the Form 24 and Form 1 – Transfer when lodged in the Titles Registry.

The information on the Form 24 is required for the Office of State Revenue and to monitor compliance with legislative requirements relating to electrical safety switches (~~Department of Employment and Industrial Relations~~ Electrical Safety Office) and smoke alarms (~~Department of Queensland Fire and Emergency Services-Community Safety~~); and to update information held on the valuation and sales database (Department of Resources) and water management systems (~~Department of Natural Resources, Mines and Energy~~ Regional Development, Manufacturing and Water), and local authority rate records. Each agency is provided only with information relevant to their area of responsibility.

General Notes

- Two versions of this form are available –
 - The electronic version has embedded fields and may be completed in Microsoft Word or Adobe Acrobat before printing (Word version – if an embedded field expands, enter a space in it to reduce its width).
 - The printed version has visible broken lines. It must be printed and then completed by hand.
- Form 24 must accompany Titles Registry Form 1 – Transfer of either freehold (fee simple), State lease or licence, water allocation or lease under *South Bank Corporation Act 1989*.
- The transferee is responsible for the completion of items 1 and 2.
- The transferor is responsible for the completion of items 3 to 6.
- For YES, NO or N/A (NOT APPLICABLE) answers, mark appropriate [] with an 'X'.
- Insert information in the areas provided.
- If insufficient space for any item, complete and attach a Titles Registry Form 20 – Enlarged Panel.
 - In the relevant item of the Form 24, insert the words 'See Enlarged Panel' only.
 - A Form 20 may contain more than one item.
 - The Form 20 must refer to the same title reference mentioned in the Form 24, show consecutive page numbering in the top right hand corner and repeat the relevant item number and heading from the Form 24.
- Contact details for each agency are listed at [24-4120].

Part A – Page 1

Title Reference – Must be completed.

- Insert the title reference mentioned in the Form 1 – Transfer (if more than one, use the first title reference only).

- The title reference inserted in Part A must be the same title reference as inserted in Part B.

Item 1

[24-4020]

Transferee

- Items 1(a), (b) and (c) have separate rows for each transferee (maximum four).
 - If insufficient space complete and attach a Titles Registry Form 20 – Enlarged Panel.
- (a) **Given Names and Surname or Company and ACN/ABN** – Must be completed
- Complete full name of each transferee in upper case as shown on the transfer.
 - For a natural person, insert name in the format [GIVEN NAMES] [SURNAME].
 - For a company, insert company name and ACN or ABN in the format [COMPANY NAME] [ACN or ABN].
- (b) **Date of Birth** – Must be completed where the transferee is a natural person
- Date of birth is used only for Office of State Revenue purposes.
 - Complete date of birth in the format [dd/mm/yyyy] beside the corresponding name of each natural person.
 - Where the transferee is other than a natural person (e.g. trustee) leave field blank.
- (c) **Residential or Business Address after possession** – Must be completed
- On the line beside each transferee complete the residential or business address after possession.
 - Where the address is the same as the transferee on the line above, insert ‘AS ABOVE’ on the relevant line.
 - For a natural person, complete the residential address where the transferee will reside after possession.
 - For a company, complete the registered business address where business will be conducted after possession. Do not use an agent’s address (e.g. not an accountant’s or solicitor’s details) or post office box.
- (d) **Contact details after possession** – Must be completed
- (i) **Phone number**
- Insert the transferee’s or authorised representative’s contact telephone number or mobile telephone number after possession to allow ready contact for correction of information on the form or to obtain further details.

(ii) **Postal Address**

- Complete a postal address after possession to enable authorised notices to be forwarded to the transferee (e.g. rates notice, valuation notice or land tax assessment).
- If the postal address is the same as the residential or the business address mark, As above [].

(iii) **Email Address-Optional**

- Insert an email address that will be used for the service of notices under the *Land Valuation Act 2010*. The Office of State Revenue and Local Governments may also use the email address for the service of notices.

(e) **Name of Trust** – Must be completed for transfers where the transferee is a trustee

- Where transferee acts as a trustee, insert the name of the trust as shown on the instrument of trust.
- If not applicable, mark N/A [].

(f) **Is transferee a foreign person/corporation?** ~~Not applicable to a water allocation~~

Note: Additional Australian Taxation Office reporting requirement

In addition to this Queensland requirement, there is also a requirement for a foreign person to register any acquisition of residential real estate, agricultural land or water entitlements/rights with the Australian Taxation Office.

Refer to the Australian Taxation Office website for more information.

- If the Transfer only relates to a water allocation, mark N/A [].
- If the Transfer includes the transfer of freehold land, State leasehold land or a lease of freehold land/sub-lease of State leasehold land with a term (including any available options) that exceeds 25 years, mark YES [] or NO [] as indicated below.
- Mark NO [] if a transferee is not a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the *Foreign Ownership of Land Register Act 1988* and *Duties Act 2001* (see definition below).
- Mark YES [] if a transferee is a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the *Foreign Ownership of Land Register Act 1988* and *Duties Act 2001* (see definition below).
 - o If YES [] is marked, a Form 25 is required to be completed and attached to the Form 24 when submitted to the Titles Registry.

Definition of Foreign Person and Foreign Corporation

Foreign person is defined in the *Duties Act 2001* as:

1. **a foreign individual** (s. 234 Duties Act)

A **foreign individual** is an individual other than an Australian citizen or permanent resident (s. 235 Duties Act).

2. **a foreign corporation** (s. 234 Duties Act)

A foreign corporation is:

- a corporation incorporated outside Australia;
- a corporation in which (taking their interests together) foreign persons or related persons of foreign persons:
 - are in a position to control at least 50% of the voting power in the corporation; or
 - are in a position to control at least 50% of the potential voting power in the corporation; or
 - have an interest in at least 50% of the issued shares in the corporation (s. 236 Duties Act).

3. **the trustee of a foreign trust (s. 234 Duties Act)**

A **foreign trust** is a trust where at least 50% of the interests in the trust are:

- a trust interest of a foreign individual; or
- a trust interest of a foreign corporation; or
- a trust interest of a trustee of a foreign trust; or
- a trust interest held by a **related person** of a foreign individual, foreign corporation or a trustee of a foreign trust (s. 237 Duties Act).

Further information about some of the definitions above is available in Public Rulings made by the Commissioner of State Revenue which can be accessed from the Resources page on the Queensland Treasury website (<https://www.treasury.qld.gov.au/resources>).

See s. 238 of the *Duties Act 2001* regarding **related persons**.

For more information contact the Titles Registry.

(g) **Does transferee ordinarily reside in Australia?** – Not applicable to a water allocation

- Under the *Land Tax Act 2010*, a person does not ordinarily reside in Australia if that person has been absent for six months during a year or was absent from Australia as at the last 30 June.
- If not applicable, mark N/A [].

For more information contact the Office of State Revenue.

Item 2

[24-4030]

Transaction

(a) **Date of possession** – Must be completed for *every* transfer

- This includes a transfer where:
 - the transferee already resides in the premises; or
 - where there is no written contract of sale (e.g. a transfer pursuant to gift or natural love and affection; transfer pursuant to an agreement or a Court Order); or
 - the transferee does not physically move on to the property on that date (e.g. transfer of property in a time share scheme, where the transferee is letting the property to another party or where the premises are left vacant).
- The date of possession is the actual date the transferee has legal control or ownership of the property. Usually, this is the date of settlement, or the date as agreed to by both parties. That is, the date when the transferee is legally entitled

to possession not the date when physical occupation of the property is to commence.

For more information contact the Office of State Revenue.

(b) **Date of settlement** – Must be completed for *every* transfer

- The *date of settlement* **must** be completed even where it is the same as the *date of possession*.

For more information relating to land contact the State Valuation Service.

For more information relating to a water allocation contact Water Catchment Services.

[24-4035] deleted

Part B – Page 2

Title Reference – Must be completed

The title reference inserted in Part B must be the same title reference as inserted in Part A.

Item 3

[24-4040]

Transferor's residential or business address after settlement

Item 3 – Transferor's residential or business address after settlement – Must be completed

- For a natural person, complete the anticipated residential address (street address not post office box) where the transferor will reside after settlement.
- Where the transferor does not intend to have a permanent residential address after settlement; or does not yet know their new residential address, item 3 must be completed to reflect the circumstance e.g. 'no permanent residential address' or 'new address not known'. In these circumstances, and where a transferor has a post office box, the details of this also must be completed in addition to the above statement.
- For a company, complete the registered business address where business will be conducted after settlement. Do not use an agent's address (e.g. **not** an accountant's or solicitor's details) or post office box.

Item 4

[24-4050]

Details of Sale Price (Sale price must include GST if applicable)

(a) **Property excluding water allocation**

- Complete the details of the sales price in the field/s provided.
- 'Details of sale price' refers to the actual terms of the transfer of the property, ie what was given for the property mentioned in the transfer or what actions or events had to be carried out. Goods and Services Tax (GST) must be included as part of the sales price if applicable. Do not separate the GST component of the sale price (if any).

- The field 'Cash' refers to **any exchanging of money** for the property, whether under a contract of sale or deed; or any form of other written or verbal agreement/arrangement.
- Where details of sale price is **other** than cash (see point above), vendor terms or assumption of liabilities use the field 'Other' and complete the applicable terms of the transfer.
- In the 'Other' field do **not** insert 'contract of sale', 'agreement' or 'verbal agreement' etc where the terms of the sale include the exchange of cash (see definition above).
- For convenience, listed below are abbreviations that may be used in lieu of terms of the transfer to be inserted in the 'Other' field where cash, the assumption of liabilities or vendor terms does **not** apply.
- Where an abbreviation relevant to the terms of the transfer is not listed in the table below, insert appropriate details in the 'Other' field (e.g. 'EXCHANGE OF A CAR AND BOAT FOR THE LAND', 'EXCHANGE OF LOT 1 ON SP 241369 FOR LOT 63 ON RP 136941', etc.).
- Where the terms of the sale include items that may be attributed a value (e.g. car or other property), insert the value of these items, in the area provided.
- Where a sale price comprises an adjustment due to a special condition or side agreement which stipulates a rebate, discount or cash back, the following must be shown:

Cash	\$ [sale price on the contract]
Vendor terms	\$
Assumption of liabilities	\$
[Rebate, discount or cash back]	\$ [rebate or other as a negative figure]
Other (specify above)	
Total	\$ [net sale price]
- Inclusions that are being sold with the land (e.g. furniture, dishwasher, etc.) should **not** be inserted in this item. See item 5(c).
- The interest being transferred (e.g. ½ share) should **not** be shown on the Form 24. This information must be shown in the Form 1 – Transfer only.

Sales price 'Other' field – abbreviations

Brief description of terms of the transfer	Abbreviation	Brief description of terms of the transfer	Abbreviation
Change/correction of tenancy (not severance) or to resolve ownership (inc boundary realignment)	CHANGE/CORRECTION	Retirement/resignation and/or appointment of trustee, or declaration of a trust	TRUST
Court Order inc an order under the Family Law Act	COURT ORDER	Gift or Natural love and affection	GIFT
Prize in an art union	PRIZE	Severance of joint tenancy under s. 59 of <i>Land Title Act 1994</i> or s. 322A of <i>Land Act 1994</i>	SEVERANCE OF TCY

Brief description of terms of the transfer	Abbreviation	Brief description of terms of the transfer	Abbreviation
Pursuant to terms of a will (no mention of valuable consideration)	WILL		

For more information contact the Office of State Revenue.

(b) **Water Allocation**

- See 4(a) above.
- For more information about water allocations refer to water management publications available online.

Item 5

[24-4060]

Property Details

(a) **Land/Water Allocation Description** – Must be completed

- There are two rows for land and/or water allocation descriptions.
- If insufficient space complete and attach a Titles Registry Form 20 – Enlarged Panel.
- Complete the lot number/s, the plan type and the plan number/s being transferred as shown on a Current Title Search for the lot, e.g. for Lot 2 on SP 102938.

(b) **Property Address** – Not applicable to a water allocation

- Complete the address of the property beside the corresponding lot/s.
- If there is no street number, insert N/A – do not enter the lot number associated with the plan as street number.
- Properties with multi-unit dwellings should show the unit number as well as the street number (e.g. 2/24 Smith St).
- If the property is a water allocation only, leave blank.

(c) **Property Transferred includes** – Must be completed for all transfers involving land

- Mark the inclusion/s appropriate to the property.
- Movable chattels include movable articles or goods included with the transfer of the land, e.g. furniture.
- Specify further inclusion/s in the 'Other' field where necessary.
- If not applicable, leave blank, e.g. transfer of only a water allocation.

For more information contact the State Valuation Service.

(d) **Current Land Use** – Not applicable to water allocation

- Mark the land use/s appropriate to the property.
- Where the relevant land use is not listed on form (e.g. time share) specify the appropriate land use in ‘Other’ field.
- If the property being transferred is a water allocation only, leave this item blank. For any other property, it must be completed.

Land Use Definitions

<p>Vacant Land: Property/Land without visible improvement, e.g. structures.</p> <p>Dwelling: House used for single unit residential habitation usually by a family unit.</p> <p>Multi-unit: A structure which has been registered as: (a) a Building Unit or Group Title under the <i>Building Unit and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>. The structure may be used for residential, industrial, commercial or mixed purposes.</p> <p>Flats: A structure containing two or more areas designed for self contained residential occupation including groups of units held by a single Company but not registered as: (a) a Building Unit or Group Title under the <i>Building Units and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>.</p> <p>Guest House/Private Hotel: An accommodation building where room only or room and meals are provided and having shared facilities (not a motel).</p> <p>Other, specify: Those not covered above. If there is any doubt as to what land use the property may be included please specify the usage here.</p>	<p>Farming: Means the business or industry of grazing, dairying, pig farming, poultry farming, viticulture, orcharding, apiculture, horticulture, aquaculture, vegetable growing, the growing of crops of any kind, forestry or any other business or industry involving the cultivation of soils, the gathering in of crops or the rearing of livestock.</p> <p>Industrial: Includes properties used for general industry, light industry, noxious/offensive industry, harbour industry, extractive purposes and may include the following where not used for retail purposes: warehouses, bulk stores, transport terminals, service stations, oil depots, wharves, builders yards and cold stores.</p> <p>Commercial: Includes properties used for shops or shop/dwelling, shopping group, drive in shopping centres, restaurants, motels, special tourist attractions, marina, residential institutions, car parks, retail warehouse, sales area outdoor (dealers, boats, cars), offices (professional offices, finance, banks, lending agents and brokers), funeral parlours, hospitals, convalescent homes, predominantly medical care, child care, hotels/taverns, nurseries, theatre/cinema, drive in cinemas, licensed clubs, sporting facilities/clubs, caravan parks and advertising hoardings.</p>
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For more information contact the State Valuation Service.

- (e) **Water Allocation** – Not applicable to land
- If not applicable, mark N/A [].
- (i) **Is water allocation unsupplemented?**
- Unsupplemented i.e. a water supply for an allocation where the reliability is not enhanced or supplemented by releases from water storage infrastructure.
 - Indicate if the water allocation is unsupplemented.
- (ii) **Reference number of the Water Allocation Dealing Certificate – Unsupplemented**
- If the water allocation is unsupplemented complete the certificate reference of the Notice of Proposed Transfer of Unsupplemented Water Allocation.
 - If water allocation is a supplemented allocation leave blank.

For more information contact Water Catchment Services.

- (f) **Safety Switch** – Applicable to *domestic residence* only

- *Domestic residence* means a building or part of a building that is used, or designed to be used, as a single dwelling, e.g. a dwelling house, a home unit in a multi-unit development or a flat.

(i) **Is an electrical safety switch installed?**

- There is a requirement under law that an electrical safety switch must be installed for all general purpose socket outlets in every domestic residence.
- If not applicable, mark N/A [].

(ii) **Has transferee been informed in writing about its existence?**

- There is a requirement under law that the transferor must inform the transferee in writing about the existence or otherwise of an electrical safety switch in the home.
- If not applicable, mark N/A [].

For more information contact the Department of Employment and Industrial Relations), Electrical Safety Office.

(g) **Smoke Alarm** – Applicable to *domestic dwellings* only

- *Domestic dwelling* means a Class 1a building (a detached house or one or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, townhouse or a villa unit) or a Class 2 building (a building containing two or more sole-occupancy units each being a separate dwelling).

(i) **Is a compliant smoke alarm/s installed?**

- There is a requirement under the *Fire and Emergency Services Act 1990* that from 1 July 2007 the required number of smoke alarm/s that comply with Australian Standard 3786 have been installed in the domestic dwelling.
- If not applicable, mark N/A [].

(ii) **Has transferee been informed in writing about its existence?**

- There is a requirement under law that the transferor must inform the transferee in writing about the existence or otherwise of a smoke alarm/s in the domestic dwelling.
- If not applicable, mark N/A [].

For more information contact the Queensland Fire and Emergency Services.

Item 6

[24-4070]

Transaction Information

- (a) **Is there an agreement in writing for the transfer of dutiable property?** – Must be completed

- Examples of an agreement in writing include a contract of sale or any agreement in writing that has provision for the transfer of the property.
- If a written agreement has been entered into for the property being transferred, mark **YES** [].
- If there is no written agreement, mark **NO** [].

(b) **Date of written agreement** – Must be completed if section 6(a) is marked YES

- State the date the written agreement was executed.
- If there is no written agreement, leave blank.

For more information contact the Office of State Revenue.

(c) **Were any transferees related to or associated with any transferors at the date of the dutiable transaction?** – Must be completed

- A relationship includes by blood or marriage or de facto to the third degree (e.g. father to son, uncle to niece). An association may be with a person as individual or in the capacity of a related body corporate, director, shareholder or through a partnership agreement or as trustee or beneficiary of the same or another trust.
- If the transferor and transferee are related or associated at the date of the transfer, mark **YES** [].
- If there is no relationship or association at the date of the transfer, mark **NO** [].

For more information contact the Office of State Revenue.

(d) **State the degree of relationship or association and supply evidence of value** – Must be completed if section 6(c) is marked YES

- If the transferor and transferee are related or associated at the date of the transfer, state the relationship.
- If the transferor and transferee are related or associated at the date of the transfer, independent evidence of value of the property must be provided to the Office of State Revenue.
- For residential property only, the Office of State Revenue accepts as evidence of value a written opinion or market appraisal as at the date of the transfer, including three comparable sales, from a local real estate agent.
- If there is no relationship or association at the date of the transfer, leave blank.

For more information contact the Office of State Revenue.

(e) **Is the consideration less than the unencumbered value of the property included in this transaction?** – Must be completed

- Unencumbered value is the value of the property without regard to any encumbrance/liability (e.g. mortgage or lien), and it is the value the property would achieve if sold on the open market.

- Where the consideration is less than the unencumbered value of the property, provide independent evidence of value of the property to the Office of State Revenue. See 6(b) above for further information.
- If the consideration is equal to or more than the unencumbered value of the property, mark **NO** [].

For more information contact the Office of State Revenue.

(f) **Is this transaction part of an arrangement that includes other dutiable transactions?** – Must be completed

- If this transaction forms part of an arrangement that includes other dutiable transactions, provide the Office of State Revenue full details of the other transactions.
- If there are no other transactions relating to this property transfer, mark **NO** [].

For more information contact the Office of State Revenue.

(g) **Is GST payable on this transaction?** – Must be completed

- GST is payable on this transaction if the transferor is registered, or required to be registered, for GST, and conducting an enterprise as defined by the ATO.
- Mark **NO** [] to this question if the sale price quoted in item 4 is GST free and does not require an amount for GST to be remitted to the ATO.
- Mark **YES** [] to this question if the sale price quoted in item 4 includes a GST amount to be remitted to the Australian Tax Office (ATO).

For more information contact the Australian Tax Office <www.ato.gov.au> or your tax accountant.

(h) **Is this transaction under the margin scheme?** – Must be completed if section 6(g) is marked YES.

- The Margin Scheme is a different way of working out the GST payable when you sell your property.
- Whether you can use the margin scheme depends on when you purchased your property and the nature of the acquisition.
- **Mark NO** [] if the property was not sold using the Margin Scheme.
- **Mark YES** [] if you have sold this property using the Margin Scheme.
- If GST is not payable on the transaction, leave blank.

For more information contact the Australian Tax Office <www.ato.gov.au> or your tax accountant.

(i) **Is any transferor a non-Australian entity?** – Must be completed

- A “non-Australian entity” refers to:

- Individuals who are not Australian citizens (regardless of whether they are permanent residents);
 - Companies incorporated outside Australia;
 - Trusts with a country of tax residence that is not Australia; and
 - Other bodies (e.g. body politic, corporation sole) formed outside Australia.
- Mark **NO** ☐ if none of the transferors meet the definition of a non-Australian entity as detailed above.
 - Mark **YES** ☐ if a transferor meets the definition of a non-Australian entity as detailed above.
 - If **YES** ☐, please note that each non-Australian transferor will be contacted to provide an identity details annexure to the Office of State Revenue via a secure online form. A paper-based form will be available to non-Australian transferors without email access.

For more information, contact the Office of State Revenue.

PROPERTY INFORMATION (TRANSMISSION APPLICATION)

(This form must accompany **Titles Registry Form 6 – Transmission Application** when lodged in the Land Registry)
Foreign Ownership of Land Register Act 1988, Land Valuation Act 2010, Land Tax Act 2010, Local Government Act 2009, Water Act 2000, Electrical Safety Act 2002, Fire and Emergency Services Act 1990 and South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Applicant (devisee/legatee) to complete

Page 1 of 1

Official use only



Electronic version – for completion before printing.

Where insufficient space in an item, use Form 20 (Enlarged Panel).

Mark appropriate [] with 'X'

Refer to guide for completion for further information.

1. Deceased's last residential address

25 BLACKWOOD STREET, STAFFORD QLD 4053

2. Applicant

- (a) Given names & surname or Company & ACN/ABN
JOHN EDWARD SIMPSON
- (b) Date of birth (dd/mm/yyyy)
15/6/1960
- (c) Residential or business address after possession
14 VIEW DRIVE, FERNY GROVE QLD 4055
- (d) Contact details after possession
(i) Phone number - 07 3851 0022
(ii) Postal address - As above [X] OR complete address below
(iii) Email address – john.simpson@myisp.com.au
- (e) Is applicant a foreign person / corporation? **N/A** [] **NO** [X] **YES** [] ➤ Attach completed Form 25 (Foreign Ownership Information)
Note: The definition of a foreign person or corporation is defined in the *Foreign Ownership of Land Register Act 1988*.
- (f) Does applicant ordinarily reside in Australia? **N/A** [] **NO** [] **YES** [X]

3. Property details

- (a) Land / Water allocation description
Lot 12 Plan type & no. RP343922
- (b) Property address
Street no. 25 Street name BLACKWOOD STREET Suburb/Town/Locality STAFFORD Postcode 4053
- (c) Property transferred includes (d) Current land use (e) Water allocation - **N/A** [X] OR complete below
- | | | |
|------------------------------|---------------------------------|--------------------------------------------------------------------------------------------|
| Plant & machinery [] | Vacant land [] | (i) Is water allocation unsupplemented? NO [] YES [] ➤ complete (ii) below |
| Livestock [] | Dwelling [X] | |
| Crops [] | Multi-unit [] | (ii) Reference number of the water allocation dealing certificate - unsupplemented |
| Existing right [] | Flats [] | |
| Movable chattels [] | Guest house / Private hotel [] | |
| Water licence [] | Farming [] | |
| Interim water allocation [] | Industrial [] | |
| | Commercial [] | |
| Other (specify above) | Other (specify above) | |
- (f) Safety switch
(i) Is an electrical safety switch installed? **N/A** [] **NO** [] **YES** [X]
(ii) Has applicant been informed in writing about its existence? **N/A** [] **NO** [] **YES** [X]
- (g) Smoke alarm
(i) Is a compliant smoke alarm/s installed? **N/A** [] **NO** [] **YES** [X]
(ii) Has applicant been informed in writing about its existence? **N/A** [] **NO** [] **YES** [X]

Information from this form is collected and used under the authority of legislation stated at the top of this form. It is provided to Qld Government departments, local authorities and water distribution entities. Some information may be included in publicly searchable records maintained by those agencies. Information from the Valuation & Sales database may be provided to data brokers who may sell it as part of an information package.

Guide to Completion of Form 24A

[24-4080]

This Guide for Completion is not part of the Form 24A and must not accompany the Form 24A and Form 6 – Transmission Application when lodged in the Titles Registry.

The information on the Form 24A is required for the Office of State Revenue and to monitor compliance with legislative requirements relating to electrical safety switches ([Electrical Safety Office](#)~~Department of Employment and Industrial Relations~~) and smoke alarms (~~Department of Community Safety~~[Queensland Fire and Emergency Services](#)), and to update information held on the valuation and sales database ([Department of Resources](#)) and water management systems (Department of ~~Natural Resources, Mines and Energy~~[Regional Development, Manufacturing and Water](#)), and local authority rate records. Each agency is provided only with information relevant to their area of responsibility.

General Notes

- Two versions of this form are available –
 - The electronic version has embedded fields and may be completed in Microsoft Word or Adobe Acrobat before printing (Word version – if an embedded field expands, enter a space in it to reduce its width).
 - The printed version has visible broken lines. It must be printed and then completed by hand.
- Form 24A must accompany Titles Registry Form 6 – Transmission Application by a devisee/legatee of freehold (fee simple), State lease or licence, water allocation or lease under *South Bank Corporation Act 1989*.
- The applicant referred to in the Form 24A is the applicant (devisee/legatee) in the Transmission Application.
- For YES, NO or N/A (NOT APPLICABLE) answers, mark appropriate [] with an ‘X’.
- Insert information in the areas provided.
- If insufficient space for any item, complete and attach a Titles Registry Form 20 – Enlarged Panel.
 - In the relevant item of the Form 24A, insert the words ‘See Enlarged Panel’ only.
 - A Form 20 may contain more than one item.
 - The Form 20 must refer to the first title reference mentioned in the Form 6 – Transmission Application, show consecutive page numbering in the top right-hand corner and repeat the relevant item number and heading from the Form 24A.
- Contact details for each agency are listed at [24-4120].

Item 1

[24-4090]

Deceased’s last residential address – Must be completed

- Insert the last residential address of the deceased.

Item 2

[24-4100]

Applicant

- Items 2(a), (b) and (c) have separate rows for each applicant (maximum four).
 - If insufficient space, complete and attach Titles Registry Form 20 – Enlarged Panel.
- (a) **Given Names and Surname or Company and ACN/ABN** – Must be completed
- Complete full name of each applicant in upper case as shown on the Transmission Application.
 - For a natural person, insert name in the format [GIVEN NAMES] [SURNAME].
 - For a company, insert company name and ACN or ABN in the format [COMPANY NAME] [ACN or ABN].
- (b) **Date of Birth** – Must be completed where the applicant is a natural person
- Date of birth is used only for Office of State Revenue purposes.
 - Complete date of birth in the format [dd/mm/yyyy] beside the corresponding name of each natural person.
- (c) **Residential or Business Address after possession** – Must be completed
- On the line beside each applicant complete the residential or business address after possession.
 - Where the address is the same as the applicant on the line above, insert 'AS ABOVE' on the relevant line.
 - For a natural person, complete the residential address where the applicant will reside after possession.
 - For a company, complete the registered business address where business will be conducted after possession. Do not use an agent's address (e.g. **not** an accountant's or solicitors details) or post office box.
- (d) **Contact details after possession** – Must be completed
- (i) **Phone number**
- Insert the applicant's or authorised representative's contact telephone number or mobile telephone number after possession to allow ready contact for correction of information on the form or to obtain further details.

(ii) **Postal Address**

- Complete a postal address after possession to enable authorised notices to be forwarded to the applicant (e.g. rate notice, valuation notice or land tax assessment).
- If the postal address is the same as the residential or the business address, mark As above [].

(iii) **Email Address-Optional**

- Insert an email address that will be used for the service of notices under the *Land Valuation Act 2010*. The Office of State Revenue and Local Governments may also use the email address for the service of notices

(e) **Is applicant a foreign person/corporation?** – Not applicable to a water allocation

Note: Additional Australian Taxation Office reporting requirement

In addition to this Queensland requirement, there is also a requirement for a foreign person to register any acquisition of residential real estate, agricultural land or water entitlements/rights with the Australian Taxation Office.

Refer to the Australian Taxation Office website for more information.

- The *Foreign Ownership of Land Register Act 1988* only applies to land.
- If the application only relates to a water allocation, mark N/A [].
- Mark YES [] if the applicant is a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the Foreign Ownership of Land Register Act and *Duties Act 2001* (see definition below).
 - o If YES [] is marked, a Form 25 is required to be completed and attached to the Form 24A when submitted to the Titles Registry.

Definition of Foreign Person and Foreign Corporation

Foreign person is defined in the *Duties Act 2001* as:

1. a foreign individual (s. 234 Duties Act)

A **foreign individual** is an individual other than an Australian citizen or permanent resident (s. 235 Duties Act).

2. a foreign corporation (s. 234 Duties Act)

A **foreign corporation** is:

- a corporation incorporated outside Australia;
- a corporation in which (taking their interests together) foreign persons or related persons of foreign persons:
 - are in a position to control at least 50% of the voting power in the corporation; or
 - are in a position to control at least 50% of the potential voting power in the corporation; or
 - have an interest in at least 50% of the issued shares in the corporation (s. 236 Duties Act).

3. the trustee of a foreign trust (s. 234 Duties Act)

A **foreign trust** is a trust where at least 50% of the interests in the trust are:

- a trust interest of a foreign individual; or

- a trust interest of a foreign corporation; or
- a trust interest of a trustee of a foreign trust; or
- a trust interest held by a **related person** of a foreign individual, foreign corporation or a trustee of a foreign trust (s. 237 Duties Act).

Further information about some of the definitions above is available in Public Rulings made by the Commissioner of State Revenue which can be accessed from the Resources page on the Queensland Treasury website (<https://www.treasury.qld.gov.au/resources>).

See s. 238 of the *Duties Act 2001* regarding **related persons**.

For more information contact the Titles Registry.

Item 3

[24-4110]

Property Details

(a) **Land/Water Allocation Description** – Must be completed

- There are two rows for land and/or water allocation descriptions.
- If insufficient space complete and attach Land Registry Form 20 – Enlarged Panel.
- Complete the lot number/s, the plan type and the plan number/s being transmitted as shown on a Current Title Search for the lot, e.g. Lot 2 on SP 102938.

(b) **Property Address** – Not applicable to a water allocation

- Complete the address of the property beside the corresponding lot/s.
- Properties with multi-unit dwellings should show the unit number as well as the street number (e.g. 2/24 Smith St).
- If there is no street number, insert N/A – do **not** enter the lot number associated with the plan as the street number.
- If the property is a water allocation only, leave blank.

(c) **Property Transferred includes** – Must be completed for all transmissions involving land

- Mark the inclusion/s appropriate to the property.
- Specify further inclusion/s in the ‘Other’ field where necessary.
- If not applicable, leave blank, e.g. transmission of only a water allocation.

For more information contact the State Valuation Service.

(d) **Current Land Use** – Not applicable to a water allocation

- Mark the land use/s appropriate to the property.
- Where the relevant land use is not listed on the form (e.g. time share) specify the appropriate land use in the ‘Other’ field.

- If the property being transmitted is a water allocation only, leave this item blank. For any other property, it must be completed.

Land Use Definitions

<p>Vacant Land: Property/Land without visible improvement, e.g. structures.</p> <p>Dwelling: House used for single unit residential habitation usually by a family unit.</p> <p>Multi-unit: A structure which has been registered as: (a) a Building Unit or Group Title under the <i>Building Unit and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>. The structure may be used for residential, industrial, commercial or mixed purposes.</p> <p>Flats: A structure containing two or more areas designed for self contained residential occupation including groups of units held by a single Company but not registered as: (a) a Building Unit or Group Title under the <i>Building Units and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>.</p> <p>Guest House/Private Hotel: An accommodation building where room only or room and meals are provided and having shared facilities (not a motel).</p> <p>Other, specify: Those not covered above. If there is any doubt as to what land use the property may be included please specify the usage here.</p>	<p>Farming: Means the business or industry of grazing, dairying, pig farming, poultry farming, viticulture, orcharding, apiculture, horticulture, aquaculture, vegetable growing, the growing of crops of any kind, forestry or any other business or industry involving the cultivation of soils, the gathering in of crops or the rearing of livestock.</p> <p>Industrial: Includes properties used for general industry, light industry, noxious/offensive industry, harbour industry, extractive purposes and may include the following where not used for retail purposes: warehouses, bulk stores, transport terminals, service stations, oil depots, wharves, builders yards and cold stores.</p> <p>Commercial: Includes properties used for shops or shop/dwelling, shopping group, drive in shopping centres, restaurants, motels, special tourist attractions, marina, residential institutions, car parks, retail warehouse, sales area outdoor (dealers, boats, cars), offices (professional offices, finance, banks, lending agents and brokers), funeral parlours, hospitals, convalescent homes, predominantly medical care, child care, hotels/taverns, nurseries, theatre/cinema, drive in cinemas, licensed clubs, sporting facilities/clubs, caravan parks and advertising hoardings.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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For more information contact the State Valuation Service.

(e) **Water Allocation** – Not applicable to land

- If not applicable, mark N/A [].

(i) **Is water allocation unsupplemented?**

- Unsupplemented, ie a water supply for an allocation where the reliability is not enhanced or supplemented by releases from water storage infrastructure.
- Indicate if the water allocation is unsupplemented.

(ii) **Reference number of the Water Allocation Dealing Certificate – Unsupplemented**

- If the water allocation is unsupplemented complete the certificate reference of the Notice of Proposed Transfer of Unsupplemented Water Allocation.
- If water allocation is a supplemented allocation leave blank.

For more information contact Water Catchment Services.

(f) **Safety Switch** – Applicable to *domestic residence* only

- *Domestic residence* means a building or part of a building that is used, or designed to be used, as a single dwelling, e.g. a dwelling house, a home unit in a multi-unit development or a flat.

(i) **Is an electrical safety switch installed?**

- There is a requirement under law that an electrical safety switch must be installed for all general purpose socket outlets in every domestic residence.
- If not applicable, mark N/A [].

(ii) **Has applicant been informed in writing about its existence?**

- There is a requirement under law that the personal representative must inform the applicant in writing about the existence or otherwise of an electrical safety switch in the home.
- If not applicable, mark N/A [].

For more information contact the Electrical Safety Office.

(g) **Smoke Alarm** – Applicable to *domestic dwelling* only

- *Domestic dwelling* means a Class 1a building (a detached house or one or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, townhouse or a villa unit) or a Class 2 building (a building containing two or more sole-occupancy units each being a separate dwelling).

(i) **Is a compliant smoke alarm/s installed?**

- There is a requirement under the *Fire and Emergency Services Act 1990* that from 1 July 2007 the required number of smoke alarm/s that comply with Australian Standard 3786 have been installed in the domestic dwelling.
- If not applicable, mark N/A [].

(ii) **Has applicant been informed in writing about its existence?**

- There is a requirement under law that the personal representative must inform the applicant in writing about the existence or otherwise of a smoke alarm/s in the domestic dwelling.
- If not applicable, mark N/A [].

For more information contact the Queensland Fire and Emergency Services.

Contact Details for Further Information

[24-4120]

Agency	Contact Details
Queensland Treasury – Office of State Revenue www.osr.qld.gov.au	Office of State Revenue: Phone 1300 300 734
Department of Resources www.resources.qld.gov.au	State Valuation Service: <i>For all enquiries related to information required for the valuation roll, contact your local office of the Department of Resources and ask to speak to a Valuations Administration Officer.</i> Titles Registry: Phone 1300 255 750
Electrical Safety Office www.electricalsafety.qld.gov.au	Electrical Safety Office: Phone 1300 362 128
Queensland Fire and Emergency Services www.qfes.qld.gov.au	Queensland Fire and Emergency Services: Phone 13 QGOV (13 74 68)
Water Catchment Services Department of Regional Development, Manufacturing and Water www.drdrm.qld.gov.au	Water Allocations: Phone 13 QGOV (13 74 68)

eConveyancing

[24-5000]

Electronic Conveyancing and Electronic Conveyancing Document [24-5010]

Electronic Conveyancing (or eConveyancing) is the term used to refer to the electronic preparation, lodgement, processing and registration of instruments and other documents (Electronic Conveyancing Documents) for the purposes of the *Land Title Act 1994*, *Land Act 1994* and other titling legislation. It is an alternative to the traditional ‘paper based’ conveyancing system which involves the manual completion, execution and lodgement of paper forms either at a Titles Registry lodgement office, by post or through eLodgement.

An Electronic Conveyancing Document is a document under the Electronic Conveyancing National Law (Queensland) (the ECNL) that is lodged electronically through an Electronic Lodgment Network (see s. 14B of the *Land Title Act 1994* and s. 7 of the ECNL).

For more information, refer to Part 62 – eConveyancing.

The terms Electronic Conveyancing and eConveyancing are used interchangeably in this Part and throughout the Land Title Practice Manual.

Scope Restrictions

[24-5100]

Refer to the [Titles Registry Electronic Conveyancing web page](#) for the list of transactions currently available through eConveyancing.

Prescribed Requirements – Form 24 (electronic)

[24-5200]

Under the Participation Rules (Queensland) a Prescribed Requirement is a published requirement of the Registrar that Subscribers to an Electronic Lodgment Network are required to comply with.

The following are prescribed requirements under the Participation Rules (Queensland) for Subscribers that are completing a Form 24 (electronic) and Form 25 (electronic) for a *foreign person* that is required to provide a notification for the acquisition of an interest in land under s. 18(1) of the *Foreign Ownership of Land Register Act 1988*:

25-001 Where the Subscriber is completing the Form 24 (electronic) and Form 25 (electronic) for:

- (1) a natural person that is a trustee of a *foreign trust* (and not a *foreign individual*):
 - (a) where all of the foreign trust interests are wholly held by a foreign beneficiary or beneficiaries from one country only then:
 - (i) the Form 24 Question 1(f) must be marked as “YES”; and
 - (ii) the Form 25 must be completed as if it were being completed by a *foreign individual* but using the country of the foreign beneficiary or beneficiaries.
 - (b) otherwise:
 - (i) the Form 24 Question 1(f) must be marked as “NO” (a Form 25 will then not be required to be completed through electronic conveyancing); and
 - (ii) a Form 25 must be prepared in paper and sent by post or e-mail to info@titlesqld.com.au (a scanned digital copy of the signed Form 25 is acceptable) after the electronic lodgement of the relevant dealing. Refer to the relevant examples and guide to completion for a trustee of a foreign trust in [25-4010];
- (2) a natural person that is a *foreign individual* **and** a trustee of a *foreign trust*:
 - (a) the Form 24 Question 1(f) must be marked as “YES”; and
 - (b) the Form 25 must be completed as normal for a *foreign individual* using the foreign country of the *foreign individual*;
- (3) a corporation that is a trustee of a *foreign trust* (and not a *foreign corporation*):
 - (a) the Form 24 Question 1(f) must be marked as “YES”; and
 - (b) the Form 25 must be completed as if it were being completed by a *foreign corporation* but instead of entering the percentages and countries of foreign shareholders, the percentages and countries of the foreign beneficiaries of the trust must be entered;
- (4) a corporation that is a *foreign corporation* **and** a trustee of a *foreign trust*
 - (a) the Form 24 Question 1(f) must be marked as “YES”; and

- (b) the Form 25 must be completed as normal for a *foreign corporation* using the foreign country of incorporation or the percentages and countries of foreign shareholders.

Summary of the requirements for the completion of a Form 24 (electronic) and Form 25 (electronic) for a *foreign person* in eConveyancing

Entity Type	<i>foreign person</i> type as defined in the <i>Duties Act 2001</i> (Qld)	Form 24 Question 1(f)	Form 25 (electronic) Completion
Natural Person	1. <i>foreign individual</i> only	Yes	Complete as normal for a <i>foreign individual</i> using the foreign country of the <i>foreign individual</i> .
	2. trustee of a <i>foreign trust</i> only:		
	a) where the trust interests are wholly held by a foreign beneficiary or beneficiaries from <u>one country only</u>	Yes	Complete as if completing for a <i>foreign individual</i> but insert the foreign country of the foreign beneficiary/beneficiaries.
	b) trustee of a <i>foreign trust</i> otherwise	No	Do not complete a Form 25 through electronic conveyancing. Prepare a Form 25 in paper and send it by post or e-mail to info@titlesqld.com.au (a scanned digital copy of the signed Form 25 is acceptable) after the electronic lodgement of the relevant dealing. Refer to [25-4010].
	3. <i>foreign individual AND trustee of a foreign trust</i>	Yes	Complete as normal for a <i>foreign individual</i> using the foreign country of the <i>foreign individual</i> .
Corporation	1. <i>foreign corporation</i> only	Yes	Complete as normal using the foreign country of incorporation or the percentages and countries of foreign shareholders.
	2. trustee of a <i>foreign trust</i> only	Yes	Complete as if completing for a <i>foreign corporation</i> but instead of entering the percentages and countries of foreign shareholders, enter the percentages and countries of the foreign beneficiaries of the trust.
	3. <i>foreign corporation AND trustee of a foreign trust</i>	Yes	Complete as normal for a <i>foreign corporation</i> using the foreign country of incorporation or the percentages and countries of foreign shareholders.

Attachments – Form 24 (electronic)

[24-5300]

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a Form 24 (electronic).

Execution and Certification

[24-5400]

The requirements for digitally signing and making certifications for an Electronic Conveyancing Document are contained in the Participation Rules (Queensland).

Electronic Form

[24-5600]

Approved Electronic Form

[24-5610]

A Property Information (Transfer) form that is an Electronic Conveyancing Document (an eConveyancing Property Information (Transfer)) must accompany a Form 1 – Transfer (electronic) that is lodged through an Electronic Lodgment Network and be in the form approved by the Registrar under the Electronic Conveyancing National Law (Queensland). The eConveyancing Property Information (Transfer) must be digitally signed by or for each Transferor (Part B) and Transferee (Part A) as required by the approved form and Participation Rules.

Representations of the electronic form approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland) are shown below.

PROPERTY INFORMATION (TRANSFER)

PART A - Transferee to complete

Title Reference

1. Transferee

(a) Given names & Surname or Company and ACN/ARBN

(b) Date of Birth

(c) Residential or business address after possession

(d) Contact details after possession

(i) Phone number

(ii) Postal address

(iii) Email address

(e) Name of trust

(f) Is transferee a foreign person / corporation?N/A []NO []YES []

(g) Does transferee ordinarily reside in Australia?N/A []NO []YES []

2. Transaction

(a) Date of possession

(b) Date of settlement

Execution

I certify that:

Signed by:

For

On behalf of

Dated:

PROPERTY INFORMATION (TRANSFER)

PART B - Transferor to completeTitle Reference

3. Transferor's residential or business address after settlement

4. Details of sale price (Sale price must include GST if applicable)

(a) Property excluding water allocation	(b) Water Allocation - N/A []
Cash	Cash
Vendor Terms	Vendor Terms
Assumption of liabilities	Assumption of liabilities
Other	Other
Total	Total

5. Property Details

(a) Land/Water allocation description	(b) Property address						
Lot	Plan type & no.	Street no.	Street name	Suburb/Town/ Locality	Postcode		
(c) Property transferred includes:						(d) Current land use	(e) Water allocation - N/A []
Plant & machinery	[]	Vacant land	[]	(i) Is water allocation unsupplemented?			
Livestock	[]	Dwelling	[]	NO [] YES []			
Crops	[]	Multi-unit	[]	(ii) Reference number of the water allocation			
Existing right	[]	Flats	[]	dealing certificate - unsupplemented			
Moveable chattels	[]	Guest house /					
Water licence	[]	Private hotel	[]				
Interim water allocation	[]	Farming	[]				
Other:	[]	Industrial	[]				
		Commercial	[]				
		Other	[]				
(f) Safety switch							
(i) Is an electrical safety switch installed?				N/A []	NO []	YES []	
(ii) Has transferee been informed in writing about its existence?				N/A []	NO []	YES []	
(g) Smoke alarm							
(i) Is a compliant smoke alarm/s installed?				N/A []	NO []	YES []	
(ii) Has transferee been informed in writing about its existence?				N/A []	NO []	YES []	

6. Transaction information

(a) Has an agreement in writing for the transfer of dutiable property been entered into?	NO []	YES []
(b) Date of written agreement		
(c) Are the transferor and transferee related or associated at the date of the transfer?	NO []	YES []

- (d) State the degree of relationship or association and supply evidence of value to Office of State Revenue
- (e) Is the consideration less than the unencumbered value of the property included in this transaction?

NO [] YES []
- (f) Does this transaction form part of an arrangement that includes other dutiable transactions?

NO [] YES []
- (g) Is GST payable on this transaction?

NO [] YES []
- (h) Is the transaction under the margin scheme?

NO [] YES []
- (i) Is any transferor a non-Australian entity?

NO [] YES []

Execution

I certify that:

Signed by:

For
On behalf of

Dated:

Electronic Form Example

[24-5620]

PROPERTY INFORMATION (TRANSFER)**PART A - Transferee to complete**

Title Reference 14365032

812345678F

SY F24 \$0.00

21/01/2021 09:01:24

1. Transferee

- | | | |
|---------------------------------------------------|-------------------|------------------------------------------------------|
| (a) Given names & Surname or Company and ACN/ARBN | (b) Date of Birth | (c) Residential or business address after possession |
| ANN MAREE FRASER | 23/05/1965 | 6 Howson ST
MT GRAVATT QLD 4122 |
| JOHN ANDREW FRASER | 15/06/1962 | 6 Howson ST
MT GRAVATT QLD 4122 |
- (d) Contact details after possession
- | | |
|---------------------|------------------------------------|
| (i) Phone number | 07 3222 5151 |
| (ii) Postal address | 6 Howson ST
MT GRAVATT QLD 4122 |
| (iii) Email address | thefrasers@myisp.com.au |
- (e) Name of trust
- (f) Is transferee a foreign person / corporation? **N/A** [] **NO** [X] **YES** []
- (g) Does transferee ordinarily reside in Australia? **N/A** [] **NO** [] **YES** [X]

2. Transaction

- | | |
|------------------------|------------|
| (a) Date of possession | 30/11/2020 |
| (b) Date of settlement | 30/11/2020 |

Execution

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed by:

James Woodhouse
For WOODHOUSE LAWYERS
On behalf ofANN MAREE FRASER
JOHN ANDREW FRASER

Dated: 21/01/2021

PROPERTY INFORMATION (TRANSFER)

PART B - Transferor to complete Title Reference 14365032

3. Transferor's residential or business address after settlement

357 Victoria RD WYNNUM QLD 4170

4. Details of sale price (Sale price must include GST if applicable)

(a) Property excluding water allocation		(b) Water Allocation - N/A [X]	
Cash	\$549,000.00	Cash	
Vendor Terms	\$0.00	Vendor Terms	
Assumption of liabilities	\$0.00	Assumption of liabilities	
Other	\$0.00	Other	
Total	\$549,000.00	Total	

5. Property Details

(a) Land/Water allocation description		(b) Property address			
Lot	Plan type & no.	Street no.	Street name	Suburb/Town/ Locality	Postcode
16	RP888123	15	Johnson RD	CLEVELAND	4163
(c) Property transferred includes:		(d) Current land use		(e) Water allocation - N/A [X]	
Plant & machinery	<input type="checkbox"/>	Vacant land	<input type="checkbox"/>	(i) Is water allocation unsupplemented?	
Livestock	<input type="checkbox"/>	Dwelling	<input checked="" type="checkbox"/>	NO <input type="checkbox"/> YES <input type="checkbox"/>	
Crops	<input type="checkbox"/>	Multi-unit	<input type="checkbox"/>	(ii) Reference number of the water allocation	
Existing right	<input type="checkbox"/>	Flats	<input type="checkbox"/>	dealing certificate - unsupplemented	
Moveable chattels	<input type="checkbox"/>	Guest house /			
Water licence	<input type="checkbox"/>	Private hotel	<input type="checkbox"/>		
Interim water allocation	<input type="checkbox"/>	Farming	<input type="checkbox"/>		
Other:	<input type="checkbox"/>	Industrial	<input type="checkbox"/>		
		Commercial	<input type="checkbox"/>		
		Other	<input type="checkbox"/>		
(f) Safety switch					
(i) Is an electrical safety switch installed?			N/A <input type="checkbox"/>	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
(ii) Has transferee been informed in writing about its existence?			N/A <input type="checkbox"/>	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
(g) Smoke alarm					
(i) Is a compliant smoke alarm/s installed?			N/A <input type="checkbox"/>	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
(ii) Has transferee been informed in writing about its existence?			N/A <input type="checkbox"/>	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>

6. Transaction information

(a) Has an agreement in writing for the transfer of dutiable property been entered into?	NO [] YES [X]
(b) Date of written agreement	01/10/2020
(c) Are the transferor and transferee related or associated at the date of the transfer?	NO [X] YES []
(d) State the degree of relationship or association and supply evidence of value to Office of State Revenue	

Information from this form is collected and used under the authority of legislation stated at the top of this form. It is provided to Qld Government departments, local authorities and water distribution entities. Some information may be included in publicly searchable records maintained by those agencies. Information from the Valuation & Sales database may be provided to data brokers who may sell it as part of an information package.

This is a representation of the instrument that was electronically lodged

- | | |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| (e) Is the consideration less than the unencumbered value of the property included in this transaction? | NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> |
| (f) Does this transaction form part of an arrangement that includes other dutiable transactions? | NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> |
| (g) Is GST payable on this transaction? | NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> |
| (h) Is the transaction under the margin scheme? | NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> |
| (i) Is any transferor a non-Australian entity? | NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> |

Execution

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed by:

Peter Jones
For JONES LAWYERS
On behalf of
ANDREW THOMAS JACOBS
Dated: 21/01/2021

Electronic Form Notes for Completion

[24-5700]

Refer to the table below for notes for the completion of a Form 24 (electronic).

Item	Notes
Item 1(f)	<p>For Subscribers that are completing the Form 24 (electronic) for a <i>foreign person</i> that is a trustee of a <i>foreign trust</i> – refer to Prescribed Requirement 25-001 (see [24-5200] and also Part 25 esp. [25-5000]).</p> <p>Note: <u>Additional Australian Taxation Office reporting requirement</u></p> <p><u>In addition to this Queensland requirement, there is also a requirement for a foreign person to register any acquisition of residential real estate, agricultural land or water entitlements/rights with the Australian Taxation Office.</u></p> <p><u>Refer to the Australian Taxation Office website for more information.</u></p>

Cross References and Further Reading

[24-9000]

Part 25 – Foreign Ownership Information

Part 62 – eConveyancing

Notes in text

[24-9050]

Note¹ – This numbered section, paragraph or statement does not apply to water allocations

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land.

³Part 21 – Plans and Associated Documents

General Law

[21-0000]

The term ‘plan of survey’ (or ‘survey plan’ as it is also called) includes all surveys undertaken by a cadastral surveyor as defined by the *Surveyors Act 2003* and for the purpose of:

- subdividing one or more lots;
- dedicating land to public use;
- redefining a lot by resurvey;
- amalgamating two or more lots to create a smaller number of lots;
- defining an area for an easement, lease, profit a prendre or covenant; and
- any other purpose that the Registrar may require the registered proprietor to undertake.

A plan of survey does not include a sketch plan.

Definitions

[21-0010]

The definitions relevant to a plan of subdivision that may be registered in the Land Registry are as follows:

1. ‘lot’ is defined in Schedule 2 of the *Land Title Act 1994*, Schedule 6 of the *Land Act 1994* and Schedule 2 of the *Planning Act 2016*.

2. ‘plan of subdivision’ is defined in s. 49 of the Land Title Act and s. 290E of the Land Act.

There is a definition of ‘plan of subdivision’ in Schedule 24 of the *Planning Regulation 2017*. This term is intended to be similar to ‘plan of subdivision’ under the Land Title Act and Land Act, but is to be used in the context of assessing a planning body approval.

3. ‘reconfiguring a lot’ is defined in Schedule 2 of the Planning Act
4. ‘planning body’ means the relevant local government, or where applicable, the Minister for Economic Development Queensland or the Coordinator-General (s. 50(6) of the Land Title Act).

[21-0020] to [21-0040] deleted

Legislation

[21-1000]

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

Refer to [0-8100] and [0-8200].

Practice

Plan of Survey

[21-2000]

A plan of survey is a diagrammatic representation of a parcel or parcels of land showing location and dimensions. A plan may also show monuments, both natural (e.g. a lake, stream or cliff) and artificial (e.g. a peg, fence or building) found or placed in connection with the survey.

A plan of survey is prepared by a cadastral surveyor in accordance with the *Survey and Mapping Infrastructure Act 2003* and the *Surveyors Act 2003* and associated regulations and standards. Once the survey has been completed and approved by the planning body, if required, the plan is lodged in the Land Registry.

On registration by the Registrar, plans become part of the relevant register.

The freehold land register records details about ownership and other interests on the indefeasible title for a lot. It provides a record of all registered surveys and the unique identifier ('Lot [number] on [Plan reference]') of each lot. It also facilitates the lodgement of dealings with individual lots and interests.

Preparation of Plan

[21-2010]

Plans of survey must be prepared on the approved form; Form 21 – Survey Plan (Main Plan), Form 21B – Survey Plan (Administration Sheet) and if required, multiple Form 21A – Survey Plan (Additional Sheet).

All plans of survey must be drawn to the requirements set down in the Registrar of Titles Directions for the Preparation of Plans and the Cadastral Survey Requirements, and must comply with the requirements of s. 50 of the *Land Title Act 1994* and other relevant legislation.

Plan Formats

Format

[21-2020]

Standard, Building, Volumetric and Explanatory format plans use the same plan form, however the requirements for preparation of each format differ and are set out in the Registrar of Titles Directions for the Preparation of Plans.

The spatial characteristics of the lots or interests depicted on a plan are derived from the format of the plan used.

It is not permissible to create parcels of different format types on the same plan, other than in the case of easements or remainder lot(s) on a volumetric or building format plan.

The format of the plan must be shown in the 'Format' field on the first sheet of the plan.

Lots are not qualified by the adjectives 'Building', 'Remainder', 'Restricted', 'Standard' or 'Volumetric'.

Standard Format Plan

[21-2030]

A standard format plan defines parcels two dimensionally, at ground level. The new parcel will be unlimited in height and depth. They can be defined by natural monuments and/or marks placed on the ground. The plan must include dimensions and area(s).

A standard format plan cannot subdivide a single building format lot or a single volumetric format lot.

For further information of the survey requirements for a standard format plan see direction 8 of the Registrar of Titles Directions for the Preparation of Plans.

Building Format Plan

[21-2040]

A building format plan creates lots bounded by structural elements. Lots generally are defined by floors, walls and ceilings. However, some variations are addressed in direction 9 of the Registrar of Titles Directions for the Preparation of Plans.

Generally a building format plan cannot subdivide a base parcel that consists of both standard and volumetric lots. Exceptions to this are explained in direction 9.16 of the Registrar of Titles Directions for the Preparation of Plans.

Volumetric Format Plan

[21-2050]

A volumetric format plan creates lots that are defined by three dimensional co-ordinate geometry and are fully defined by bounding surfaces (e.g. a cube). The lots may be above, below or partly above and partly below ground level.

A volumetric format plan may divide a lot or lots and/or common property on a standard, building or volumetric format plan of subdivision.

For further information on the survey requirements for a volumetric format plan see direction 10 of the Registrar of Titles Directions for the Preparation of Plans.

Explanatory Format Plan

[21-2060]

An explanatory format plan provides a cost effective means to define the boundaries of an interest in land.

The purpose of an explanatory format plan is to provide a depiction of a secondary interest without any field survey. The plan is based upon mathematical calculations so that, if required in the future, the interest could be identified and marked on the ground

The plan may be used for easements or covenants over State Tenure land or leases, easements, covenants or profits a prendre over freehold land.

For an explanatory format plan the words ‘SURVEY PLAN’ on the top of the form must be crossed out and the words ‘EXPLANATORY PLAN’ placed beneath.

Every explanatory format plan to be lodged in the Land Registry must have been approved by the Registrar of Titles in writing prior to lodgement. The approval of the Registrar is required to be deposited with the plan upon lodgement.

For further information on the survey requirements for an explanatory format plan see direction 20 of the Registrar of Titles Directions for the Preparation of Plans.

Plan of Subdivision

[21-2070]

A plan of subdivision is a plan of survey that may provide for 1 or more of the following:

- division of 1 or more lots;
- amalgamation of 2 or more lots to create a smaller number of lots;

- dedication of land to public use;
- redefinition of a lot on a resurvey.

A plan of subdivision may require the approval of the relevant planning body (see [21-2130]). Additional approvals to the plan may be also required in some cases (see [21-2140] to [21-2210]). Where the land is affected by a mortgage, lease, easement, profit a prendre or statutory covenant, consents of relevant parties may be required (see [21-2230]). The plan must be consented to by the registered owner by way of completion of a Form 18A – Registered Owners/Lessee's Consent to Survey Plan and all relevant items must be completed by the appropriate person (see [21-2220] and [21-4010]).

Where the title to land being subdivided is noted with a Road Licence (RDL) endorsement this will not prevent the registration of the plan. On registration of plan the (RDL) endorsement will be recorded on all the new titles created for the land that abuts/adjoins the Road Licence. It is suggested that lodgers contact State Land Asset Management (SLAM) to address the issue of the Road Licence prior to lodgement of the plan.

Plan of Survey for Easement

[21-2080]

Section 83 of the *Land Title Act 1994* requires, for an easement (other than a high-density development easement under Part 6 Division 4AA of the Land Title Act) over part of a lot to be registered, the easement must first be designated on a registered plan of survey. If an easement is over the whole of a lot, no new plan is required as the extent of the easement is defined by the registered plan depicting the lot.

Section 83A(1) of the Land Title Act allows for the defining of boundaries of a proposed easement (other than a high-density development easement under Part 6 Division 4AA of the Land Title Act) by registration of a plan in the appropriate format. A plan that depicts an easement may show the easement as proposed whether or not the easement document that grants the easement is lodged with the plan. However, if an easement document is not lodged with the plan, the word 'proposed' must be shown on the plan.

Plans for easement purposes must comply with direction 4.8.2, and either direction 6, 8 or 10 of the Registrar of Titles Directions for the Preparation of Plans. The depiction of an easement may be included with a survey of lots on a plan of subdivision.

A plan must not depict an easement in parts.

The registration of a plan does not create an easement. An easement can only be created by registering an instrument of easement (s. 82(1) of the Land Title Act).

If a plan of survey depicting an easement that gives access to a lot from a constructed road is the reconfiguring of a lot under the *Planning Act 2016*, then the plan must have the approval of the planning body concerned, when the implementing easement instrument, executed after 25 May 2001, is lodged. Alternatively the planning body may give approval to the plan on a Form 18 – General Consent that refers to the plan of survey and easement, and must then be deposited with the easement.

In cases where the plan of survey was registered prior to the lodgement of the implementing easement instrument, the plan of survey still requires approval of the planning body. Where the plan of survey depicting an easement that gives access to a lot from a constructed road was not approved by the planning body before registration, the planning body must give approval to the plan on a Form 18 – General Consent that refers to the plan of survey and easement. The consent must then be deposited with the easement.

Notwithstanding the easement is for another purpose in addition to access, the registered plan will still require the approval of the planning body.

In the majority of cases, planning body approval is required for each plan depicting the extent of an easement that gives access to a constructed road, regardless of whether or not the easement actually abuts the road. For example, where a lot gains access through a number of easements over adjacent lots, and those easements are depicted on separate plans of survey, planning body approval is required for each plan.

In certain cases the approval of the planning body to the plan may not be required. In situations where parties consider that planning body approval is not required, sufficient evidence must be deposited with the easement.

As there is no legislated definition for a ‘constructed road’, it is sufficient to require approval by the planning body concerned, if the road has been dedicated.

Lodgement fees for a plan are payable.

Plan of Survey for Lease

[21-2090]

Where part of a lot or part of common property which is external to a building is to be leased a plan of survey must be registered to define the boundaries of the area to be subjected to the lease (s. 65(2)(b) of the *Land Title Act 1994*). These plans must comply with direction 4.8.2 and either direction 8 or 10 of the Registrar of Titles Directions for the Preparation of Plans.

One plan may be used to define any number of separate leases.

An area identifying a lease may be included with a survey of lots on a plan of subdivision.

A plan must not describe a lease as proposed and there is no requirement for a lease to be lodged immediately after the plan.

A plan must not depict the lease in parts.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

See also Part 7 Lease, [7-0050] and [7-2205].

Plan of Survey for Profit a prendre

[21-2100]

Plans for profit a prendre purposes are required to define the boundaries of the area to be subjected to the profits a prendre when only part of a lot is involved (s. 97F (1)(b) of the *Land Title Act 1994* and s. 373I(1)(b) of the *Land Act 1994*). These plans must comply with directions 4.8.2 and 19 of the Registrar of Titles Directions for the Preparation of Plans. One plan can be used to define any number of separate profits.

A plan of survey or explanatory format plan is required to precede a profit a prendre if the interest affects part of a lot. If the profit a prendre is for the whole of a lot, no plan is required.

A profit a prendre may be included with a survey of lots on a plan of subdivision.

A plan must not describe a profit a prendre as proposed and there is no requirement for a profit a prendre to be lodged immediately after the plan.

A plan must not depict the profit a prendre in parts.

Plans of survey for profits a prendre do not require approval by the planning body.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

Plan of Survey for Covenant

[21-2110]

Plans for covenant purposes are required to define the boundaries of the area to be subjected to the covenant when only part of a lot is involved (s. 97B(1)(b) of the *Land Title Act 1994* and s. 373B(1)(b) of the *Land Act 1994*). These plans must comply with directions 4.8.2 and 21 of the Registrar of Titles Directions for the Preparation of Plans. One plan can be used to define any number of separate covenants.

A plan of survey or explanatory format plan is required to precede an instrument of covenant under the Land Title Act or the Land Act if it affects part of a lot. If the covenant is over the whole of a lot, no plan of survey is required.

A covenant may be included with a survey of lots on a plan of subdivision.

A plan must not describe a covenant as proposed and there is no requirement for a covenant to be lodged immediately after the plan.

A plan must not depict the covenant in parts.

Plans of survey for covenants do not require approval by the planning body.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

Plan of Survey for Carbon Abatement Interest

[21-2115]

Plans for carbon abatement interest purposes are required to define the boundaries of the area to be subjected to the carbon abatement interest when only part of a lot is involved (s. 97O(3) of the *Land Title Act 1994* and s. 373S(3) of the *Land Act 1994*). These plans must comply with directions 4.8.2 and 24 of the Registrar of Titles Directions for the Preparation of Plans. One plan can be used to define any number of separate carbon abatement interests.

A plan of survey or explanatory format plan is required to precede an instrument of carbon abatement interest under the Land Title Act or the Land Act if it affects part of a lot. If the carbon abatement interest is over the whole of a lot, no plan of survey is required.

A carbon abatement interest may be included with a survey of lots on a plan of subdivision.

A plan must not describe a carbon abatement interest as proposed and there is no requirement for a carbon abatement interest to be lodged immediately after the plan.

A plan must not depict the carbon abatement interest in parts.

Plans of survey for carbon abatement interests do not require approval by the planning body.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

Plan of Survey for Resumption

[21-2120]

Generally

A constructing authority, defined in s. 2 of the *Acquisition of Land Act 1967*, may take land or an interest in land (for example, an easement) for a purpose stated in the schedule of the Act.

The Acquisition of Land Act provides that where part of a lot or an interest in a lot is to be taken, the land or interest to be taken must be identified on a plan of survey. If the whole of a lot is to be taken it may be described by reference to an existing description.

A plan of survey for a resumption action does not require the approval of a planning body (see [21-2130]) nor the consent of the mortgagee or other registered proprietors.

Lodgement fees are applicable except where the constructing authority is the State.

Resumption of an Easement

Where a constructing authority is taking an easement, which is over part of a lot, a plan of survey depicting the easement is required to be registered.

The plan must:

- deal only with the taking of easement action;
- identify the taken area as an easement (a proposed easement is not permitted); and
- be accompanied by a Form 18A duly completed by the constructing authority.

The plan must be accompanied by a Form 14 – General Request to register resumption (see [14-2320])

Resumption of Land

Where a constructing authority is taking part of a lot, a plan of subdivision depicting as new lots the land to be taken and the land not taken, is required to be registered.

The resumption plan must:

- deal only with the taking of land action;
- identify as a lot/s the area taken and identify the area remaining as a lot/s;
- not dedicate any new road; and
- be accompanied by a Form 18A duly completed by the constructing authority.

The plan must be accompanied by a Form 14 – General Request to register resumption (see [14-2320]).

Approval by Planning Body

[21-2130]

A plan of subdivision that provides for the division of 1 or more lots, or the dedication of land to public use land must be approved by the relevant planning body, for example the local government or where relevant, the Minister for Economic Development Queensland (MEDQ) or the Coordinator-General (s. 50(1)(i) of the *Land Title Act 1994*).

The form of the approval by the planning body is by completing an accompanying Form 18B – Planning Body Approval of Survey Plan.

Where the plan of subdivision provides only for:

- the amalgamation of 2 or more lots to create a smaller number of lots; or
- the redefinition of a lot on a resurvey; or
- under the *Body Corporate and Community Management Act 1997*, chapter 2, part 3, division 2, the incorporation of a lot with common property or conversion of lessee common property within the meaning of that Act;

the approval of the relevant planning body is not required (s. 50(1)(h) of the Land Title Act).

Subsections 50(1)(h) and (i) of the Land Title Act do not apply to a plan of subdivision that, other than for s. 50(3) of the Land Title Act, would have been required to have been approved by the relevant planning body if—

- for a plan that would have required approval by the MEDQ—the plan is not a plan of subdivision as defined in the *Economic Development Act 2012*, s. 104; or
- for a plan that would have required approval by the relevant local government—the plan is not a plan for which a process for approving the plan is provided under the *Planning Act 2016*, s. 397.

Also ss. 50(1)(h) and (i) of the Land Title Act do not apply to a plan of subdivision that, under the provision of another Act, is a plan that is not required to be approved by the relevant planning body (s. 50(4) of the Land Title Act).

An approval of a plan of subdivision is current for 6 months from the date it is given (s. 50(5) of the Land Title Act).

Where land contained in a plan of subdivision is located within a number of planning body areas, separate planning body approvals are required. For example this would occur where land is located within more than one local government area.

The Planning Regulation 2017 provides for the approval of a plan of subdivision for reconfiguring a lot. Schedule 24 of Planning Regulation 2017 provides that the following reconfigurations are not included, which are therefore exempt from local government approval:

- (i) the acquisition of land, including by agreement, under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
- (ii) the acquisition of land by agreement, other than under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
- (iii) land held by the State, or a statutory body representing the State, that is being reconfigured for a purpose for which land may be taken under the *Acquisition of Land Act 1967*, whether or not the land relates to an acquisition; or
- (iv) the acquisition of land for water infrastructure; or
- (v) a lot that is, or includes, airport land, strategic port land or Brisbane core port land; or

- (vi) a plan lodged under the *Acquisition of Land Act 1967* section 12A, as a result of a reconfiguration stated in paragraph (i) above.

If a plan is withdrawn and re-entered under s. 159 of the Land Title Act or s. 308 of the Land Act, the time between planning body approval and lodgement is calculated from the date the plan was first lodged, not the date of re-entry (s. 53 of the Land Title Act and s. 290L of the Land Act).

If a plan is fully withdrawn or rejected and is presented for re-lodgement, the date it is re-lodged is used to assess the currency of the planning body approval (see the *Acts Interpretation Act 1954* for calculation of time).

Exemption from Approval

Where a plan is exempt from local government approval under the provisions of regulation 69 and schedules 18 and 24 of the Planning Regulation 2017, for example a plan by a constructing authority for a resumption action, the plan must be accompanied by a duly completed Form 18B, signed by an appropriately authorised person, citing the relevant statutory authority for the exemption. The following statement is provided as an example:

This plan is exempt from local government approval under regulation 69 and schedules 18 and 24 of the Planning Regulation 2017.

Section 52(i) of the Australian Constitution provides the Commonwealth of Australia with exclusive power to make laws for all places acquired by the Commonwealth for public purposes. This means that State legislation cannot control the Commonwealth's use of its property, including the right to subdivide. Therefore, plans of survey of freehold land where the registered owner is the 'Commonwealth of Australia' do not require local government approval.

Under the above provision, an entity related to or owned by the Commonwealth of Australia (examples include CSIRO, Defence Housing Australia and Australian Broadcasting Corporation) may be provided the rights, powers and immunities of the Commonwealth. However, these are to be considered on a case by case basis. Where exemption from local government approval is sought, written advice of the specific legislative exemption or the specific authority that provides the entity with the entitlement to the rights, powers and immunities of the Commonwealth must be provided.

Additional Approvals

Coastal Management

[21-2140]

The *Coastal Protection and Management and Other Legislation Amendment Act 2001* (No 93 of 2001) was assented to on 10 December 2001, but the substantive provisions, including s. 25, did not commence until 20 October 2003 (the commencement date). Section 25 repealed the *Beach Protection Act 1968* and the *Canals Act 1958*.

The provisions in Division 4 of Part 2 of Chapter 6 of the *Coastal Protection and Management Act 1995* refer to planning applications in progress. In particular s. 179(2) makes reference to processing a number of applications as if the Act under which the application was made had not been repealed. Where the application predates the commencement date the plan requirements and certificates that existed under the repealed legislation continue to apply:

- For the subdivision of land within a coastal management control district the consent of the Governor in Council is required (s. 45 of the Beach Protection Act).
- When a canal is to be constructed as part of the subdivision the approval of the Governor in Council is required (s. 9 of the Canals Act).

Where the application is made on or after the 20 October 2003 requirements under the Coastal Protection and Management Act apply (see [21-2170]).

[21-2150] deleted

Artificial Waterways

Application made prior to 20 October 2003

[21-2160]

The following requirements apply to plans of subdivision where the application to the local government was made prior to 20 October 2003.

Any plan of survey creating a canal under the *Canals Act 1958* must show the canal as a separate lot and be marked as ‘CANAL’, including complete metes and bounds and an area. A transfer of canal lots to the State is required and must be capable of registration before the plan can be registered.

The plan should be approved by the planning body by way of a duly completed Form 18B, and then endorsed with the consent of the Governor in Council (s. 9(1)(e) of the *Canals Act*). The endorsement by the Executive Council will be signed by the Clerk of the Executive Council, and will be way of a duly completed Form 18B.

Application made after 20 October 2003

[21-2170]

Any plan of survey creating an artificial waterway must show the artificial waterway as a separate lot, including complete metes and bounds and an area, and indicate on the face of the plan whether the artificial waterway is canal, artificial waterway or access channel.

The term ‘CANAL’, ‘ARTIFICIAL WATERWAY’ or ‘ACCESS CHANNEL’ must be repeated wherever the lot number appears on the face of the plan, e.g.:

Lot 37		Lot 85		Lot 106
	or		or	
CANAL		ARTIFICIAL WATERWAY		ACCESS CHANNEL

In addition to the planning body approval to the subdivision, the completed Form 18B, the local government must certify on the Form 18B that:

- (a) the waterway, and any access channel associated with the waterway, is constructed in accordance with the development approval for the waterway; and
- (b) if the waterway is not a canal – the local government is satisfied arrangements have been made, or will be made, for the maintenance and management of the waterway (s. 119 of the *Coastal Protection and Management Act 1995*).

If the lot is a canal, then a Form 1 – Transfer and surrender to the State must be lodged to follow the plan. The transfer to the State must be capable of registration before the plan can be registered. Releases of any mortgages are not required for the canal lot(s).

The transfer and surrender to the State is registered over the indefeasible title created. The consideration must show a reference to the relevant legislation (e.g. s. 9 of the *Canals Act 1958* or s. 120 of the *Coastal Protection and Management Act*).

A lot that is an artificial waterway or access channel is to be dealt with as a normal fee simple lot, i.e.:

- a indefeasible title is created for the lot;

- the lot is not required to be surrendered to the State; and
- all secondary interests may remain on the title.

Access

[21-2180]

The Registrar is not obliged to ensure that a lot has access to a public road except where the lot is to be dedicated to the State for public use. Where a lot is being dedicated for public use, other than as a road, non-tidal watercourse or a lake, s. 51A(a) of the *Land Title Act 1994* and s. 290JB(a) of the *Land Act 1994* apply. Access to the lot may be by way of:

- an abutting public road; or
- a public thoroughfare easement.

If a plan does not appear to comply with the above requirements, the Minister may, upon application, under s. 51A(b) of the *Land Title Act* or s. 290JB(b) of the *Land Act* approve a plan of subdivision providing for dedication of a lot without access being available. Generally in these cases access is through an adjacent reserve and:

- the adjacent reserve has dedicated access; and
- the adjacent reserve is for the same purpose as the public use land being dedicated; and
- the trustees of the public use land being dedicated are the same as the trustees of the adjacent reserve.

The Minister may grant the approval by letter or Form 18 – General Consent.

Reservation for a Public Purpose under s. 23 of the *Land Act 1994*

[21-2190]

Where a lot is the subject of a plan of subdivision and the indefeasible title for the lot contains a reservation for a public purpose under s. 23 of the *Land Act* and the location of the land reserved is not identified in the grant, prior to lodgement the plan must be referred to the [Land and Surveying Services](#)~~State Land Asset Management~~ area of the [relevant](#) department for action. If the chief executive, under s. 23A of the *Land Act*, allocates the floating reservation to some or all of the lots created by the plan, a certificate to this effect will be made on the face of the plan and signed by a delegate of the chief executive. Alternatively, the chief executive's delegate can authorise the reservation allocation by way of a Form 18 – General Consent. The allocation certificate wording will still be shown on the face of the plan but the signature by the delegate will be provided on an accompanying Form 18.

For further information about the certificate see 2.9.2 of the Cadastral Survey Requirements.

Agreement under the *Local Government (Planning and Environment) Act 1990* or the *Local Government Act 1936*

[21-2200]

Agreements under the now repealed *Local Government (Planning and Environment) Act* or the *Local Government Act*, between the registered owner and the local government, were lodged for registration as a condition of the approval of a plan of subdivision. Typically the agreements related to lots to be held by the same registered owner.

There is no similar provision under the *Planning Act 2016*. However, s. 97A(3)(c) of the *Land Title Act 1994* and s. 373A(3) of the *Land Act 1994* allow for the registration of an instrument of covenant, which may contain similar conditions (see part 31 – Covenants).

An agreement may be cancelled with the approval of the relevant local government.

Where an agreement is cancelled in conjunction with a new plan of subdivision, a letter from the relevant local government approving cancellation must be deposited with the plan. On registration of the plan, the agreement will be removed from relevant indefeasible titles.

Where an agreement is to be cancelled and there is no new plan of subdivision lodged, an application in a Form 14 – General Request, signed by the registered owner, and the approval of the local government on a Form 18 – General Consent are required. Lodgement fees are applicable.

[21-2210] deleted

Consent by the Registered Owner/Lessee of a State lease

[21-2220]

All registered owners/lessees must consent to the plan, by way of a duly completed Form 18A – Registered Owners/Lessees Consent to Survey Plan (s. 50(1)(b)(i) of the *Land Title Act 1994* or s. 290J(1)(g)(ii) of the *Land Act 1994*).

If a person consents to the plan, by way of a duly completed Form 18A, on behalf of the registered owner/lessee under a power of attorney, the power of attorney must be registered in the Titles Registry prior to the registration of the plan. If the power of attorney is not a general power of attorney, it must grant the attorney power to subdivide. If the attorney has been delegated power to sell, this will be accepted as sufficient authority to subdivide.

When the subject land is owned/leased by a corporation, the official designations of the persons signing on behalf of the corporation must be shown on the Form 18A. The Australian Company Number should be included as part of the registered owner's name and in the seal if one is affixed on the Form 18A (see Part 50 – Corporations and Companies and Part 61 – Witnessing and Execution of Instruments or Documents for more details).

A mortgagee in possession can execute a Form 18A on behalf of the registered owner(s)/lessee(s). Evidence of default and service of the notice of demand is required to be deposited. The appropriate manner to recite in Item 2 on the Form 18A is 'XY as mortgagee in possession under Mortgage No [number]'. No reference to the registered owner's name appears on the Form 18A, however, the new indefeasible titles will be created in the name of the registered owner, subject to the registered mortgage.

Consents

Consent of Mortgagee, Lessee, Covenantee or Grantee of an Easement, Carbon Abatement Interest or of a Profit a Prendre

[21-2230]

Section 50(1)(j) of the *Land Title Act 1994* requires that a plan of subdivision (see definition of *plan of subdivision* in s. 49 of Land Title Act) must be consented to by:

- all registered mortgagees of each lot the subject of the plan; and
- all other registered proprietors (for example a lessee, covenantee or the grantee of an easement or of a profit a prendre), whose interests are affected by a plan.

The term 'affected' in this context means, the spatial extent of a registered interest is intersected by the spatial extent of new road or a new lot (including a lot for public use) depicted on a plan. The registered interest is partly or wholly extinguished to the extent intersected.

The consent must be on a Form 18 – General Consent unless otherwise stated below.

The following matrix shows where a consent is required by a registered proprietor whose interest is affected (see the definition above) by a plan of subdivision. The table does not apply to plans prepared under the *Acquisition of Land Act 1967*.

Consent of registered proprietor of affected interest required			
Affected interest	Plan depicts new lots but no public use land shown	Plan depicts new lots and shows public use land other than road	Plan depicts new road
Mortgage	Yes*	Yes*	Yes*
Lease	No	Yes	Yes
Easement (including a high-density development easement) – other than public utility easement	No	Yes	Yes No – if easement only for right of way
Easement – public utility	No	Yes No – if Minister's approval granted (by way of Statement of Intent, letter or Form 18)	Yes No – if grantee is the local government that approves the plan No – if easement only for public thoroughfare
Profit a prendre	No	Yes	Yes
Covenant – preservation or use of land	No	Yes No – if the grantee is the local government approving the plan	Yes
Covenant – binding ownership of lots	Release of covenant required	Release of covenant required	Release of covenant required
Carbon Abatement Interest	No	Yes	Yes

*A chargee of a recorded statutory charge is not required to consent to the registration of a plan unless there are specific provisions in the relevant legislation identifying the right of possession or redemption under the charge.

Consent of other parties

[21-2235]

Section 50(1)(k) of the *Land Title Act 1994* and Section 290J(1)(iv) of the *Land Act 1994* require that a plan of subdivision (see definition of plan of subdivision in s. 49 of Land Title Act and s. 290E of Land Act) that affects land the subject of a conservation agreement under the *Nature Conservation Act 1992* must be consented to by the chief executive of the department in which that Act is administered. Conservation agreement is defined in the schedule to the Nature Conservation Act. The consent must be on a Form 18 – General Consent.

[21-2240] deleted

Plan Registration Compliance Checklist

[21-2250]

A survey plan with a certification on the face of the plan by a cadastral surveyor dated on and from 1 July 2005 and not endorsed in Item ~~11~~ 5 on the plan administration sheet (Form 21B) by

an accredited surveyor must be accompanied by a Form 10 – Plan Registration Compliance Checklist under the *Survey and Mapping Infrastructure Act 2003* when lodged.

Fees

[21-2260]

Lodgement fees and fees for the creation of new indefeasible titles must be paid unless there is a statutory exemption (see [60-0892]).

The assessment of fees is based on a lodgement fee with a fee for each additional lot. The number of lots is determined by identifying all the new lots on the plan and all new secondary interests on the plan. However, areas of new road or common property are not included in this assessment.

A new title fee is charged for any lots on the plan for which an indefeasible title is to be created. Indefeasible titles are not created for public use lots. The new indefeasible titles are created on registration of the plan but in some instances additional documentation may be required to complete this process for example, transfers to resolve ownership or collateral mortgages.

Public Use Land

[21-2270]

Dedication of Land

The dedication of land to ‘public use land’ on registration of a plan of subdivision:

- is for the whole of the registered proprietor’s interest in the lot (s. 51(1) of the *Land Title Act 1994*);
- dedicates and opens any roads for the purposes of the *Land Act 1994* without anything further, (s. 51(2)(a) of the Land Title Act or s. 290JA(2)(b) of the Land Act); or
- dedicates and opens the new non-tidal boundary watercourse or lake (s. 51(2)(b) of the Land Title Act or s. 290JA(2)(c) of the Land Act); or
- dedicates lots identified on the plan as reserves for a community purpose/s under the Land Act, if the plan has been consented to by the Minister (s. 51(2)(c) of the Land Title Act or s. 290JA(2)(a) of the Land Act); or
- otherwise—the lot becomes unallocated State land under the Land Act (s. 51(2)(d) of the Land Title Act or s. 290JA(2)(d) of the Land Act).

A plan of subdivision that includes land to be dedicated for a public use may identify the area being surrendered on the face of the plan by endorsing on it any of the following:

- ROAD (or NEW ROAD);
- Lot number and ‘PUBLIC USE LAND’;
- Lot number and ‘PUL’;
- Lot number and ‘PUBLIC USE LAND’ together with the purpose.

Statement of Intent

Statement of Intent forms are State Land Asset Management forms that provide for and give Ministerial approval to action under the Land Act associated with plans of subdivision lodged under the Land Act or the Land Title Act. A Statement of Intent form is completed by a State Land Asset Management officer and signed by a delegate of the Minister.

The Statement of Intent – Plan Lodgement under the *Land Title Act 1994* form provides for and gives Ministerial approval to the dedication of freehold land as a reserve pursuant to sections 31, 31A and 44 of the Land Act. The form may only be used where the purpose of the reserve is shown on the face of the plan. The completed form is given to the registered owner of the subject land for deposit with the plan when lodged.

The Statement of Intent – Plan Lodgement under the *Land Act 1994* form provides for and gives Ministerial approval to the dedication of unallocated State land as road pursuant to s. 94 of the Land Act.

Public Use Land other than Road

[21-2280]

Lots dedicated to public use become unallocated State land on registration of the plan without any further action.

The dedication of public use land must not be shown as a condition of the approval of the plan.

If the plan depicts public use land and a community purpose listed in schedule 1 of the *Land Act 1994* is shown on the face of the plan and the action is approved by the Minister by way of a Statement of Intent – Plan Lodgement under the *Land Title Act 1994* form, on registration of the plan the lot is dedicated as a reserve.

If a lot that is the subject of dedication to public use is affected by registered encumbrances, additional instruments (such as partial releases of mortgages and surrenders of easements and leases) are not required to be lodged. For the dedication to occur on registration of the plan consents may be required (see [21-2230]).

In the case of a public utility easement over freehold land that is to become unallocated State land the easement may continue over the unallocated State land if the approval of the Minister is obtained and deposited (s. 372(5) of the Land Act). If a Statement of Intent is being used to provide approval to the dedication of the public use land as reserve, the approval to the continuation of easements may be included on the Statement of Intent. Where a Statement of Intent is not being used the approval must be by a letter or a Form 18.

Public Use Land – Road

[21-2290]

Registration of a plan that shows new road operates to dedicate the road and open it for the *Land Act 1994* without anything further (s. 51(2)(a) of the *Land Title Act 1994*).

New road depicted on a plan of subdivision may be either a standard format parcel or a volumetric format parcel.

There are a number of alternative methods outlined below to dedicate the whole of a lot to new road.

For the Dedication of Fee Simple Land as Road under s. 54 of the *Land Title Act 1994*

A registered owner of a lot may dedicate the whole of a lot as road by registering a dedication notice. A dedication notice must be made on a Form 14 – General Request and be for the whole of a lot. See [14-2315] for additional information.

For the Dedication of Fee Simple Land as Road under s. 12B of the *Acquisition of Land Act 1967*

A constructing authority having acquired fee simple land for road purposes under the *Acquisition of Land Act 1967* may dedicate a lot as road by registering a dedication notice. A dedication notice must be made on a Form 14 –General Request and be for the whole of a lot. See [14-2315] for additional information.

For the Dedication of Fee Simple Land as Road, under s. 327 of the *Land Act 1994*

A registered owner may absolutely surrender the whole of their land by way of a Form 1 – Transfer to the State of Queensland stating in Item 4 ‘a surrender pursuant to s. 327 of the *Land Act 1994* and to dedicate by way of s. 94 of the *Land Act 1994* the land as road’. See [1-2470] for additional information.

²Creation of Indefeasible Title**[21-2300]**

Generally, indefeasible titles are created for all lots on plans of subdivision when the plan is registered. The only exceptions are:

- lots dedicated to public use; and
- common property for a body corporate created pursuant to a specified Act under the *Body Corporate and Community Management Act 1997* or the *South Bank Corporation Act 1989*.

Where an instrument, such as a Form 1 – Transfer or a Form 9 – Easement, is to be lodged to immediately follow a plan of subdivision, the previous title reference from which the new lot will be created should be shown. Reference to ‘Deed to Issue’ may also be included however this is not mandatory.

²Transfer to Local Government in Fee Simple**[21-2310]**

See [1-2580] for information on preparation of a transfer to a local government in fee simple.

²Transfer to Local Government as Trustee**[21-2320]**

Land may be transferred to a local government for a public, charitable, recreation or other leisure time purpose and held by the local government **as trustee**.

For development applications on or after 30 March 1998, the *Planning Act 2016* provides that a local government may require the applicant to give to the local government, in fee simple, part of the land for local community purposes. The land must be transferred to the local government on trust.

For development applications made prior to 30 March 1998 a local government may not require the transfer of a lot to it as trustee as a condition to its approval of a plan of subdivision.

The requirement to transfer the land must not be included as a condition in the planning body approval on the Form 18B – Planning Body Approval of Survey Plan.

See [1-2570] for information on preparation of a transfer to a local government as trustee.

Realignment of Lot Boundaries**[21-2330]**

When a change of lot boundaries creates a situation where:

- the ownership arrangement of one or more of the lots is unresolved; and/or
- if there is a mortgage registered over one or more of the lots – the interest(s) of mortgagee(s) becomes uncertain;

documents resolving ownership and/or mortgagee(s) interest(s) must be lodged with the plan.

Please note that this requirement is in addition to all the other normal practice requirements that apply to a survey plan including the requirement for the deposit of necessary consents (for example, see [21-2230] and [21-2240]).

The following two cases are provided as examples.

Example 1

Diagram 1 – Existing Situation

Jones Street

Title: 12345067 Owner: A Lot 7 on SP 800543 Mortgage to XYZ Bank	Title: 15432178 Owner: B Lot 8 on SP 800543 Mortgage to ABC Bank	A owns Lot 7 on SP 800543 in Title: 12345067. B owns Lot 8 on SP 800543 in Title: 15432178.
-------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------

Diagram 2 – Desired Outcome

Jones Street

Owner: A Lot 1 on SP 876345	Owner: B Lot 2 on SP 876345	A intends to buy part of B's land (as shaded) which adjoins and hold a single title for all of the land owned.
----------------------------------------------	----------------------------------------------	----------------------------------------------------------------------------------------------------------------

The documents required to achieve the desired outcome are:

- (a) **Plan of survey**
a plan of survey (shown as plan SP 876345 in diagram 2). Indefeasible titles will be created for:
 - lots that have changed in shape due the addition of transferred land in the names of both owner A and B with no tenancy shown that is Lot 1 on SP 876345; and
 - lots that have changed in shape due to disposal of land with no change of ownership i.e. Lot 2 on SP 876345.
- (b) **Release**
Where land is being transferred from a lot which is subject to a registered mortgage(s), a release(s) must be lodged for the land being transferred. In the example, a partial release is required from ABC Bank for the part of Lot 1 on SP 876345 being transferred.
- (c) **Transfer**
A transfer, that states at Item 4 the true and full consideration that was given or undertaken, from all the owners to the eventual owner of the lot that changed in shape due to the addition of transferred land. In the example, both A and B join in a transfer of Lot 1 on SP 876345 in Title 12345067 and title 15432178 to A).
- (d) **Mortgage**
Where mortgagee(s) interests are affected, collateral mortgage(s) will be required to be registered over any new lot(s) which includes transferred land. In the example, a collateral mortgage is required from A to XYZ Bank for Lot 1 on SP 876345.

The plan of survey will not be registered until all relevant documents are lodged and capable of simultaneous registration.

Example 2

Diagram 1 – Existing Situation

Jones Street

Title: 12345067 Owner: A Lot 7 on SP 800543 Mortgage to XYZ Bank	Title: 15432178 Owner: B Lot 8 on SP 800543 Mortgage to ABC Bank	A owns Lot 7 on SP 800543 in Title: 12345067. B owns Lot 8 on SP 800543 in Title: 15432178.
-------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------

Diagram 2 – Desired Outcome

Jones Street

Title: 12345067 Owner: A Lot 1 on SP 876345	Title: 15432178 Owner: B Lot 2 on SP 876345	A intends to buy part of B's land (as hatched) and hold a single title for all of the land owned. B intends to buy part of A's land (as shaded) and hold a single title for all of the land owned.
------------------------------------------------------------------------	------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

The documents required to achieve the desired outcome are:

- (a) **Plan of survey**
a plan of survey (in the example shown as plan SP 876345 in diagram 2). Indefeasible titles will be created in the names of both owners A and B with no tenancy shown for the lots that have changed in shape due the addition of transferred land, in the example:
 - Lot 1 on SP 876345; and
 - Lot 2 on SP 876345.
- (b) **Release**
Where land is being transferred from a lot which is subject to a registered mortgage(s), a release(s) must be lodged for the land being transferred. In the example above, partial releases are required from:
 - ABC Bank for the part of Lot 1 on SP 876345 being transferred; and
 - XYZ Bank for the part of Lot 2 on SP 876345 being transferred.
- (c) **Transfer**
a transfer(s), which states at Item 4 the true and full consideration that was given or undertaken, from all the owners to the eventual owner of the lot that changed in shape due to the addition of transferred land. In the example, the following transfers are required:
 - both A and B join in a transfer of Lot 1 on SP 876345 in Title 12345067 and title 15432178 to A; and
 - both B and A join in a transfer of Lot 2 on SP 876345 in Title 12345067 and title 15432178 to B.

(d) Mortgage

Where mortgagee(s) interests are affected, collateral mortgage(s) will be required to be registered over any new lot(s) which includes transferred land. In the example the following collateral mortgages are required

- from A to XYZ Bank for Lot 1 on SP 876345; and
- from B to ABC Bank for Lot 2 on SP 876345.

The plan of survey will not be registered until all relevant documents are lodged and capable of simultaneous registration.

Forms

General Guide to Completion of Forms

[21-4000]

For general requirements for completion of forms see part 59 – Forms, esp. [59-2000].

Dealing Number



OFFICE USE ONLY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

Print one-sided only

Lodger (Name, address, E-mail & phone number)

COATES & SULLIVAN
SOLICITORS
210 ELIZABETH STREET
BRISBANE QLD 4000
mail@coatessullivan.com.au
(07) 3227 5280

Lodger

Code
320

1. Plan Number

SP333333

Title References

16560051
16560052

2. No of New Lots

4

No of Public Use Lots

0

No of Secondary Interests (e.g. Easements)

1

3. Directive Worksheet

DEPARTMENTAL OFFICE USE ONLY	LOTS	Standard		Volumetric		
Encumbrances:		Building Format		Crown		
		Standard with Common Property		Explanatory		
		QLD Globe		CTS Name check		
		Survey Certificate		Building Format Item 6 completed		
		Barcode Label		Development Approval date		
		Format of Plan		Dealing Notes		
		Form 18 Mortgagee Consent		Form 10		
		Form 18A Registered Owner		Ambulatory Boundary		
		Form 18B Planning Body Approval		Email Surveyor / Survey Group		
		All sheets lodged		CISP lodgement		
		Fees checked		Data entry		
		Allocations checked		New Title directives		
		Public Use Land				
		Park	Access	YES/NO		
		Road		YES/NO		
		No of NEW TITLES				
		Secondary Interests				

0 50m 100m 150m State copyright reserved.

LOCAL
GOVERNMENT:

LOCALITY:

Meridian:

Survey
Records

Scale:

Format:

WARNING : Folded or Mutilated Plans will not be accepted.
Plans may be rolled.
Information may not be placed in the outer margins.

Sheet of

(Dealing No.)

4. Lodged by

(Include address, phone number, email, reference, and Lodger Code)

I. Existing		Created		
Title Reference	Description	New Lots	Road	Secondary Interests
Lots		Orig		

2. Orig Grant Allocation :

3. References :

Dept File :

Local Govt :

Surveyor :

5. Passed & Endorsed :

By :

Date :

Signed :

Designation :

6. Building Format Plans only.

I certify that :

* As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or road;

* Part of the building shown on this plan encroaches onto adjoining * lots and road

.....

Cadastral Surveyor/Director* Date

*delete words not required

7. Lodgement Fees :

Survey Deposit	\$
Lodgement	\$
.....New Titles	\$
Photocopy	\$
Postage	\$
TOTAL	\$

8. Insert Plan Number

State copyright reserved.

Insert Plan Number

0 50mm 100mm 150mm

Guide to Completion of Forms 21Z/21/21A/21B

[21-4010]

Plan Cover Sheet – Form 21Z

The Form 21Z – Plan Cover Sheet must be used with the Survey Plan when it is lodged.

Item Requirements

Lodger details and Lodger Code:

The name, address, contact phone number, email address, reference and lodger code (if applicable) should be completed by the person/firm actually lodging the plan for registration, and contain the minimum information necessary for positive identification and contact by correspondence (email) and telephone.

1 Plan Number and Title References:

Insert the Plan Number and all of the Title References affected by the survey plan.

2 No of New Lots, No of Public Use Lots and No of Secondary Interests

Insert the number of new lots, the number of public use lots and the number of secondary interests.

3 Directive Worksheet

(Completed by the Titles Registry)

Survey Plan (Main Plan [21], Administration Sheet [21B] and Additional Sheet/s [21A])

A Survey Plan can only be completed by a cadastral surveyor registered under the *Surveyors Act 2003*, except for Items 3, 4 and 7 on the plan administration sheet (Form 21B).

Each plan and each sheet of the plan must be numbered and labelled in accordance with the requirements set out in Direction 4 of the Registrar of Titles Directions for the Preparation of Plans.

Administration Sheet Item Requirements (Form 21B)

1 Lot allocations and interest allocations:

(Completed by surveyor)

2 Original grant allocation:

(Completed by surveyor)

3 References:

(Optional – Completed if required by the relevant person/agency)

4 Lodger details:

The name, address, contact phone number, email address, reference and lodger code (if applicable) should be completed by the person/firm actually lodging the plan for registration, and contain the minimum information necessary for positive identification and contact by correspondence (email) and telephone.

5 Passed and endorsed:

(Completed by the Accredited Surveyor or ruled through if the plan is prepared by a non-accredited surveyor)

6 Building format plans certificate of encroachment/non-encroachment:

(Completed by a surveyor in accordance with Registrar of Titles Directions for the Preparation of Plans)

7 Lodgement Fees

(Completed by the Titles Registry)

8 Insert plan number:

(Completed by surveyor)

Consent of registered owners or lessees - Form 18A Registered Owners/Lessees Consent to Survey Plan

All registered owners/lessees must consent to a survey plan by way of a duly executed Form 18A – Registered Owners/Lessees Consent to Survey Plan deposited with the Survey Plan (see [21-2220]).

Refer to [18-4060] for the Guide to Completion for the Form 18A.

Please note that in Item 1 the full name, trust capacity (if applicable) and signature of each registered owner/lessee must be completed and for a corporation, the name and ACN or ARBN must be shown.

Planning Body Approval – Form 18B Planning Body Approval of Survey Plan

Where an approval to a plan of subdivision is required to be given by a planning body, the approval must be given by way of a Form 18B – Planning Body Approval of Survey Plan deposited with the Survey Plan (see [21-2130]).

Refer to [18-4080] for the Guide to Completion for the Form 18B.

Please note that Item 2 of the Form 18B must be completed by:

- stating the name of the relevant planning body and the legislative authority relevant to the approval; and
- being signed and dated by an appropriately authorised person with their authority stated.

[21-4020] and [21-6000] deleted

Case Law

***Rock v Todeschino* [1983] Qd R 356**

[21-7000]

In this case and in *Hutchinson v Lemon* [1983] Q Conv R 54-072, it was held that the registration of a plan indicating an easement was sufficient to grant that easement. No instrument of easement was required to effect registration of the easement.

The effect of these decisions is now negated by s. 83A of the *Land Title Act 1994*, which expressly states that the registration of a plan of easement does not create the easement or evidence a present intention to create an easement.

[21-7010] deleted

Fees

[21-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60-8000].

Cross References and Further Reading

[21-9000]

Part 1 – Transfer

Part 7 – Lease

Part 9 – Easement

Part 14 – General Request

Part 18 – General Consent

Part 29 – Profit a Prendre

Part 31 – Covenants

Part 36 – Carbon Abatement Interest

Part 45 – Community Title Schemes

Registrar of Titles Directions for the Preparation of Plans

Notes in text

[21-9050]

Note ¹ – This part is not applicable to water allocations.

Note ² – This numbered section, paragraph or statement does not apply State Land.

Note ³ – This numbered section, paragraph or statement does not apply to freehold land.

Part 24 – Property Information (Transfer) and Property Information (Transmission Application)

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Part 24 – Property Information (Transfer) and Property Information (Transmission Application)

General Law

[24-0000]

Form 24 – Property Information (Transfer) and Form 24A Property Information (Transmission Application) are common forms deposited with the Titles Registry to collect information on behalf of government agencies other than the Titles Registry.

The information is required by the following agencies and for the purposes stated:

- Office of State Revenue (Queensland Treasury) – to assist with statutory obligations for the administration and collection of land tax and duty on land
- [Electrical Safety Office](#) – to monitor compliance with legislative requirements relating to electrical safety switches
- [Queensland Fire and Emergency Services](#) – to monitor compliance with legislative requirements relating to smoke alarms
- [State Valuation Service](#) (Department of Resources) – to update information held on the valuation and sales database
- [Land Administration & Acquisition](#) – to update information in the Land Tenure Ledger
- [Water Catchment Services](#) (Department of Regional Development, Manufacturing and Water) – to assist with the maintenance of the water management system
- Local governments – to assist with the updating of local government rates records and water.
- Water distributor-retailers – to assist with the maintenance of records relating to supply of retail water.

Legislation

[24-1000]

^{2,3}Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, an interest or dealing may be registered in a way mentioned in the Land Title Act, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act:

- as if a reference to the freehold land register is a reference to the water allocations register; and
- as if a reference to freehold land or land is a reference to a water allocation; and
- as if a reference to a lot is a reference to a water allocation; and
- with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8200] and [0-8300].

Practice

[24-2000] deleted

Lodgement

[24-2010]

The Guides to Completion of the Form 24 or the Form 24A are not to be deposited in the Titles Registry with the respective form.

Images of the Form 24 are not available to the public, and the information contained in these forms is not available from the Titles Registry.

Form 24 must accompany the Form 1 – Transfer while the Form 24A must accompany the Form 6 – Transmission Application for Registration as Devisee/Legatee of:

- ¹land where the registered proprietor is responsible for the payment of local government rates and charges (namely the fee simple, a State lease or licence, or a lease under *South Bank Corporation Act 1989*); or
- a water allocation.

^{1,3}However, a Form 24 is not required to be deposited with a transfer pursuant to s. 327 of the *Land Act 1994* (an absolute surrender to the State) or a transfer that temporarily surrenders land to the State to allow action under s. 358 of the *Land Act*.

²A Form 1 – Transfer with an intermediate party will necessitate a Form 24 for each contract, to supply details of the intermediaries. Only the current owner and new registered owner details are to be contained on the Form 1.

^{1,3}Version 2 of Forms 1 or 6 will be accepted with a Form 100 – Common Form, provided both were executed before 31 December 1995. A transfer, record of death or transmission by death of the fee simple that were executed between 1 May 1992 and 24 April 1994 must also be deposited with a Form 100. A Form 100 is processed as if it were a Form 24.

[24-2020] deleted

Supply of Correct or Additional Information

[24-2030]

State Valuation Service staff of the department examine details on the Form 24 and Form 24A when received from the Automated Titles System. If information is subsequently found to be deficient when examined, the Valuer-General or delegate may issue a notice to fix the defect to obtain the necessary information to complete the form (s. 246 of the *Land Valuation Act 2010*).

The lodger of the Form 24/Form 24A or the registered owner or holder may provide correct or additional information relevant to the form to either the Titles Registry or State Valuation Service.

The following procedures will apply for notification of correct or additional information:

- (A) If the notification is from a lawyer it may be either by –

- a statutory declaration signed by a lawyer; or
 - a letter on the firm's letterhead signed by a lawyer.
- (B) If the notification is from a private individual it must be by way of a statutory declaration.
- In either case a new Form 24/Form 24A may be also deposited but is not mandatory.
 - Following formal notification of correct or additional information –
 - The original data in the Automated Titles System is updated by regional State Valuation Service or Titles Registry staff depending on where the notification was received.
 - A copy of the originally deposited Form 24/Form 24A together with the notification and any supporting documentation are scanned in to the registry imaging system.
 - An Update Report will be produced by the Automated Titles System and be supplied with the next data distribution to relevant agencies.

Forms

General Guide to Completion of Forms

[24-4000]

For general requirements for completion of forms see part 59 – Forms.

(This form must accompany **Titles Registry Form 1 – Transfer** when lodged in the Land Registry)*Foreign Ownership of Land Register Act 1988, Duties Act 2001, Land Valuation Act 2010, Land Tax Act 2010, Local Government Act 2009, Water Act 2000, Electrical Safety Act 2002, Fire and Emergency Services Act 1990 and South-East Queensland Water (Distribution and Retail Restructuring) Act 2009, Taxation Administration Act 2001***PART A – Transferee to complete**

Title reference [14365032]

Page 1 of 2

Electronic version – for completion before printing one-sided only.

Where insufficient space in an item, use Form 20
(Enlarged Panel).**Mark appropriate [] with 'X'**Refer to guide for completion for further information and details
about the purpose of the collection of information.**Official use only****1. Transferee**

- (a) Given names & surname or Company & ACN/ABN
ANN MAREE FRASER
JOHN ANDREW FRASER
- (b) Date of birth (dd/mm/yyyy)
23/5/1965
15/6/1962
- (c) Residential or business address after possession
6 HOWSON ST, MT GRAVATT 4122
6 HOWSON ST, MT GRAVATT 4122
- (d) Contact details after possession
(i) Phone number - 07 3222 5151
(ii) Postal address - As above [] OR complete address below
PO BOX 359, BULIMBA QLD 4121
(iii) Email address – thefrasers@myisp.com.au
- (e) Name of trust - N/A [X] or complete -
- (f) Is transferee a foreign person / corporation? N/A [] NO [X] YES [] ➤ Attach completed Form 25
(Foreign Ownership Information)
- Note:** The definition of a foreign person or corporation is defined in the Foreign Ownership of Land Register Act 1988. Refer to guide for completion for more information. (N/A if only for a Water Allocation)
- (g) Does transferee ordinarily reside in Australia? N/A [] NO [] YES [X] (N/A if only for a Water Allocation)

2. Transaction

- (a) Date of possession (dd/mm/yyyy) – 30/11/2011 ➤ The date of possession is the actual date the transferee has legal control or ownership of the property. Usually, this is the date of settlement, or the date as agreed to by both parties.
- (b) Date of settlement (dd/mm/yyyy) – 30/11/2011 ➤ The date of settlement must be completed even where it is the same as the date of possession.

This form is comprised of two Parts –

- Part A – Transferee to complete
- Part B – Transferor to complete

**BOTH parts must be submitted
with the Form 1 Transfer.**

Information from this form is collected and used under the authority of legislation stated at the top of this form. It is provided to Qld Government departments, local authorities and water distribution entities. Some information may be included in publicly searchable records maintained by those agencies. Information from the Valuation & Sales database may be provided to data brokers who may sell it as part of an information package.

Electronic version – for completion before printing one-sided
Where insufficient space in an item, use Form 20 (Enlarged Panel).

Mark appropriate [] with 'X'
Refer to guide for completion for further information and details about the purpose of the collection of information.

3. Transferor's residential or business address after settlement

357 VICTORIA RD, WYNNUM QLD 4170

4. Details of sale price (Sale price must include GST if applicable)

(a) Property excluding water allocation		(b) Water allocation - N/A [X] OR complete below	
Cash	\$460,000.00	Cash	\$
Vendor terms	\$	Vendor terms	\$
Assumption of liabilities	\$	Assumption of liabilities	\$
	\$		\$
Other (specify above)		Other (specify above)	
Total \$460,000.00		Total \$	

5. Property details

(a) Land / Water allocation description

(b) Property address (leave blank for water allocations)

Lot	Plan type & no.	Street no.	Street name	Suburb/Town/Locality	Postcode
16	RP888123	15	JOHNSON RD	CLEVELAND	4163

(c) Property transferred includes:

(d) Current land use

(e) Water allocation - N/A [X] OR complete below

Plant & machinery	[]	Vacant land	[]	(i) Is water allocation unsupplemented?	
Livestock	[]	Dwelling	[X]	NO [] YES []	> complete (ii) below
Crops	[]	Multi-unit	[]		
Existing right	[]	Flats	[]	(ii) Reference number of the water allocation	
Movable chattels	[]	Guest house / Private hotel	[]	dealing certificate - unsupplemented	
Water licence	[]	Farming	[]		
Interim water allocation	[]	Industrial	[]		
Other:	[]	Commercial	[]		
		Other:	[]		

(f) Safety switch

(i) Is an electrical safety switch installed?

(ii) Has transferee been informed in writing about its existence?

N/A [] NO [] YES [X]

N/A [] NO [] YES [X]

(g) Smoke alarm

(i) Is a compliant smoke alarm/s installed?

(ii) Has transferee been informed in writing about its existence?

N/A [] NO [] YES [X]

N/A [] NO [] YES [X]

6. Transaction information

(a) Is there an agreement in writing for the transfer of dutiable property?

NO [] YES [X]

> If Yes, complete (b) below

(b) If Yes, provide the date of the written agreement (dd/mm/yyyy) -

1/10/2007 (leave blank if No above)

(c) Were any transferees related to or associated with any transferors at the date of the dutiable transaction?

NO [X] YES []

> If Yes, complete (d) below

(d) If Yes above, state the degree of relationship / association and supply evidence of value to Office of State Revenue -

> See guide for completion

(e) Is the consideration less than the unencumbered value of the property included in this transaction?

NO [X] YES []

> See guide for completion

(f) Is this transaction part of an arrangement that includes other dutiable transactions?

NO [X] YES []

> See guide for completion

(g) Is GST payable on this transaction? See guide for completion

NO [] YES [X]

> If Yes, complete (h) below

(h) If GST is payable, is the transaction under the margin scheme?

NO [] YES [X]

(i) Is any transferor a non-Australian entity?

NO [X] YES []

> See guide for completion

Guide to Completion of Form 24

[24-4010]

This Guide for Completion is *not* part of the Form 24 and must *not* accompany the Form 24 and Form 1 – Transfer when lodged in the Titles Registry.

The information on the Form 24 is required for the Office of State Revenue and to monitor compliance with legislative requirements relating to electrical safety switches (~~Department of Employment and Industrial Relations~~ Electrical Safety Office) and smoke alarms (~~Department of Queensland Fire and Emergency Services-Community Safety~~); and to update information held on the valuation and sales database (Department of Resources) and water management systems (~~Department of Natural Resources, Mines and Energy~~ Regional Development, Manufacturing and Water), and local authority rate records. Each agency is provided only with information relevant to their area of responsibility.

General Notes

- Two versions of this form are available –
 - The electronic version has embedded fields and may be completed in Microsoft Word or Adobe Acrobat before printing (Word version – if an embedded field expands, enter a space in it to reduce its width).
 - The printed version has visible broken lines. It must be printed and then completed by hand.
- Form 24 must accompany Titles Registry Form 1 – Transfer of either freehold (fee simple), State lease or licence, water allocation or lease under *South Bank Corporation Act 1989*.
- The transferee is responsible for the completion of items 1 and 2.
- The transferor is responsible for the completion of items 3 to 6.
- For YES, NO or N/A (NOT APPLICABLE) answers, mark appropriate [] with an 'X'.
- Insert information in the areas provided.
- If insufficient space for any item, complete and attach a Titles Registry Form 20 – Enlarged Panel.
 - In the relevant item of the Form 24, insert the words 'See Enlarged Panel' only.
 - A Form 20 may contain more than one item.
 - The Form 20 must refer to the same title reference mentioned in the Form 24, show consecutive page numbering in the top right hand corner and repeat the relevant item number and heading from the Form 24.
- Contact details for each agency are listed at [24-4120].

Part A – Page 1

Title Reference – Must be completed.

- Insert the title reference mentioned in the Form 1 – Transfer (if more than one, use the first title reference only).

- The title reference inserted in Part A must be the same title reference as inserted in Part B.

Item 1

[24-4020]

Transferee

- Items 1(a), (b) and (c) have separate rows for each transferee (maximum four).
 - If insufficient space complete and attach a Titles Registry Form 20 – Enlarged Panel.
- (a) **Given Names and Surname or Company and ACN/ABN** – Must be completed
- Complete full name of each transferee in upper case as shown on the transfer.
 - For a natural person, insert name in the format [GIVEN NAMES]
[SURNAME].
 - For a company, insert company name and ACN or ABN in the format
[COMPANY NAME] [ACN or ABN].
- (b) **Date of Birth** – Must be completed where the transferee is a natural person
- Date of birth is used only for Office of State Revenue purposes.
 - Complete date of birth in the format [dd/mm/yyyy] beside the corresponding name of each natural person.
 - Where the transferee is other than a natural person (e.g. trustee) leave field blank.
- (c) **Residential or Business Address after possession** – Must be completed
- On the line beside each transferee complete the residential or business address after possession.
 - Where the address is the same as the transferee on the line above, insert ‘AS ABOVE’ on the relevant line.
 - For a natural person, complete the residential address where the transferee will reside after possession.
 - For a company, complete the registered business address where business will be conducted after possession. Do not use an agent’s address (e.g. not an accountant’s or solicitor’s details) or post office box.
- (d) **Contact details after possession** – Must be completed
- (i) **Phone number**
- Insert the transferee’s or authorised representative’s contact telephone number or mobile telephone number after possession to allow ready contact for correction of information on the form or to obtain further details.

(ii) **Postal Address**

- Complete a postal address after possession to enable authorised notices to be forwarded to the transferee (e.g. rates notice, valuation notice or land tax assessment).
- If the postal address is the same as the residential or the business address mark, As above [].

(iii) **Email Address-Optional**

- Insert an email address that will be used for the service of notices under the *Land Valuation Act 2010*. The Office of State Revenue and Local Governments may also use the email address for the service of notices.

(e) **Name of Trust** – Must be completed for transfers where the transferee is a trustee

- Where transferee acts as a trustee, insert the name of the trust as shown on the instrument of trust.
- If not applicable, mark N/A [].

(f) **Is transferee a foreign person/corporation?** ~~Not applicable to a water allocation~~

Note: Additional Australian Taxation Office reporting requirement

In addition to this Queensland requirement, there is also a requirement for a foreign person to register any acquisition of residential real estate, agricultural land or water entitlements/rights with the Australian Taxation Office.

Refer to the Australian Taxation Office website for more information.

- If the Transfer only relates to a water allocation, mark N/A [].
- If the Transfer includes the transfer of freehold land, State leasehold land or a lease of freehold land/sub-lease of State leasehold land with a term (including any available options) that exceeds 25 years, mark YES [] or NO [] as indicated below.
- Mark NO [] if a transferee is not a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the *Foreign Ownership of Land Register Act 1988* and *Duties Act 2001* (see definition below).
- Mark YES [] if a transferee is a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the *Foreign Ownership of Land Register Act 1988* and *Duties Act 2001* (see definition below).
 - o If YES [] is marked, a Form 25 is required to be completed and attached to the Form 24 when submitted to the Titles Registry.

Definition of Foreign Person and Foreign Corporation

Foreign person is defined in the *Duties Act 2001* as:

1. a foreign individual (s. 234 Duties Act)

A **foreign individual** is an individual other than an Australian citizen or permanent resident (s. 235 Duties Act).

2. a foreign corporation (s. 234 Duties Act)

A foreign corporation is:

- a corporation incorporated outside Australia;
- a corporation in which (taking their interests together) foreign persons or related persons of foreign persons:
 - are in a position to control at least 50% of the voting power in the corporation; or
 - are in a position to control at least 50% of the potential voting power in the corporation; or
 - have an interest in at least 50% of the issued shares in the corporation (s. 236 Duties Act).

3. **the trustee of a foreign trust (s. 234 Duties Act)**

A **foreign trust** is a trust where at least 50% of the interests in the trust are:

- a trust interest of a foreign individual; or
- a trust interest of a foreign corporation; or
- a trust interest of a trustee of a foreign trust; or
- a trust interest held by a **related person** of a foreign individual, foreign corporation or a trustee of a foreign trust (s. 237 Duties Act).

Further information about some of the definitions above is available in Public Rulings made by the Commissioner of State Revenue which can be accessed from the Resources page on the Queensland Treasury website (<https://www.treasury.qld.gov.au/resources>).

See s. 238 of the *Duties Act 2001* regarding **related persons**.

For more information contact the Titles Registry.

(g) **Does transferee ordinarily reside in Australia?** – Not applicable to a water allocation

- Under the *Land Tax Act 2010*, a person does not ordinarily reside in Australia if that person has been absent for six months during a year or was absent from Australia as at the last 30 June.
- If not applicable, mark N/A [].

For more information contact the Office of State Revenue.

Item 2

[24-4030]

Transaction

(a) **Date of possession** – Must be completed for *every* transfer

- This includes a transfer where:
 - the transferee already resides in the premises; or
 - where there is no written contract of sale (e.g. a transfer pursuant to gift or natural love and affection; transfer pursuant to an agreement or a Court Order); or
 - the transferee does not physically move on to the property on that date (e.g. transfer of property in a time share scheme, where the transferee is letting the property to another party or where the premises are left vacant).
- The date of possession is the actual date the transferee has legal control or ownership of the property. Usually, this is the date of settlement, or the date as agreed to by both parties. That is, the date when the transferee is legally entitled

to possession not the date when physical occupation of the property is to commence.

For more information contact the Office of State Revenue.

(b) **Date of settlement** – Must be completed for *every* transfer

- The *date of settlement* **must** be completed even where it is the same as the *date of possession*.

For more information relating to land contact the State Valuation Service.

For more information relating to a water allocation contact Water Catchment Services.

[24-4035] deleted

Part B – Page 2

Title Reference – Must be completed

The title reference inserted in Part B must be the same title reference as inserted in Part A.

Item 3

[24-4040]

Transferor's residential or business address after settlement

Item 3 – Transferor's residential or business address after settlement – Must be completed

- For a natural person, complete the anticipated residential address (street address not post office box) where the transferor will reside after settlement.
- Where the transferor does not intend to have a permanent residential address after settlement; or does not yet know their new residential address, item 3 must be completed to reflect the circumstance e.g. 'no permanent residential address' or 'new address not known'. In these circumstances, and where a transferor has a post office box, the details of this also must be completed in addition to the above statement.
- For a company, complete the registered business address where business will be conducted after settlement. Do not use an agent's address (e.g. **not** an accountant's or solicitor's details) or post office box.

Item 4

[24-4050]

Details of Sale Price (Sale price must include GST if applicable)

(a) **Property excluding water allocation**

- Complete the details of the sales price in the field/s provided.
- 'Details of sale price' refers to the actual terms of the transfer of the property, ie what was given for the property mentioned in the transfer or what actions or events had to be carried out. Goods and Services Tax (GST) must be included as part of the sales price if applicable. Do not separate the GST component of the sale price (if any).

- The field 'Cash' refers to **any exchanging of money** for the property, whether under a contract of sale or deed; or any form of other written or verbal agreement/arrangement.
- Where details of sale price is **other** than cash (see point above), vendor terms or assumption of liabilities use the field 'Other' and complete the applicable terms of the transfer.
- In the 'Other' field do **not** insert 'contract of sale', 'agreement' or 'verbal agreement' etc where the terms of the sale include the exchange of cash (see definition above).
- For convenience, listed below are abbreviations that may be used in lieu of terms of the transfer to be inserted in the 'Other' field where cash, the assumption of liabilities or vendor terms does **not** apply.
- Where an abbreviation relevant to the terms of the transfer is not listed in the table below, insert appropriate details in the 'Other' field (e.g. 'EXCHANGE OF A CAR AND BOAT FOR THE LAND', 'EXCHANGE OF LOT 1 ON SP 241369 FOR LOT 63 ON RP 136941', etc.).
- Where the terms of the sale include items that may be attributed a value (e.g. car or other property), insert the value of these items, in the area provided.
- Where a sale price comprises an adjustment due to a special condition or side agreement which stipulates a rebate, discount or cash back, the following must be shown:

Cash	\$ [sale price on the contract]
Vendor terms	\$
Assumption of liabilities	\$
[Rebate, discount or cash back]	\$ [rebate or other as a negative figure]
Other (specify above)	
Total	\$ [net sale price]
- Inclusions that are being sold with the land (e.g. furniture, dishwasher, etc.) should **not** be inserted in this item. See item 5(c).
- The interest being transferred (e.g. ½ share) should **not** be shown on the Form 24. This information must be shown in the Form 1 – Transfer only.

Sales price 'Other' field – abbreviations

Brief description of terms of the transfer	Abbreviation	Brief description of terms of the transfer	Abbreviation
Change/correction of tenancy (not severance) or to resolve ownership (inc boundary realignment)	CHANGE/CORRECTION	Retirement/resignation and/or appointment of trustee, or declaration of a trust	TRUST
Court Order inc an order under the Family Law Act	COURT ORDER	Gift or Natural love and affection	GIFT
Prize in an art union	PRIZE	Severance of joint tenancy under s. 59 of <i>Land Title Act 1994</i> or s. 322A of <i>Land Act 1994</i>	SEVERANCE OF TCY

Brief description of terms of the transfer	Abbreviation	Brief description of terms of the transfer	Abbreviation
Pursuant to terms of a will (no mention of valuable consideration)	WILL		

For more information contact the Office of State Revenue.

(b) **Water Allocation**

- See 4(a) above.
- For more information about water allocations refer to water management publications available online.

Item 5

[24-4060]

Property Details

(a) **Land/Water Allocation Description** – Must be completed

- There are two rows for land and/or water allocation descriptions.
- If insufficient space complete and attach a Titles Registry Form 20 – Enlarged Panel.
- Complete the lot number/s, the plan type and the plan number/s being transferred as shown on a Current Title Search for the lot, e.g. for Lot 2 on SP 102938.

(b) **Property Address** – Not applicable to a water allocation

- Complete the address of the property beside the corresponding lot/s.
- If there is no street number, insert N/A – do not enter the lot number associated with the plan as street number.
- Properties with multi-unit dwellings should show the unit number as well as the street number (e.g. 2/24 Smith St).
- If the property is a water allocation only, leave blank.

(c) **Property Transferred includes** – Must be completed for all transfers involving land

- Mark the inclusion/s appropriate to the property.
- Movable chattels include movable articles or goods included with the transfer of the land, e.g. furniture.
- Specify further inclusion/s in the 'Other' field where necessary.
- If not applicable, leave blank, e.g. transfer of only a water allocation.

For more information contact the State Valuation Service.

(d) **Current Land Use** – Not applicable to water allocation

- Mark the land use/s appropriate to the property.
- Where the relevant land use is not listed on form (e.g. time share) specify the appropriate land use in ‘Other’ field.
- If the property being transferred is a water allocation only, leave this item blank. For any other property, it must be completed.

Land Use Definitions

<p>Vacant Land: Property/Land without visible improvement, e.g. structures.</p> <p>Dwelling: House used for single unit residential habitation usually by a family unit.</p> <p>Multi-unit: A structure which has been registered as: (a) a Building Unit or Group Title under the <i>Building Unit and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>. The structure may be used for residential, industrial, commercial or mixed purposes.</p> <p>Flats: A structure containing two or more areas designed for self contained residential occupation including groups of units held by a single Company but not registered as: (a) a Building Unit or Group Title under the <i>Building Units and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>.</p> <p>Guest House/Private Hotel: An accommodation building where room only or room and meals are provided and having shared facilities (not a motel).</p> <p>Other, specify: Those not covered above. If there is any doubt as to what land use the property may be included please specify the usage here.</p>	<p>Farming: Means the business or industry of grazing, dairying, pig farming, poultry farming, viticulture, orcharding, apiculture, horticulture, aquaculture, vegetable growing, the growing of crops of any kind, forestry or any other business or industry involving the cultivation of soils, the gathering in of crops or the rearing of livestock.</p> <p>Industrial: Includes properties used for general industry, light industry, noxious/offensive industry, harbour industry, extractive purposes and may include the following where not used for retail purposes: warehouses, bulk stores, transport terminals, service stations, oil depots, wharves, builders yards and cold stores.</p> <p>Commercial: Includes properties used for shops or shop/dwelling, shopping group, drive in shopping centres, restaurants, motels, special tourist attractions, marina, residential institutions, car parks, retail warehouse, sales area outdoor (dealers, boats, cars), offices (professional offices, finance, banks, lending agents and brokers), funeral parlours, hospitals, convalescent homes, predominantly medical care, child care, hotels/taverns, nurseries, theatre/cinema, drive in cinemas, licensed clubs, sporting facilities/clubs, caravan parks and advertising hoardings.</p>
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For more information contact the State Valuation Service.

- (e) **Water Allocation** – Not applicable to land
- If not applicable, mark N/A [].
- (i) **Is water allocation unsupplemented?**
- Unsupplemented i.e. a water supply for an allocation where the reliability is not enhanced or supplemented by releases from water storage infrastructure.
 - Indicate if the water allocation is unsupplemented.
- (ii) **Reference number of the Water Allocation Dealing Certificate – Unsupplemented**
- If the water allocation is unsupplemented complete the certificate reference of the Notice of Proposed Transfer of Unsupplemented Water Allocation.
 - If water allocation is a supplemented allocation leave blank.

For more information contact Water Catchment Services.

- (f) **Safety Switch** – Applicable to *domestic residence* only

- *Domestic residence* means a building or part of a building that is used, or designed to be used, as a single dwelling, e.g. a dwelling house, a home unit in a multi-unit development or a flat.

(i) **Is an electrical safety switch installed?**

- There is a requirement under law that an electrical safety switch must be installed for all general purpose socket outlets in every domestic residence.
- If not applicable, mark N/A [].

(ii) **Has transferee been informed in writing about its existence?**

- There is a requirement under law that the transferor must inform the transferee in writing about the existence or otherwise of an electrical safety switch in the home.
- If not applicable, mark N/A [].

For more information contact the Department of Employment and Industrial Relations), Electrical Safety Office.

(g) **Smoke Alarm** – Applicable to *domestic dwellings* only

- *Domestic dwelling* means a Class 1a building (a detached house or one or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, townhouse or a villa unit) or a Class 2 building (a building containing two or more sole-occupancy units each being a separate dwelling).

(i) **Is a compliant smoke alarm/s installed?**

- There is a requirement under the *Fire and Emergency Services Act 1990* that from 1 July 2007 the required number of smoke alarm/s that comply with Australian Standard 3786 have been installed in the domestic dwelling.
- If not applicable, mark N/A [].

(ii) **Has transferee been informed in writing about its existence?**

- There is a requirement under law that the transferor must inform the transferee in writing about the existence or otherwise of a smoke alarm/s in the domestic dwelling.
- If not applicable, mark N/A [].

For more information contact the Queensland Fire and Emergency Services.

Item 6

[24-4070]

Transaction Information

- (a) **Is there an agreement in writing for the transfer of dutiable property?** – Must be completed

- Examples of an agreement in writing include a contract of sale or any agreement in writing that has provision for the transfer of the property.
- If a written agreement has been entered into for the property being transferred, mark **YES** [].
- If there is no written agreement, mark **NO** [].

(b) **Date of written agreement** – Must be completed if section 6(a) is marked YES

- State the date the written agreement was executed.
- If there is no written agreement, leave blank.

For more information contact the Office of State Revenue.

(c) **Were any transferees related to or associated with any transferors at the date of the dutiable transaction?** – Must be completed

- A relationship includes by blood or marriage or de facto to the third degree (e.g. father to son, uncle to niece). An association may be with a person as individual or in the capacity of a related body corporate, director, shareholder or through a partnership agreement or as trustee or beneficiary of the same or another trust.
- If the transferor and transferee are related or associated at the date of the transfer, mark **YES** [].
- If there is no relationship or association at the date of the transfer, mark **NO** [].

For more information contact the Office of State Revenue.

(d) **State the degree of relationship or association and supply evidence of value** – Must be completed if section 6(c) is marked YES

- If the transferor and transferee are related or associated at the date of the transfer, state the relationship.
- If the transferor and transferee are related or associated at the date of the transfer, independent evidence of value of the property must be provided to the Office of State Revenue.
- For residential property only, the Office of State Revenue accepts as evidence of value a written opinion or market appraisal as at the date of the transfer, including three comparable sales, from a local real estate agent.
- If there is no relationship or association at the date of the transfer, leave blank.

For more information contact the Office of State Revenue.

(e) **Is the consideration less than the unencumbered value of the property included in this transaction?** – Must be completed

- Unencumbered value is the value of the property without regard to any encumbrance/liability (e.g. mortgage or lien), and it is the value the property would achieve if sold on the open market.

- Where the consideration is less than the unencumbered value of the property, provide independent evidence of value of the property to the Office of State Revenue. See 6(b) above for further information.
- If the consideration is equal to or more than the unencumbered value of the property, mark **NO** [].

For more information contact the Office of State Revenue.

(f) **Is this transaction part of an arrangement that includes other dutiable transactions?** – Must be completed

- If this transaction forms part of an arrangement that includes other dutiable transactions, provide the Office of State Revenue full details of the other transactions.
- If there are no other transactions relating to this property transfer, mark **NO** [].

For more information contact the Office of State Revenue.

(g) **Is GST payable on this transaction?** – Must be completed

- GST is payable on this transaction if the transferor is registered, or required to be registered, for GST, and conducting an enterprise as defined by the ATO.
- Mark **NO** [] to this question if the sale price quoted in item 4 is GST free and does not require an amount for GST to be remitted to the ATO.
- Mark **YES** [] to this question if the sale price quoted in item 4 includes a GST amount to be remitted to the Australian Tax Office (ATO).

For more information contact the Australian Tax Office <www.ato.gov.au> or your tax accountant.

(h) **Is this transaction under the margin scheme?** – Must be completed if section 6(g) is marked YES.

- The Margin Scheme is a different way of working out the GST payable when you sell your property.
- Whether you can use the margin scheme depends on when you purchased your property and the nature of the acquisition.
- **Mark NO** [] if the property was not sold using the Margin Scheme.
- **Mark YES** [] if you have sold this property using the Margin Scheme.
- If GST is not payable on the transaction, leave blank.

For more information contact the Australian Tax Office <www.ato.gov.au> or your tax accountant.

(i) **Is any transferor a non-Australian entity?** – Must be completed

- A “non-Australian entity” refers to:

- Individuals who are not Australian citizens (regardless of whether they are permanent residents);
 - Companies incorporated outside Australia;
 - Trusts with a country of tax residence that is not Australia; and
 - Other bodies (e.g. body politic, corporation sole) formed outside Australia.
- Mark **NO** ☐ if none of the transferors meet the definition of a non-Australian entity as detailed above.
 - Mark **YES** ☐ if a transferor meets the definition of a non-Australian entity as detailed above.
 - If **YES** ☐, please note that each non-Australian transferor will be contacted to provide an identity details annexure to the Office of State Revenue via a secure online form. A paper-based form will be available to non-Australian transferors without email access.

For more information, contact the Office of State Revenue.

PROPERTY INFORMATION (TRANSMISSION APPLICATION)

(This form must accompany **Titles Registry Form 6 – Transmission Application** when lodged in the Land Registry)
Foreign Ownership of Land Register Act 1988, Land Valuation Act 2010, Land Tax Act 2010, Local Government Act 2009, Water Act 2000, Electrical Safety Act 2002, Fire and Emergency Services Act 1990 and South-East Queensland Water (Distribution and Retail Restructuring) Act 2009

Applicant (devisee/legatee) to complete

Page 1 of 1

Official use only



Electronic version – for completion before printing.

Where insufficient space in an item, use Form 20 (Enlarged Panel).

Mark appropriate [] with 'X'

Refer to guide for completion for further information.

1. Deceased's last residential address

25 BLACKWOOD STREET, STAFFORD QLD 4053

2. Applicant

- (a) Given names & surname or Company & ACN/ABN
JOHN EDWARD SIMPSON
- (b) Date of birth (dd/mm/yyyy)
15/6/1960
- (c) Residential or business address after possession
14 VIEW DRIVE, FERNY GROVE QLD 4055
- (d) Contact details after possession
(i) Phone number - 07 3851 0022
(ii) Postal address - As above [X] OR complete address below
(iii) Email address – john.simpson@myisp.com.au
- (e) Is applicant a foreign person / corporation? **N/A** [] **NO** [X] **YES** [] ➤ Attach completed Form 25 (Foreign Ownership Information)
Note: The definition of a foreign person or corporation is defined in the *Foreign Ownership of Land Register Act 1988*.
- (f) Does applicant ordinarily reside in Australia? **N/A** [] **NO** [] **YES** [X]

3. Property details

- (a) Land / Water allocation description
Lot 12 Plan type & no. RP343922
- (b) Property address
Street no. 25 Street name BLACKWOOD STREET Suburb/Town/Locality STAFFORD Postcode 4053
- (c) Property transferred includes (d) Current land use (e) Water allocation - **N/A** [X] OR complete below
- | | | |
|------------------------------|---------------------------------|--------------------------------------------------------------------------------------------|
| Plant & machinery [] | Vacant land [] | (i) Is water allocation unsupplemented? NO [] YES [] ➤ complete (ii) below |
| Livestock [] | Dwelling [X] | |
| Crops [] | Multi-unit [] | (ii) Reference number of the water allocation dealing certificate - unsupplemented |
| Existing right [] | Flats [] | |
| Movable chattels [] | Guest house / Private hotel [] | |
| Water licence [] | Farming [] | |
| Interim water allocation [] | Industrial [] | |
| | Commercial [] | |
| Other (specify above) | Other (specify above) | |
- (f) Safety switch
(i) Is an electrical safety switch installed? **N/A** [] **NO** [] **YES** [X]
(ii) Has applicant been informed in writing about its existence? **N/A** [] **NO** [] **YES** [X]
- (g) Smoke alarm
(i) Is a compliant smoke alarm/s installed? **N/A** [] **NO** [] **YES** [X]
(ii) Has applicant been informed in writing about its existence? **N/A** [] **NO** [] **YES** [X]

Information from this form is collected and used under the authority of legislation stated at the top of this form. It is provided to Qld Government departments, local authorities and water distribution entities. Some information may be included in publicly searchable records maintained by those agencies. Information from the Valuation & Sales database may be provided to data brokers who may sell it as part of an information package.

Guide to Completion of Form 24A

[24-4080]

This Guide for Completion is not part of the Form 24A and must not accompany the Form 24A and Form 6 – Transmission Application when lodged in the Titles Registry.

The information on the Form 24A is required for the Office of State Revenue and to monitor compliance with legislative requirements relating to electrical safety switches ([Electrical Safety Office](#)~~Department of Employment and Industrial Relations~~) and smoke alarms (~~Department of Community Safety~~[Queensland Fire and Emergency Services](#)), and to update information held on the valuation and sales database ([Department of Resources](#)) and water management systems (Department of ~~Natural Resources, Mines and Energy~~[Regional Development, Manufacturing and Water](#)), and local authority rate records. Each agency is provided only with information relevant to their area of responsibility.

General Notes

- Two versions of this form are available –
 - The electronic version has embedded fields and may be completed in Microsoft Word or Adobe Acrobat before printing (Word version – if an embedded field expands, enter a space in it to reduce its width).
 - The printed version has visible broken lines. It must be printed and then completed by hand.
- Form 24A must accompany Titles Registry Form 6 – Transmission Application by a devisee/legatee of freehold (fee simple), State lease or licence, water allocation or lease under *South Bank Corporation Act 1989*.
- The applicant referred to in the Form 24A is the applicant (devisee/legatee) in the Transmission Application.
- For YES, NO or N/A (NOT APPLICABLE) answers, mark appropriate [] with an ‘X’.
- Insert information in the areas provided.
- If insufficient space for any item, complete and attach a Titles Registry Form 20 – Enlarged Panel.
 - In the relevant item of the Form 24A, insert the words ‘See Enlarged Panel’ only.
 - A Form 20 may contain more than one item.
 - The Form 20 must refer to the first title reference mentioned in the Form 6 – Transmission Application, show consecutive page numbering in the top right-hand corner and repeat the relevant item number and heading from the Form 24A.
- Contact details for each agency are listed at [24-4120].

Item 1

[24-4090]

Deceased’s last residential address – Must be completed

- Insert the last residential address of the deceased.

Item 2

[24-4100]

Applicant

- Items 2(a), (b) and (c) have separate rows for each applicant (maximum four).
 - If insufficient space, complete and attach Titles Registry Form 20 – Enlarged Panel.
- (a) **Given Names and Surname or Company and ACN/ABN** – Must be completed
- Complete full name of each applicant in upper case as shown on the Transmission Application.
 - For a natural person, insert name in the format [GIVEN NAMES] [SURNAME].
 - For a company, insert company name and ACN or ABN in the format [COMPANY NAME] [ACN or ABN].
- (b) **Date of Birth** – Must be completed where the applicant is a natural person
- Date of birth is used only for Office of State Revenue purposes.
 - Complete date of birth in the format [dd/mm/yyyy] beside the corresponding name of each natural person.
- (c) **Residential or Business Address after possession** – Must be completed
- On the line beside each applicant complete the residential or business address after possession.
 - Where the address is the same as the applicant on the line above, insert 'AS ABOVE' on the relevant line.
 - For a natural person, complete the residential address where the applicant will reside after possession.
 - For a company, complete the registered business address where business will be conducted after possession. Do not use an agent's address (e.g. **not** an accountant's or solicitors details) or post office box.
- (d) **Contact details after possession** – Must be completed
- (i) **Phone number**
- Insert the applicant's or authorised representative's contact telephone number or mobile telephone number after possession to allow ready contact for correction of information on the form or to obtain further details.

(ii) **Postal Address**

- Complete a postal address after possession to enable authorised notices to be forwarded to the applicant (e.g. rate notice, valuation notice or land tax assessment).
- If the postal address is the same as the residential or the business address, mark As above [].

(iii) **Email Address-Optional**

- Insert an email address that will be used for the service of notices under the *Land Valuation Act 2010*. The Office of State Revenue and Local Governments may also use the email address for the service of notices

(e) **Is applicant a foreign person/corporation?** – Not applicable to a water allocation

Note: Additional Australian Taxation Office reporting requirement

In addition to this Queensland requirement, there is also a requirement for a foreign person to register any acquisition of residential real estate, agricultural land or water entitlements/rights with the Australian Taxation Office.

Refer to the Australian Taxation Office website for more information.

- The *Foreign Ownership of Land Register Act 1988* only applies to land.
- If the application only relates to a water allocation, mark N/A [].
- Mark YES [] if the applicant is a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) as defined in the Foreign Ownership of Land Register Act and *Duties Act 2001* (see definition below).
 - o If YES [] is marked, a Form 25 is required to be completed and attached to the Form 24A when submitted to the Titles Registry.

Definition of Foreign Person and Foreign Corporation

Foreign person is defined in the *Duties Act 2001* as:

1. a foreign individual (s. 234 Duties Act)

A **foreign individual** is an individual other than an Australian citizen or permanent resident (s. 235 Duties Act).

2. a foreign corporation (s. 234 Duties Act)

A **foreign corporation** is:

- a corporation incorporated outside Australia;
- a corporation in which (taking their interests together) foreign persons or related persons of foreign persons:
 - are in a position to control at least 50% of the voting power in the corporation; or
 - are in a position to control at least 50% of the potential voting power in the corporation; or
 - have an interest in at least 50% of the issued shares in the corporation (s. 236 Duties Act).

3. the trustee of a foreign trust (s. 234 Duties Act)

A **foreign trust** is a trust where at least 50% of the interests in the trust are:

- a trust interest of a foreign individual; or

- a trust interest of a foreign corporation; or
- a trust interest of a trustee of a foreign trust; or
- a trust interest held by a **related person** of a foreign individual, foreign corporation or a trustee of a foreign trust (s. 237 Duties Act).

Further information about some of the definitions above is available in Public Rulings made by the Commissioner of State Revenue which can be accessed from the Resources page on the Queensland Treasury website (<https://www.treasury.qld.gov.au/resources>).

See s. 238 of the *Duties Act 2001* regarding **related persons**.

For more information contact the Titles Registry.

Item 3

[24-4110]

Property Details

(a) **Land/Water Allocation Description** – Must be completed

- There are two rows for land and/or water allocation descriptions.
- If insufficient space complete and attach Land Registry Form 20 – Enlarged Panel.
- Complete the lot number/s, the plan type and the plan number/s being transmitted as shown on a Current Title Search for the lot, e.g. Lot 2 on SP 102938.

(b) **Property Address** – Not applicable to a water allocation

- Complete the address of the property beside the corresponding lot/s.
- Properties with multi-unit dwellings should show the unit number as well as the street number (e.g. 2/24 Smith St).
- If there is no street number, insert N/A – do **not** enter the lot number associated with the plan as the street number.
- If the property is a water allocation only, leave blank.

(c) **Property Transferred includes** – Must be completed for all transmissions involving land

- Mark the inclusion/s appropriate to the property.
- Specify further inclusion/s in the ‘Other’ field where necessary.
- If not applicable, leave blank, e.g. transmission of only a water allocation.

For more information contact the State Valuation Service.

(d) **Current Land Use** – Not applicable to a water allocation

- Mark the land use/s appropriate to the property.
- Where the relevant land use is not listed on the form (e.g. time share) specify the appropriate land use in the ‘Other’ field.

- If the property being transmitted is a water allocation only, leave this item blank. For any other property, it must be completed.

Land Use Definitions

<p>Vacant Land: Property/Land without visible improvement, e.g. structures.</p> <p>Dwelling: House used for single unit residential habitation usually by a family unit.</p> <p>Multi-unit: A structure which has been registered as: (a) a Building Unit or Group Title under the <i>Building Unit and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>. The structure may be used for residential, industrial, commercial or mixed purposes.</p> <p>Flats: A structure containing two or more areas designed for self contained residential occupation including groups of units held by a single Company but not registered as: (a) a Building Unit or Group Title under the <i>Building Units and Group Titles Act</i>, or (b) a community title scheme under the <i>Body Corporate and Community Management Act 1997</i>.</p> <p>Guest House/Private Hotel: An accommodation building where room only or room and meals are provided and having shared facilities (not a motel).</p> <p>Other, specify: Those not covered above. If there is any doubt as to what land use the property may be included please specify the usage here.</p>	<p>Farming: Means the business or industry of grazing, dairying, pig farming, poultry farming, viticulture, orcharding, apiculture, horticulture, aquaculture, vegetable growing, the growing of crops of any kind, forestry or any other business or industry involving the cultivation of soils, the gathering in of crops or the rearing of livestock.</p> <p>Industrial: Includes properties used for general industry, light industry, noxious/offensive industry, harbour industry, extractive purposes and may include the following where not used for retail purposes: warehouses, bulk stores, transport terminals, service stations, oil depots, wharves, builders yards and cold stores.</p> <p>Commercial: Includes properties used for shops or shop/dwelling, shopping group, drive in shopping centres, restaurants, motels, special tourist attractions, marina, residential institutions, car parks, retail warehouse, sales area outdoor (dealers, boats, cars), offices (professional offices, finance, banks, lending agents and brokers), funeral parlours, hospitals, convalescent homes, predominantly medical care, child care, hotels/taverns, nurseries, theatre/cinema, drive in cinemas, licensed clubs, sporting facilities/clubs, caravan parks and advertising hoardings.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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For more information contact the State Valuation Service.

(e) **Water Allocation** – Not applicable to land

- If not applicable, mark N/A [].

(i) **Is water allocation unsupplemented?**

- Unsupplemented, ie a water supply for an allocation where the reliability is not enhanced or supplemented by releases from water storage infrastructure.
- Indicate if the water allocation is unsupplemented.

(ii) **Reference number of the Water Allocation Dealing Certificate – Unsupplemented**

- If the water allocation is unsupplemented complete the certificate reference of the Notice of Proposed Transfer of Unsupplemented Water Allocation.
- If water allocation is a supplemented allocation leave blank.

For more information contact Water Catchment Services.

(f) **Safety Switch** – Applicable to *domestic residence* only

- *Domestic residence* means a building or part of a building that is used, or designed to be used, as a single dwelling, e.g. a dwelling house, a home unit in a multi-unit development or a flat.

(i) **Is an electrical safety switch installed?**

- There is a requirement under law that an electrical safety switch must be installed for all general purpose socket outlets in every domestic residence.
- If not applicable, mark N/A [].

(ii) **Has applicant been informed in writing about its existence?**

- There is a requirement under law that the personal representative must inform the applicant in writing about the existence or otherwise of an electrical safety switch in the home.
- If not applicable, mark N/A [].

For more information contact the Electrical Safety Office.

(g) **Smoke Alarm** – Applicable to *domestic dwelling* only

- *Domestic dwelling* means a Class 1a building (a detached house or one or more attached dwellings, each being a building, separated by a fire-resisting wall, including a row house, terrace house, townhouse or a villa unit) or a Class 2 building (a building containing two or more sole-occupancy units each being a separate dwelling).

(i) **Is a compliant smoke alarm/s installed?**

- There is a requirement under the *Fire and Emergency Services Act 1990* that from 1 July 2007 the required number of smoke alarm/s that comply with Australian Standard 3786 have been installed in the domestic dwelling.
- If not applicable, mark N/A [].

(ii) **Has applicant been informed in writing about its existence?**

- There is a requirement under law that the personal representative must inform the applicant in writing about the existence or otherwise of a smoke alarm/s in the domestic dwelling.
- If not applicable, mark N/A [].

For more information contact the Queensland Fire and Emergency Services.

Contact Details for Further Information

[24-4120]

Agency	Contact Details
Queensland Treasury – Office of State Revenue www.osr.qld.gov.au	Office of State Revenue: Phone 1300 300 734
Department of Resources www.resources.qld.gov.au	State Valuation Service: <i>For all enquiries related to information required for the valuation roll, contact your local office of the Department of Resources and ask to speak to a Valuations Administration Officer.</i> Titles Registry: Phone 1300 255 750
Electrical Safety Office www.electricalsafety.qld.gov.au	Electrical Safety Office: Phone 1300 362 128
Queensland Fire and Emergency Services www.qfes.qld.gov.au	Queensland Fire and Emergency Services: Phone 13 QGOV (13 74 68)
Water Catchment Services Department of Regional Development, Manufacturing and Water www.drdrm.qld.gov.au	Water Allocations: Phone 13 QGOV (13 74 68)

eConveyancing

[24-5000]

Electronic Conveyancing and Electronic Conveyancing Document [24-5010]

Electronic Conveyancing (or eConveyancing) is the term used to refer to the electronic preparation, lodgement, processing and registration of instruments and other documents (Electronic Conveyancing Documents) for the purposes of the *Land Title Act 1994*, *Land Act 1994* and other titling legislation. It is an alternative to the traditional ‘paper based’ conveyancing system which involves the manual completion, execution and lodgement of paper forms either at a Titles Registry lodgement office, by post or through eLodgement.

An Electronic Conveyancing Document is a document under the Electronic Conveyancing National Law (Queensland) (the ECNL) that is lodged electronically through an Electronic Lodgment Network (see s. 14B of the *Land Title Act 1994* and s. 7 of the ECNL).

For more information, refer to Part 62 – eConveyancing.

The terms Electronic Conveyancing and eConveyancing are used interchangeably in this Part and throughout the Land Title Practice Manual.

Scope Restrictions

[24-5100]

Refer to the [Titles Registry Electronic Conveyancing web page](#) for the list of transactions currently available through eConveyancing.

Prescribed Requirements – Form 24 (electronic)

[24-5200]

Under the Participation Rules (Queensland) a Prescribed Requirement is a published requirement of the Registrar that Subscribers to an Electronic Lodgment Network are required to comply with.

The following are prescribed requirements under the Participation Rules (Queensland) for Subscribers that are completing a Form 24 (electronic) and Form 25 (electronic) for a *foreign person* that is required to provide a notification for the acquisition of an interest in land under s. 18(1) of the *Foreign Ownership of Land Register Act 1988*:

25-001 Where the Subscriber is completing the Form 24 (electronic) and Form 25 (electronic) for:

- (1) a natural person that is a trustee of a *foreign trust* (and not a *foreign individual*):
 - (a) where all of the foreign trust interests are wholly held by a foreign beneficiary or beneficiaries from one country only then:
 - (i) the Form 24 Question 1(f) must be marked as “YES”; and
 - (ii) the Form 25 must be completed as if it were being completed by a *foreign individual* but using the country of the foreign beneficiary or beneficiaries.
 - (b) otherwise:
 - (i) the Form 24 Question 1(f) must be marked as “NO” (a Form 25 will then not be required to be completed through electronic conveyancing); and
 - (ii) a Form 25 must be prepared in paper and sent by post or e-mail to info@titlesqld.com.au (a scanned digital copy of the signed Form 25 is acceptable) after the electronic lodgement of the relevant dealing. Refer to the relevant examples and guide to completion for a trustee of a foreign trust in [25-4010];
- (2) a natural person that is a *foreign individual* **and** a trustee of a *foreign trust*:
 - (a) the Form 24 Question 1(f) must be marked as “YES”; and
 - (b) the Form 25 must be completed as normal for a *foreign individual* using the foreign country of the *foreign individual*;
- (3) a corporation that is a trustee of a *foreign trust* (and not a *foreign corporation*):
 - (a) the Form 24 Question 1(f) must be marked as “YES”; and
 - (b) the Form 25 must be completed as if it were being completed by a *foreign corporation* but instead of entering the percentages and countries of foreign shareholders, the percentages and countries of the foreign beneficiaries of the trust must be entered;
- (4) a corporation that is a *foreign corporation* **and** a trustee of a *foreign trust*
 - (a) the Form 24 Question 1(f) must be marked as “YES”; and

- (b) the Form 25 must be completed as normal for a *foreign corporation* using the foreign country of incorporation or the percentages and countries of foreign shareholders.

Summary of the requirements for the completion of a Form 24 (electronic) and Form 25 (electronic) for a *foreign person* in eConveyancing

Entity Type	<i>foreign person</i> type as defined in the <i>Duties Act 2001</i> (Qld)	Form 24 Question 1(f)	Form 25 (electronic) Completion
Natural Person	1. <i>foreign individual</i> only	Yes	Complete as normal for a <i>foreign individual</i> using the foreign country of the <i>foreign individual</i> .
	2. trustee of a <i>foreign trust</i> only:		
	a) where the trust interests are wholly held by a foreign beneficiary or beneficiaries from <u>one country only</u>	Yes	Complete as if completing for a <i>foreign individual</i> but insert the foreign country of the foreign beneficiary/beneficiaries.
	b) trustee of a <i>foreign trust</i> otherwise	No	Do not complete a Form 25 through electronic conveyancing. Prepare a Form 25 in paper and send it by post or e-mail to info@titlesqld.com.au (a scanned digital copy of the signed Form 25 is acceptable) after the electronic lodgement of the relevant dealing. Refer to [25-4010].
	3. <i>foreign individual AND trustee of a foreign trust</i>	Yes	Complete as normal for a <i>foreign individual</i> using the foreign country of the <i>foreign individual</i> .
Corporation	1. <i>foreign corporation</i> only	Yes	Complete as normal using the foreign country of incorporation or the percentages and countries of foreign shareholders.
	2. trustee of a <i>foreign trust</i> only	Yes	Complete as if completing for a <i>foreign corporation</i> but instead of entering the percentages and countries of foreign shareholders, enter the percentages and countries of the foreign beneficiaries of the trust.
	3. <i>foreign corporation AND trustee of a foreign trust</i>	Yes	Complete as normal for a <i>foreign corporation</i> using the foreign country of incorporation or the percentages and countries of foreign shareholders.

Attachments – Form 24 (electronic)

[24-5300]

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a Form 24 (electronic).

Execution and Certification

[24-5400]

The requirements for digitally signing and making certifications for an Electronic Conveyancing Document are contained in the Participation Rules (Queensland).

Electronic Form

[24-5600]

Approved Electronic Form

[24-5610]

A Property Information (Transfer) form that is an Electronic Conveyancing Document (an eConveyancing Property Information (Transfer)) must accompany a Form 1 – Transfer (electronic) that is lodged through an Electronic Lodgment Network and be in the form approved by the Registrar under the Electronic Conveyancing National Law (Queensland). The eConveyancing Property Information (Transfer) must be digitally signed by or for each Transferor (Part B) and Transferee (Part A) as required by the approved form and Participation Rules.

Representations of the electronic form approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland) are shown below.

PROPERTY INFORMATION (TRANSFER)

PART A - Transferee to complete

Title Reference

1. Transferee

(a) Given names & Surname or Company and ACN/ARBN

(b) Date of Birth

(c) Residential or business address after possession

(d) Contact details after possession

(i) Phone number

(ii) Postal address

(iii) Email address

(e) Name of trust

(f) Is transferee a foreign person / corporation?N/A []NO []YES []

(g) Does transferee ordinarily reside in Australia?N/A []NO []YES []

2. Transaction

(a) Date of possession

(b) Date of settlement

Execution

I certify that:

Signed by:

For

On behalf of

Dated:

PROPERTY INFORMATION (TRANSFER)

PART B - Transferor to completeTitle Reference

3. Transferor's residential or business address after settlement

4. Details of sale price (Sale price must include GST if applicable)

(a) Property excluding water allocation

(b) Water Allocation - N/A []

CashCash

Vendor TermsVendor Terms

Assumption of liabilitiesAssumption of liabilities

OtherOther

Total

Total

5. Property Details

(a) Land/Water allocation description

(b) Property address

Lot	Plan type & no.	Street no.	Street name	Suburb/Town/ Locality	Postcode
-----	-----------------	------------	-------------	-----------------------	----------

(c) Property transferred includes:

(d) Current land use

(e) Water allocation - N/A []

Plant & machinery []

Livestock []

Crops []

Existing right []

Moveable chattels []

Water licence []

Interim water allocation []

Other: []

Vacant land []

Dwelling []

Multi-unit []

Flats []

Guest house / []

Private hotel []

Farming []

Industrial []

Commercial []

Other []

(i) Is water allocation unsupplemented?

(ii) Reference number of the water allocation dealing certificate - unsupplemented

NO []

YES []

(f) Safety switch

(i) Is an electrical safety switch installed?

(ii) Has transferee been informed in writing about its existence?

N/A []

NO []

YES []

(g) Smoke alarm

(i) Is a compliant smoke alarm/s installed?

(ii) Has transferee been informed in writing about its existence?

N/A []

NO []

YES []

6. Transaction information

(a) Has an agreement in writing for the transfer of dutiable property been entered into?

(b) Date of written agreement

(c) Are the transferor and transferee related or associated at the date of the transfer?

NO []

YES []

NO []

YES []

Information from this form is collected and used under the authority of legislation stated at the top of this form. It is provided to Qld Government departments, local authorities and water distribution entities. Some information may be included in publicly searchable records maintained by those agencies. Information from the Valuation & Sales database may be provided to data brokers who may sell it as part of an information package.

This is a representation of the instrument that was electronically lodged

- (d) State the degree of relationship or association and supply evidence of value to Office of State Revenue

(e) Is the consideration less than the unencumbered value of the property included in this transaction?

(f) Does this transaction form part of an arrangement that includes other dutiable transactions?

(g) Is GST payable on this transaction?

(h) Is the transaction under the margin scheme?

(i) Is any transferor a non-Australian entity?
- NO []

YES []

NO []

YES []

NO []

YES []

NO []

YES []

Execution

I certify that:

Signed by:

For
On behalf of

Dated:

Electronic Form Example

[24-5620]

PROPERTY INFORMATION (TRANSFER)**PART A - Transferee to complete**

Title Reference 14365032

812345678F

SY F24 \$0.00

21/01/2021 09:01:24

1. Transferee

- | | | |
|---------------------------------------------------|-------------------|------------------------------------------------------|
| (a) Given names & Surname or Company and ACN/ARBN | (b) Date of Birth | (c) Residential or business address after possession |
| ANN MAREE FRASER | 23/05/1965 | 6 Howson ST
MT GRAVATT QLD 4122 |
| JOHN ANDREW FRASER | 15/06/1962 | 6 Howson ST
MT GRAVATT QLD 4122 |
- (d) Contact details after possession
- | | |
|---------------------|------------------------------------|
| (i) Phone number | 07 3222 5151 |
| (ii) Postal address | 6 Howson ST
MT GRAVATT QLD 4122 |
| (iii) Email address | thefrasers@myisp.com.au |
- (e) Name of trust
- (f) Is transferee a foreign person / corporation? **N/A** [] **NO** [X] **YES** []
- (g) Does transferee ordinarily reside in Australia? **N/A** [] **NO** [] **YES** [X]

2. Transaction

- | | |
|------------------------|------------|
| (a) Date of possession | 30/11/2020 |
| (b) Date of settlement | 30/11/2020 |

Execution

I certify that:

- The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed by:

James Woodhouse
For WOODHOUSE LAWYERS
On behalf ofANN MAREE FRASER
JOHN ANDREW FRASER

Dated: 21/01/2021

PROPERTY INFORMATION (TRANSFER)

PART B - Transferor to complete Title Reference 14365032

3. Transferor's residential or business address after settlement

357 Victoria RD WYNNUM QLD 4170

4. Details of sale price (Sale price must include GST if applicable)

(a) Property excluding water allocation		(b) Water Allocation - N/A [X]	
Cash	\$549,000.00	Cash	
Vendor Terms	\$0.00	Vendor Terms	
Assumption of liabilities	\$0.00	Assumption of liabilities	
Other	\$0.00	Other	
Total	\$549,000.00	Total	

5. Property Details

(a) Land/Water allocation description	(b) Property address				
Lot	Plan type & no.	Street no.	Street name	Suburb/Town/ Locality	Postcode
16	RP888123	15	Johnson RD	CLEVELAND	4163
(c) Property transferred includes:		(d) Current land use	(e) Water allocation - N/A [X]		
Plant & machinery	[]	Vacant land	[]	(i) Is water allocation unsupplemented?	
Livestock	[]	Dwelling	[X]	NO [] YES []	
Crops	[]	Multi-unit	[]	(ii) Reference number of the water allocation	
Existing right	[]	Flats	[]	dealing certificate - unsupplemented	
Moveable chattels	[]	Guest house /			
Water licence	[]	Private hotel	[]		
Interim water allocation	[]	Farming	[]		
Other:	[]	Industrial	[]		
		Commercial	[]		
		Other	[]		
(f) Safety switch					
(i) Is an electrical safety switch installed?		N/A []	NO []	YES [X]	
(ii) Has transferee been informed in writing about its existence?		N/A []	NO []	YES [X]	
(g) Smoke alarm					
(i) Is a compliant smoke alarm/s installed?		N/A []	NO []	YES [X]	
(ii) Has transferee been informed in writing about its existence?		N/A []	NO []	YES [X]	

6. Transaction information

(a) Has an agreement in writing for the transfer of dutiable property been entered into?	NO [] YES [X]
(b) Date of written agreement	01/10/2020
(c) Are the transferor and transferee related or associated at the date of the transfer?	NO [X] YES []
(d) State the degree of relationship or association and supply evidence of value to Office of State Revenue	

Information from this form is collected and used under the authority of legislation stated at the top of this form. It is provided to Qld Government departments, local authorities and water distribution entities. Some information may be included in publicly searchable records maintained by those agencies. Information from the Valuation & Sales database may be provided to data brokers who may sell it as part of an information package.

This is a representation of the instrument that was electronically lodged

- | | |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| (e) Is the consideration less than the unencumbered value of the property included in this transaction? | NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> |
| (f) Does this transaction form part of an arrangement that includes other dutiable transactions? | NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> |
| (g) Is GST payable on this transaction? | NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> |
| (h) Is the transaction under the margin scheme? | NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> |
| (i) Is any transferor a non-Australian entity? | NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> |

Execution

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed by:

Peter Jones
For JONES LAWYERS
On behalf of
ANDREW THOMAS JACOBS
Dated: 21/01/2021

Electronic Form Notes for Completion

[24-5700]

Refer to the table below for notes for the completion of a Form 24 (electronic).

Item	Notes
Item 1(f)	<p>For Subscribers that are completing the Form 24 (electronic) for a <i>foreign person</i> that is a trustee of a <i>foreign trust</i> – refer to Prescribed Requirement 25-001 (see [24-5200] and also Part 25 esp. [25-5000]).</p> <p>Note: <u>Additional Australian Taxation Office reporting requirement</u></p> <p><u>In addition to this Queensland requirement, there is also a requirement for a foreign person to register any acquisition of residential real estate, agricultural land or water entitlements/rights with the Australian Taxation Office.</u></p> <p><u>Refer to the Australian Taxation Office website for more information.</u></p>

Cross References and Further Reading

[24-9000]

Part 25 – Foreign Ownership Information

Part 62 – eConveyancing

Notes in text

[24-9050]

Note¹ – This numbered section, paragraph or statement does not apply to water allocations

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land.

¹Part 36 – Carbon Abatement Interest

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¹Part 36 – Carbon Abatement Interest

General Law

[36-0000]

A carbon abatement interest is an interest in land which is created under legislation upon registration of a Form 36 – Carbon Abatement Interest. A carbon abatement interest provides for the exclusive legal right to the economic benefits of carbon sequestration on the land. A carbon abatement interest may be granted in land which is freehold, State leasehold, unallocated State land, State forest or reserve.

The provisions below provide for the creation and registration of carbon abatement interests.

- *Land Act 1994* Chapter 6 Part 4 Division 8C
- *Land Title Act 1994* Part 6 Division 4C
- *Forestry Act 1959* Part 6C
- *Nature Conservation Act 1992* Part 4 Division 2 Subdivision 4A

A carbon abatement interest in freehold land is registered under the registration provisions of the Land Title Act while a carbon abatement interest in any non-freehold land is registered under the registration provisions of the Land Act.

In relation to non-freehold land with respect to carbon abatement interests, the term ‘owner’ is defined in s. 373R of the Land Act and in relation to land within a nature conservation area or specified national park, the term ‘owner’ is defined in s. 39D of the Nature Conservation Act.

The grantor and grantee of a proposed carbon abatement interest may be the same person.

For freehold land, exclusive of a deed of grant in trust, the owner of the land holds the right to the carbon in the carbon abatement product. For non-freehold land (including unallocated State land) and deeds of grant in trust, the State, pursuant to s. 21 of the Land Act, issues the tenure subject to conditions and one of those conditions is the reservation of the right to the carbon in the carbon abatement product, to the State.

A carbon abatement interest may be created over the whole of a lot or part of a lot. For creation over part of a lot, see [36-2050].

A carbon abatement interest may only be registered if:

- (a) the proposed grantor of the interest is the owner of the land; and
- (b) the registrar/chief executive is satisfied the owner (proposed grantor) is the holder of the right to deal with the carbon abatement product for the land; and
- (c) all holders of a registered interest in the land whose interest may be affected by the proposed carbon abatement interest consent to the proposed grant;
- (d) there are no existing carbon abatement interests registered for part of the land to which the proposed carbon abatement interest relates

Once created, a carbon abatement interest may be amended, transferred, mortgaged, surrendered or passed to a beneficiary of the holder’s interest in the land and if concerning land which

requires the consent of a relevant Minister, the transferor must obtain this consent pursuant to s. 373A(2) of the Land Act. See [36-2050].

A holder of a carbon abatement interest may apply to the administrator of a Commonwealth scheme for the declaration of an offsets project as an eligible offsets project on land under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth) (See [52-0125]).

Legislation

[36-1000]

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

Refer to [0-8100] and [0-8200].

Practice

Requirements of a Carbon Abatement Interest

[36-2000]

A carbon abatement interest is created by registering a Form 36 – Carbon Abatement Interest.

The grantor must be the registered owner of the freehold land or the owner of the non-freehold land which is to be the subject of the carbon abatement interest.

A carbon abatement interest may be registered over freehold land or non-freehold land (unallocated State land, State leasehold, State forest or reserves).

The grantee is the proposed holder of the carbon abatement interest and must be a person or legal entity that is entitled to hold an interest in land. The grantee may be the same person or entity as the grantor.

A termination date or an event that is certain must be stated and should allow a period of either 25 years or at least 100 years.

The full details of the consideration must be shown.

The terms of the carbon abatement interest must be set out in an attached schedule, a standard terms document or both. The standard terms document referred to must be of the appropriate class of document and must also be first registered.

The grantor and the grantee must properly execute the form and have the execution witnessed where necessary.

A duty notation is required.

Additional Requirements

[36-2050]

Consent by Person with an Affected Registered Interest

A consent on Form 18 – General Consent from each person with a registered interest in the land whose interest may be affected by the proposed carbon abatement interest must be deposited.

Part of the Land

A plan of survey must be lodged and registered to identify the area the subject of a carbon abatement interest where the carbon abatement interest is for part of a lot. A plan must not

describe a carbon abatement interest as proposed. There is no requirement for a carbon abatement interest to be lodged immediately after the plan. Survey plan requirements for a carbon abatement interest over part of a lot are set out in the Registrar's Directions for the Preparation of Plans. For further information see [21-2115].

Minister's Consent where Interest is in Non-Freehold Land ~~and or~~ Freehold Land held as Deed of Grant in Trust

The consent of the relevant Minister on Form 18—General Consent is required to be deposited:

- (a) if a lessee is ~~granting-dealing with~~ the carbon abatement interest and the land is within a State forest, timber reserve or forest entitlement area—the Minister administering the *Forestry Act 1959*; ~~and~~
- (b) if the proposed carbon abatement interest is in ~~unallocated State land~~, freehold land held as a deed of grant in trust, land subject to a lease or land subject to a licence or a reserve—the Minister administering the *Land Act 1994*.
- (c) if an appointed trustee for the land is dealing with the carbon abatement interest and the land is within a nature conservation area or specified national park – the Minister administering the *Nature Conservation Act 1992*.

Alternatively, if the State is a party to the Carbon Abatement Interest (i.e. a grantor), the consent on a Form 18 is not required.

Interest granted by the Lessee of a Term Lease or Licensee of an Occupational Licence

If the carbon abatement interest is being granted by the lessee or licensee and the proposed term of the carbon abatement interest is for a period greater than the remaining term of the lease or licence e.g. the term lease is for 30 years and the carbon abatement interest is for 100 years, the State must be a party to the interest and approve the terms of the document (s. 373V of the *Land Act 1994*). The Form should be completed as indicated at [36-4010 to 36-4070] with the following variations:

- Item 1 of the form must show the lessee ~~and or~~ licensee **and** The State of Queensland (represented by [name of department]) as reversionary owner as grantors (e.g. Bill Smith and The State of Queensland [represented by the Department of ~~Natural Resources and Mines~~(Name of relevant department)] as reversionary owner);
- Item 6 may refer to a standard terms document that contains details identifying what will happen to the carbon abatement interest on ending of the term lease or licence; and
- Item 6 must be executed by the lessee/licensee **and** The State of Queensland (represented by [name of department]) as grantors.

Interest granted over a Perpetual lease, a Reserve or a Deed of Grant in Trust

- If the carbon abatement interest is being granted by the lessee of a perpetual lease, or the trustee of a reserve or the trustee of a deed of grant in trust, the form should be completed as indicated in part [36-4010] to [36-4070].

The Minister administering the *Land Act 1994* must approve the terms of the document on a Form 18—General Consent.

Interest granted by the Lessee of a Term Lease where the Lease has been granted over a State Forest

If the carbon abatement interest is being granted by the lessee of a term lease over a State forest and the proposed term of the carbon abatement interest is for a period greater than the remaining term of the lease e.g. the term lease is for 30 years and the carbon abatement interest is for 100

years, the State must be a party to the interest and approve the terms of the document (s. 373V of the *Land Act 1994*). In these instances two Form 36 – Carbon Abatement Interests are required to be lodged, with one Form 36 identifying the grantor as the lessee of the term lease recorded over the State lease title and the second Form 36 identifying the grantor as the State of Queensland (represented by [name of department]) recorded over the State Forest title. The Forms should be completed as indicated in part [36-4010] to [36-4070] of the Land Title Practice Manual with the following variations:

- Item 1 of the first Form 36 must show the lessee as the grantor and Item 1 of the second Form 36 must show the State of Queensland (represented by [name of department]) as the grantor;
- Item 6 of the first Form 36 may refer to a standard terms document identifying what will happen to the carbon abatement interest on the lessee ceasing to be the lessee; and
- Item 6 of the first Form 36 must be executed by the lessee and Item 6 of the second Form 36 must be executed by the State of Queensland (represented by [name of department]) as grantors.

The Minister administering the *Forestry Act 1959* must approve the terms of the first Form 36 on a Form 18—General Consent.

Note: When a carbon abatement interest, granted over a term lease over a State forest, is being either fully or partially surrendered, two Form 37s are required to be lodged with one Form 37 dealing with the surrender from the State lease title and the other Form 37 dealing with the surrender from the State forest title.

Interest granted by the State of Queensland over Unallocated State land

- If the carbon abatement interest is being granted by the State, the form should be completed as indicated in part [36-4010] to [36-4070].

Surrender of a Carbon Abatement Interest

[36-2100]

A carbon abatement interest may be surrendered by registering a Form 37 – Surrender of Carbon Abatement Interest. The interest may be partially surrendered to the extent shown in the form or fully surrendered.

For more information see part 37 – Surrender of Carbon Abatement Interest.

Removing a Carbon Abatement Interest

[36-2200]

Where a request is made, a carbon abatement interest may be removed from the relevant title:

- where the period of time for which the interest was intended to exist has ended (as stated at Item 4 of the Form 36); or
- where an event upon which the interest was intended to end has happened (as stated at Item 4 of the Form 36); or
- under an Act of the Commonwealth.

For more information see part 14 – General Request, esp. [14-3015]).

Amending a Carbon Abatement Interest

[36-2300]

A carbon abatement interest may be amended by registration of a Form 13 – Amendment of Carbon Abatement Interest.

For more information see part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre, Building Management Statement or Carbon Abatement Interest, esp. [13-2160].

Forms

General Guide to Completion of Forms

[36-4000]

For general requirements for completion of forms see part 59 – Forms.

Dealing Number

Duty Imprint



OFFICE USE ONLY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

1. Grantor		Lodger (Name, address, E-mail & phone number)	Lodger Code (if any)
BILL JONES		JONES & CO SOLICITORS	490
THE STATE OF QUEENSLAND (REPRESENTED BY THE DEPARTMENT OF NATURAL RESOURCES) AND MINES AS REVERSIONARY OWNER		54 ADELAIDE STREET BRISBANE QLD 4000 mail@jonesco.com.au (07) 3227 9850	
2. Description of Carbon Abatement Interest/ Lot on Plan		Title Reference	
Carbon Abatement Interest A on SP123456		14621222	
3. Grantee	Given names	Surname/Company name and number	(include tenancy if more than one) and interest if not fee simple)
JASON SCOTT		SMITH	
4. Termination date or Event 01/10/3013			
5. Consideration \$66,000.00			

6. Grant/Execution

The Grantor grants to the Grantee for the above consideration a Carbon Abatement Interest and the Grantor and Grantee covenant with each other in terms of:- *the attached schedule; * the attached schedule and document no. 720123123; *document no. _____

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the *Land Title Act 1994*

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

.....signature

.....full name

.....qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /
Execution Date

.....
Grantor's Signature

/ /
Execution Date

.....
Grantee's Signature

Title Reference [14621222]

(The terms and conditions of the agreement are to be set out here)

SAMPLE

Guide for Completion of Form 36

Item 1

[36-4010]

Insert the full name(s) of all grantor(s) of the carbon abatement interest (e.g. the owner, see [36-0000] or the owner and The State of Queensland (represented by The State of Queensland) as reversionary owner, see [36-2050]).

Item 2

[36-4020]

Whole of the Land

Insert the ‘Lot on Plan’ descriptions and title references of all lots subject to the carbon abatement interest.

Part of the Land

If the carbon abatement interest applies to only part of the lot, then the carbon abatement interest must be described in a manner similar to the following:

‘Carbon Abatement Interest A on SP 123567’.

The title reference of the relevant lot must also be included.

In such cases, a plan of survey is required to be first registered in the land registry.

Item 3

[36-4030]

Insert the full name(s) of the grantee(s) and tenancy (if applicable).

Item 4

[36-4040]

Insert the termination date or a reference to the event that terminates the carbon abatement interest.

Item 5

[36-4050]

Insert monetary or other consideration.

Item 6

[36-4060]

Complete where indicated and execute as required.

Case Law

[36-7000]

Nil.

Fees

[36-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60-8000].

Cross References and Further Reading

[36-9000]

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre, Building Management Statement or Carbon Abatement Interest

Part 14 – General Request

Part 37 – Surrender of Carbon Abatement Interest

Part 52 – Administrative Advices

Notes in text

[36-9050]

Note¹ – This part does not apply to water allocations.

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land.

2,³Part 49 – Water Allocations

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2.3Part 49 – Water Allocations

This part provides general information relating to water allocations and the Water Allocation Register (WAR). It also provides registry requirements and practice for the preparation and processing of dealings lodged in respect of water allocations that do not appear in other parts of this manual.

General Law

[49-0000]

A water allocation is an entitlement created under the *Water Act 2000* which is established on commencement of a water entitlement notice (WEN) for an area. Water allocations are assets that are separate to land and may be owned and traded by non-landholders. All water allocations are registered in the Water Allocation Register (WAR). The WAR records ownership information on water allocations in a similar way in which details of land ownership are recorded in the Freehold Land Registry. The Water Act provides for a Registrar of Water Allocations who was given the responsibility of maintaining the WAR.

Water Entitlement Notice

[49-0010]

A water entitlement notice (WEN) is the statutory instrument that contains details of the existing water entitlements to be converted to water allocations, and any new water allocations to be granted, upon commencement of the WEN. It also sets out the operational mechanisms that implement the broader management provisions previously defined by a Water Plan for a catchment.

On the day a WEN commences, existing water entitlements to be converted under the WEN expire, and water allocations are granted to the holders of the expired water entitlements and recorded on the WAR. Any new allocations to be granted under the WEN are also recorded on the WAR at this time. Water allocation holders are notified of the registration.

Resource Operations Licence (ROL)

[49-0020]

A resource operations licence (ROL) is a licence granted to operators of water supply storage infrastructure such as dams or weirs.

If a water allocation is managed under a ROL (i.e. the water allocation is an entitlement to supplemented supply through water delivered from infrastructure), the ROL holder and the allocation holder must have a supply contract for the allocation. If on the day the water allocation is granted, the allocation holder and the ROL holder have not entered into a supply contract for the allocation, a standard supply contract (approved by the chief executive of the Department of ~~Natural Resources, Mines and Energy~~Regional Development, Manufacturing and Water) for the area applies.

Non-Resource Operations Licence (NRL)

[49-0030]

A water allocation not managed under a resource operations licence is commonly referred to as an un-supplemented water allocation or a ‘non-resource operations licence’ water allocation, i.e. NRL.

NRL water allocations are taken from un-supplemented supply, i.e. natural flow that is not dependent on water infrastructure. Un-supplemented water is managed by the Department of ~~Natural Resources, Mines and Energy~~Regional Development, Manufacturing and Water.

Water Allocation Register (WAR)

[49-0040]

Water allocations are registered in the WAR. The WAR records ownership and other information for water allocations in a similar way to which details of land ownership and dealings are recorded in the Freehold Land Register. The Registrar is only concerned with maintaining the WAR by the registration of water allocations on the commencement of a water entitlement notice and the registration of dealings with water allocations when lodged.

In addition to those aspects which normally appear on a title for freehold land, the WAR also records the following resource related elements of a water allocation:

- the location from which the water may be taken under the allocation;
- the purpose for which the water may be taken under the allocation;
- any conditions required by the chief executive to entered on the WAR;
- the nominal volume for the allocation;
- the priority group to which the allocation belongs – only for allocations managed under a resource operations licence (ROL) i.e. supplemented water allocations;
- the maximum rate for taking water – only for allocations not managed under a ROL (i.e. an NRL or un-supplemented water allocation);
- the flow conditions under which the water may be taken – only for allocations not managed under a ROL (i.e. an NRL or un-supplemented water allocation);
- the volumetric limit – only for allocations not managed under a ROL (i.e. an NRL or un-supplemented water allocation);
- the water allocation group to which the allocation belongs – only for allocations not managed under a ROL (i.e. an NRL or un-supplemented water allocation).

Resource related elements are determined and administered by staff of the Department of [Natural Resources, Mines and Energy](#) [Regional Development, Manufacturing and Water](#) responsible for water management and use. The Registrar is only concerned with the recording of resource elements on the title for the water allocation.

Searches of the WAR may be conducted in the same manner as searches for freehold land.

The forms and the requirements for the registration of many dealings in the WAR are the same as those under the *Land Title Act 1994* (s. 173 of the *Water Act 2000*). However, some dealings have further requirements. All dealings that can be registered under the Land Title Act, with the exception of those mentioned in s. 173(1) of the Water Act, may be registered in the WAR. In addition, it is also possible to change the attributes of an allocation, subdivide an allocation and amalgamate two or more allocations into one allocation.

Water Allocations

[49-0050]

To enable a water allocation to be given a unique lot/plan identifier it was necessary to provide water allocations with a plan number. As it is not possible to physically survey a water allocation it was determined that with the implementation of each new water scheme all the allocations within that scheme would be allocated a common administrative plan number. The associated water allocations become ‘lots’ on that plan.

The plan prefix for an administrative plan is always ‘AP’. As an example, for the Fitzroy scheme the plan number is AP6829, for all allocations (or ‘lots’). Therefore, water allocation 40 in the Fitzroy Scheme would be described as Lot 40 on AP6829 (or ‘WA on Plan’ or ‘Water Allocation on Plan’).

Although a water allocation is described in the same manner as a lot of land, the plan is an administrative plan as mentioned earlier, and does not represent a defined physical location, or show any dimensions. Maps of the various scheme areas are available online from the Business Queensland webpage.

Each water allocation recorded in WAR will be allocated a title reference beginning with ‘46’, e.g. 46012345.

As with land, only an entity with legal capacity may hold a water allocation or a share in a water allocation.

A search of the title will show whether the water allocation is managed under a ROL (supplemented water supply) or is a NRL (un-supplemented water supply) and the resource related elements for the allocation.

Certificates

[49-0060]

A certificate (Water Allocation Dealing Certificate) by the Chief Executive of the Department of ~~Natural Resources, Mines and Energy~~ Regional Development, Manufacturing and Water is required to be deposited with the following dealings lodged for registration in the WAR:

- subdivision of a water allocation;
- amalgamation of water allocations;
- change (of resource attributes) of a water allocation;
- transfer (of un-supplemented allocations);
- transmission by death (of un-supplemented allocations);
- lease (of un-supplemented allocations).

The certificate is issued by the relevant office of the Department of ~~Natural Resources, Mines and Regional Development, Manufacturing and Water Energy~~ which administers the Water Management Protocol in which the water allocation is located.

A certificate is valid until the date shown on the certificate or if the certificate does not show an expiry date for 40 business days, whichever occurs first. Dealings presented for lodgement must be accompanied by a valid certificate. If a certificate expires before it is deposited with a dealing lodged in the WAR a new certificate must be obtained.

Legislation

[49-1000]

³Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, an interest or dealing may be registered in a way mentioned in the Land Title Act, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act:

- (a) as if a reference to the freehold land register is a reference to the water allocations register; and
- (b) as if a reference to freehold land or land is a reference to a water allocation; and
- (c) as if a reference to a lot is a reference to a water allocation; and
- (d) with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8300].

Practice

Dealings that may not be registered

[49-2000]

Section 173 of the *Water Act 2000* sets out how the *Land Title Act 1994* applies to the WAR. Section 173(1) prescribes which parts of the Land Title Act do not apply to the Water Act.

Consequently, the following dealing types are not capable of registration in WAR:

- Lease of part of an allocation
- Transfer of part of an allocation (other than a share)
- Transfer of Timeshares
- Transfer of Life Estates
- Easement
- Covenant
- Profit a prendre
- Application for Title by Adverse Possession
- Application for Title
- Building Management Statement
- Plan of Survey.

Dealings with an Interest in a Water Allocation

[49-2010]

Once a water allocation is created in the water allocation register, a person may lodge dealings over that water allocation and conduct searches in the same manner as for the land registry. A dealing must be registered in the WAR for it to have effect. For the purpose of registering dealings, interests and encumbrances, the water legislation makes the concept of a 'lot' in the *Land Title Act 1994* the same as a 'water allocation' in the WAR. Titles Registry Forms are applicable for transactions with water allocations, as is a somewhat similar fee structure to that applicable to freehold land. It is also permissible to lodge a single registry form to deal with a water allocation and land tenures, e.g. the fee simple and a water allocation.

Subdivision of a Water Allocation

[49-2020]

Under s. 70 of the Water Regulation 2016 an allocation holder may subdivide an allocation into two or more smaller allocations. Before a subdivision may be registered it is necessary to obtain a Water Allocation Dealing Certificate.

A Form 14 – General Request is appropriate to record a subdivision of a water allocation. See part 14 – General Request, esp. [14-2950].

Amalgamation of Water Allocations

[49-2030]

Under s. 69 of the Water Regulation 2016 an allocation holder may amalgamate two or more allocations into one. Before an amalgamation may be registered it is necessary to obtain a Water Allocation Dealing Certificate.

A Form 14 – General Request is appropriate to record an amalgamation of a water allocation. See part 14 – General Request, esp. [14-2960].

Change of a Water Allocation

[49-2040]

Under s. 158 of the *Water Act 2000* an allocation holder may change the resource related elements of an allocation, for example, the purpose. Before a change of a resource related element may be registered it is necessary to obtain a Water Allocation Dealing Certificate.

A Form 14 – General Request is appropriate to record a change a resource related element of an allocation. See part 14 – General Request, esp. [14-2970].

Water Allocation Notice

[49-2050]

Under s. 73(1)(b) of the *Water Act 2000* existing interest holders in a water licence may give the Chief Executive a notice in the approved form stating the interest holder intends, upon the commencement of the water entitlement notice (WEN), to take action to have the holder's interest recorded on the WAR. The notice referred to as a Water Allocation Notice (WAN) is recorded on the water allocation register at the commencement of the WEN.

A Form 14 – General Request, prepared by departmental staff responsible for water management and use, is appropriate to record a water allocation notice. See part 52 – Administrative Advices, esp. [52-0060].

Notice of Consent to Encumber Water Allocation

[49-2060]

An existing interest holder who has given notice to the Chief Executive under s. 73(1)(b) of the *Water Act 2000* and has obtained the consent of the proposed water allocation holder to encumber the proposed water allocation with the interest mentioned in the notice may, prior to the commencement of the WEN also give the Chief Executive notice of the consent in the approved form (s. 73(1)(c) of the Water Act).

A notice under s. 73(1)(c) of the Water Act in Form W2F147 – Notice of Consent to Encumber a Water Allocation is given by the Chief Executive to the Registrar for recording. The Registrar must record the notice for the water allocation within 60 business days from the commencement of the WEN. Section 172(1)(b) of the Water Act requires that the notice must be recorded with the priority the interest mentioned in the notice had in the land registry for the land to which the interest relates as at the day the allocation is recorded.

Once the notice is recorded on the water allocation title, it has the effect of encumbering the water allocation with the interest mentioned in the notice and under s. 172(2)(b) it is taken to be

a mortgage under the *Land Title Act 1994*. It is recorded on the water allocation title as a mortgage under s. 73(1)(c) Water Act.

A notice under s. 73(1)(c) of the Water Act may only be deposited:

- (a) with the consent of the mortgagor/holder of the water allocation;
- (b) before the relevant resource operations plan commences; and
- (c) if a notice under s. 73(1)(b) of the Water Act has previously been deposited.

[49-2070] deleted

Notice of Distribution Operations Licence

[49-2080]

Notice of Distribution Operations Licence

Some water allocations managed under a ROL also receive water via a distribution network (such as diversion works for off-stream channels). These networks are managed by a distribution operations licence (DOL) holder who authorises the distribution of water.

A water allocation managed under a DOL will have an administrative advice recorded on its title stating that the allocation is one to which a DOL applies.

Under section 155 of the *Water Act 2000*, the holder of a water allocation that a DOL applies to must, when transferring or leasing the water allocation, provide the transferee or lessee with a disclosure statement about the DOL. This disclosure statement must be provided before entering into any contract. The transferee or lessee must deposit with the appropriate Titles Registry forms an acknowledgement notice as evidence. The form W2F164 – Acknowledgement notice for water allocation to which a distribution operations licence applies – is available online.

A Form 14 – General Request is appropriate to record the notice of the existence of a licence. See part 52 – Administrative Advices, esp. [52-0240].

Notice of Removal of Distribution Operations Licence

A Form 14 – General Request, prepared by departmental staff responsible for water management and use, is appropriate to record the notice of removal of a notice of a distribution operations licence. See part 52 – Administrative Advices, esp. [52-0240].

Forfeiture under section 164 of the *Water Act 2000*

[49-2090]

Under s. 164 of the Water Act the chief executive may give an allocation holder a show cause notice if the allocation holder is convicted of an offence against the Act.

If after considering any properly made submissions the chief executive is still satisfied that the allocation should be forfeited the Chief Executive may forfeit the allocation.

Section 164(4) and (5) sets out the requirements for forfeiture and if these requirements are met the chief executive must sell the allocation by public auction, public ballot or public tender (s. 164(6) Water Act).

A purchaser of an allocation in this instance takes the allocation free of all interests and any money received by the Chief Executive is applied in accordance with s. 164(7) and (8) of the Act.

Case Law

[49-7000]

Nil.

Fees

[49-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60-8000].

Cross References and Further Reading

[49-9000]

Part 1 – Transfer

Part 2 – Mortgage (National Mortgage Form)

Part 11 – Caveat

Part 14 – General Request

Part 52 – Administrative Advices

Notes in text

[49-9050]

Note² – This part does not apply to State land.

Note³ – This part does not apply to freehold land.

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Part 51 – Trusts

General Law

[51-0000]

A trust is a legally enforceable arrangement whereby a person (the trustee) holds the legal title in property (the trust property) for the benefit of another person (the beneficiary) or for the advancement of certain purposes. The key feature of any trust is the separation of the legal and beneficial ownership of the trust property. The trustee holds the legal title in the trust property, whilst the beneficiary has the beneficial ownership of the same trust property. In relation to the trust property, the trustee must act for the benefit of the beneficiary or for the specified purpose within the limits set by the rules governing the trust, which may be expressed or implied, and in any event are subject to, and in some cases supplemented by, the provisions of legislation affecting trusts, primarily the *Trusts Act 1973*.

Division 6 of Part 6 of the *Land Title Act 1994* and Chapter 6 Part 4 Division 9 of the *Land Act 1994* deal with, among other things, the registration or otherwise of trusts in the registry. Broadly, the provisions of the Act attempt to limit the circumstances in which a trustee may be registered, and regulate how the trustee may be registered on the register. Essentially, the Registrar is concerned to ensure that the register shows the legal ownership of an interest in a lot or tenure under the Land Act. The Registrar is less concerned to ensure that the beneficial interests are shown, although the Registrar may be concerned that future dealings by the trustee are authorised.

Types of Trusts

No Trust Deed

Bare Trust

[51-0010]

A bare trust will arise where there is a trustee and a beneficiary, but there is no trust instrument or document setting out the terms of the trust. To ascertain the powers of the trustee, one should look to the *Trusts Act 1973*.

Deceased Estate

[51-0020]

The death of a person creates a trust in which the personal representative (that is, the executor, or if there is no will or no executor able and willing to act, the administrator) is charged with the administration of the deceased estate. In addition to the powers conferred by the *Trusts Act 1973*, additional powers may be given to the trustee by the will.

Vesting Order

[51-0030]

The Supreme Court has power, by virtue of s. 82 of the *Trusts Act 1973*, to vest property in a trustee on trusts for specific purposes.

Resulting Trust

[51-0040]

This arises by operation of law where there is an incomplete disposition of the beneficial interest. For example, if property is settled on a trustee for the benefit of a life tenant and then for a remainderman, the legal estate will vest in the trustee with beneficial ownership in the life tenant and remainderman. But if the remainderman disclaims his entitlement, the trustee will hold the property on a resulting trust for the settlor expectant on the death of the life tenant.

Constructive Trust**[51-0050]**

This occurs where a trust is imposed upon a person who has control of property although there has been no actual trust intended by the parties (e.g. where a stranger has received trust property with knowledge that the trustee has acted improperly).

Established by Deed**Discretionary Trust****[51-0060]**

The term ‘discretionary trust’ is applied to many types of trusts which may have varying objects and powers. However, the common element is that the trustee has a discretion to distribute either the income or capital (*corpus*) or both within a defined class of beneficiaries.

Unit Trust**[51-0070]**

The beneficiaries of a unit trust (the unitholders) each hold a unit or units in the trust. The number and class of units held by a unitholder determines the extent of the entitlement of the unitholder to income and, on a winding up of the trust, to capital. As a simple example, assume a unit trust with ten unitholders each holding one unit. Each unitholder would be entitled to one-tenth of the income of the trust, and to one-tenth of the capital of the trust on winding up.

Property Trust**[51-0080]**

Often the term ‘property trust’ is used to refer to a specialised form of unit trust set up specifically for the acquisition of property. More generally, it may refer to any trust set up to acquire and hold property.

Superannuation Fund**[51-0090]**

Superannuation funds are trusts set up and regulated in accordance with Commonwealth legislation, primarily the *Superannuation Industry (Supervision) Act 1993* (Cth) and the *Income Tax Assessment Act 1936* (Cth). The trust deed for a superannuation fund prescribes the circumstances in which a benefit is payable to a beneficiary. Generally, the beneficiaries will be the members of the superannuation fund or the next of kin of a deceased member.

Trusts Generally**[51-0100]**

The only instruments or documents that may be registered to record trustees are:

- Form 5 or 5A – Transmissions by Death (as personal representatives);
- Form 1 – Transfer to Trustees;
- Form 14 – General Request.

The Form 14 may record a transmission by bankruptcy or a vesting that gives effect to an order made under the *Trusts Act 1973* (or another Act).

Generally, there are three parties to any trust instrument or document. They are the settlor, the trustee and the beneficiary.

The settlor is the person who creates the trust. The trustee is the person in whom the legal estate vests. The beneficiary (also called the *cestui que trust*) is the person for whose benefit the trustee holds the property. The beneficiary holds the beneficial interest in the property.

The Settlor**[51-0110]**

Most trust deeds contain a settlor. The settlor must be a competent person. He/she must be under no legal disability:

- (a) as to age (ie he/she must be over 18);
- (b) as to soundness of mind; or
- (c) which would prevent him/her from executing a legal document.

The Trustee**[51-0120]**

A trustee likewise must be competent to perform the duties of his/her office and therefore cannot be under legal disability:

- (a) as to age (ie he/she must be over 18);
- (b) soundness of mind; or
- (c) which would prevent him/her from executing a legal document.

Whilst a minor could conceivably be a trustee, he/she would lack the legal capacity to execute any document pursuant to the trust. Generally speaking, any person who is capable of taking and holding a legal estate, and who is not under any disability at law, may act as trustee.

Trustee Corporation**[51-0130]**

A trustee corporation, by virtue of the *Trustee Companies Act 1968*, can be a trustee of any kind (including an executor). Examples are the Trust Company Limited, Perpetual Trustees Queensland Limited, National Australia Trustees Ltd and ANZ Executors and Trustee Company Limited, all of whom are authorised under this Act.

The Public Trustee of Queensland is also a trustee corporation by virtue of the *Public Trustee Act 1978* and the definition of ‘trustee corporation’ in the *Trusts Act 1973*.

Any corporation capable of holding land can be a trustee by virtue of the Trusts Act, but cannot be an executor unless it is a trustee company.

Trustee of a Settlement**[51-0140]**

The trustee of a settlement (or the tenant for life thereunder, if such settlement was made under the repealed *Settled Land Act 1886*), is a trustee.

Trustee of a Deceased Trustee**[51-0150]**

A personal representative under a will, a grant of probate or letters of administration may assume the trusts of a deceased trustee, thereby becoming a trustee in the place of the deceased trustee.

The Settlor as Trustee**[51-0160]**

The settlor can appoint himself/herself as trustee (s. 110(1) of the *Land Title Act 1994* and s. 375 of the *Land Act 1994*), although for taxation purposes this is generally not the case. The person having power to appoint a new trustee may appoint himself/herself (s. 12(1) of the *Trusts Act 1973*).

Statutory Trustee**[51-0170]**

A statutory trustee is created by the *Trusts Act 1973* to cover the circumstances where a person carries out the functions of a trustee as permitted by s. 31(3) of the *Trusts Act*, without having actually been appointed by any instrument or document or any other Act to perform in that capacity. An example of this would be where land is devised to a deceased's widower/widow for his/her life, and then upon his/her death to his/her children, but without the actual appointment of a trustee. In this case, the widower/widow is a statutory trustee in accordance with the *Trusts Act*, s. 31(3) of which restricts the exercise of powers to those given by ss. 32(1)(d) or 45 unless otherwise sanctioned by the court.

Regulated Superannuation Funds**[51-0175]**

Section 67(A) of the *Superannuation Industry (Supervision Act) 1993* (Cth) provides for a trustee of a regulated superannuation fund (RSF) to borrow money to acquire an asset, including real property. The borrowed money must be used to acquire an asset the RSF trustee is permitted to acquire and hold directly.

The acquirable asset is held on trust so that the RSF trustee acquires a beneficial interest in the acquirable asset.

The appointment by a RSF trustee of another party to hold the legal title in trust can be made in the usual manner, that is, a deed of trust or declaration of trust is produced in support of the transfer.

The transfer is completed as set out in [1-2000] to [1-2090] and the words 'as trustee' must be inserted after the transferee's name in Item 5 [1-2390].

The RSF trustee has a right to acquire legal ownership of the acquirable asset by making one or more payments after acquiring the beneficial interest.

Custodian Trustee**[51-0180]**

Custodian trustees were the creation of s. 42 of the *Public Curator Act 1915* (since repealed), but have now been extended by s. 19 of the *Trusts Act 1973*, which allows any corporation to hold land in Queensland as a custodian trustee.

Section 19(2) of the *Trusts Act* provides that trust property will be vested in the custodian trustee as if such trustee were the sole trustee, but the management of the trust property, and the powers and discretions exercisable by the trustee under the trusts, are vested in managing trustees as fully effectual as if there were no custodian trustee.

A custodian trustee can be appointed either by a Form 1 – Transfer to Trustees by a settlor, by a Form 1– Recording of New Trustees by existing trustees, or by an order of the court. In any case, the custodian trustee must appear in the document and the names of the managing trustees in the Schedule of Trusts or in the body of the appointment.

Any document executed by a custodian trustee must contain the written direction of the managing trustees, or a majority of them (s. 19(2)(d) of the *Trusts Act*) and, if they have changed since the custodian trustee's appointment, a copy of the Appointment of New Managing Trustees must be lodged with the document as evidence.

Managing trustees have the power to appoint new managing trustees, but once appointed, a custodian trustee can only have his/her trusteeship terminated, or a new custodian trustee appointed in his/her place, by the court (s. 19(3) of the *Trusts Act*). This section is subject to the instrument or document creating the trust.

Local Government Trustee**[51-0190]**

Section 116 of the *Trusts Act 1973* provides that a local government may be appointed a trustee of real or personal property, either as sole trustee or as a trustee with others and may accept and hold trust property for any charitable or public purpose, or for any purpose of recreation or other leisure-time use or occupation. The local government may act in the administration of the trust property for the purpose of and according to the trust, notwithstanding that the purpose is not a function of local government, save where, in the case of an existing trust, a contrary intention appears from the instrument or document creating the trust.

Section 117 of the *Trusts Act* requires that any land transferred to a local government as a sole transferee, if transferred by way of a Form 1 – Transfer, should be accompanied by a declaration by the transferor/s, or failing them an appropriate employee of the transferee, that the land is not being transferred to the local authority as a sole trustee.

[51-0200] deleted**The Beneficiary****[51-0210]**

The beneficiary under a trust (also called the *cestui que trust*) is the person for whose benefit the trustee holds the legal estate. The beneficiary can be a minor, an adult, an organisation such as a sporting body or a corporation.

When using a Form 20 – Trust Details Form for a schedule of trusts, if a beneficiary is a minor the date of birth must be shown in Item 2 Schedule of Trusts Details in the Form 20 – Trust Details Form.

There can be several beneficiaries at once, either as joint tenants or as tenants in common, but if they are created by separate deeds of settlement, Items in the Form 1 – Transfer to Trustees must identify the trust instruments or documents by name or reference. A trustee may also be one of the beneficiaries, but a **sole** trustee cannot be the **sole** beneficiary. There is no trust where there is a sole trustee who is the sole beneficiary because there is no separation of the legal and equitable interests. If a sole trustee becomes the sole beneficiary of a trust, then the legal and equitable interests merge, the trust no longer exists, and the beneficiary holds the property absolutely.

The beneficiary does not have an immediate right in relation to the property (except in the case referred to in the preceding paragraph) although he/she may have rights as against the trustee.

Trustee's Powers**[51-0220]**

The *Trusts Act 1973* gives wide powers to a trustee in dealing with trust property and whilst, on the face of it, there appears to be little restriction placed upon a trustee in this regard, there are nevertheless certain areas in which a trustee is not as unfettered as would appear on the surface.

The general powers of trustees in Part 4 of the *Trusts Act* are minimum and cannot be reduced or diminished by the trust deed (see s. 31 of the *Trusts Act*).

Pre *Trusts Act 1973***[51-0230]**

The Act came into operation on 1 July 1973. Despite the fact that the Act did not operate before this date:

- (a) where a trustee purports to sell land which was ‘settled land’ before the commencement of the *Trusts Act*, the sale must be consented to by the tenant for life (see *Re Robinson’s Trusts* [1974] Qd R 243); and

- (b) where a sole trustee died before the commencement of the Trusts Act, a renunciation of the Public Trustee of Queensland in favour of the personal representative of the deceased was required (s. 12 of the *Public Trustees and Executors Act 1897* (now repealed)).

Under the *Trusts Act 1973*

[51-0240]

The Trusts Act empowers a trustee to:

- sell the trust property or any part thereof (s. 32(1)(a));
- exchange the trust property for other property (s. 32(1)(b));
- lease the trust property (but not for a term exceeding that stated in s. 32(1)(e));
- give an option of renewal of a lease, but only if the aggregate terms of the original and renewed leases do not exceed the maximum term allowed (s. 32(3)(a));
- mortgage trust property, but only to raise money for the repair, upkeep, maintenance or renovation of same or for the improvement or development of the property (ss. 33(1)(a) and (b) and see the limitation in s. 33(1)(b));
- agree to any amendment of such a mortgage (s. 33(1)(i));
- take a first mortgage back on selling trust property for the balance of purchase money not exceeding two thirds of the purchase price (s. 36);
- ^{1,2}subdivide land (s. 33(1)(e));
- appropriate any part of the property towards satisfaction of any legacy payable (s. 33(1)(l));
- surrender onerous leases and, in certain circumstances, surrender onerous land to the Crown (s. 38); and
- ¹grant easements (s. 33(1)(h)).

The general powers given by ss. 32 and 33 are the minimum and apply even if lesser powers are expressed in the instrument or document creating the trust, having regard to the following exceptions:

- (a) If all the beneficiaries, not under a disability, direct the trustee in writing not to exercise a specified power, his/her authority to do so is revoked (s. 31(2) of the *Trusts Act 1973*).
- (b) Larger or additional powers can be conferred by a settlor (ss. 4(2) and (3) of the *Trusts Act 1973*).
- (c) A statutory trustee must obtain the consent of the court before exercising any of the powers given to a trustee under s. 32 of the *Trusts Act 1973*, except those conferred by s. 32(1)(d), which relate to the letting of trust property (s. 31(3) of the *Trusts Act 1973*).

Dealings that May Not Come Within the Scope of Trustees' Powers under the *Trusts Act 1973*

[51-0245]

The Registrar of Titles takes a non-intrusive approach to trusts. It is considered it is the responsibility of the trustee and their legal representative to decide that a dealing which may not

come within the scope of the trustee's powers under the Trusts Act is authorised and inform the Registrar of Titles accordingly.

Where a dealing relies on the trustee's powers in the deed of trust document or some other authority rather than authority under the Trusts Act, the dealing must be accompanied by either:

- the consent of the beneficiaries; or
- an authorising court order, or
- a letter from the trustee or on the trustee's lawyer's letterhead stating that there is sufficient authority for the transaction.

The following are some examples of transactions that would not be considered to come within the scope of the trustee's powers under the Trusts Act:

- a trustee transferring trust property to themselves in a personal capacity
- a trustee transferring trust property to a person in their personal capacity, where the consideration is a gift or a nominal amount (e.g. \$1)
- a trustee purchasing property held by themselves in a personal capacity
- a request pursuant to a deed of retirement, to remove one of two trustees who are registered proprietors of trust property
- a trustee transferring trust property to themselves as a trustee for another trust
- a trustee granting a lease of trust property for a period of more than 21 years
- a trustee granting a lease of trust property to themselves in a personal capacity
- a trustee being granted a lease by themselves in a personal capacity
- a trustee entering into a mortgage as either mortgagor or mortgagee with themselves in a personal capacity.

The above requirement is applicable to a transaction where the trust document is deposited (or referenced in a prior registered dealing) or where a Trust Details Form is deposited.

Purchase of Land

[51-0250]

Section 21 of the *Trusts Act 1973* authorises a trustee to invest trust funds in the purchase of land. The purchase would be by way of a Form 1 – Transfer to Trustees with the will, instrument or document of trust or a Schedule of Trusts.

Sale of Land

[51-0260]

Any transfer by a trustee under ss. 31 and 32 of the *Trusts Act 1973* does **not** need to include, in the operative clause, a statement that it is being made pursuant to these sections. It is accepted that the power is not restricted except as provided in the following paragraphs.

²The consent of a life tenant is required to a sale by a trustee, even where the land was 'settled land' before 1 July 1973.

Since the *Succession Act 1981*, which repealed the *Intestacy Act 1877*, any administrator can sell land without the consent of the beneficiaries. A personal representative under letters of

administration is deemed to be a trustee by the *Succession Act 1981* and can exercise all the powers of a trustee under the *Trusts Act 1973*.

A trustee **cannot** sell trust land to themselves, except in the following circumstances:

- 1 where the trustee is so authorised by the instrument or document of trust; or
- 2 where the trustee is so authorised by the consent of the court, or
- 3 where there is legislative authority to do so; or
- 4 where all beneficiaries, being *sui juris*, provide the following:
 - a consent to the transfer on a Form 18 – General Consent; and
 - a declaration that sets out:
 - their age; and
 - that they are not under a legal disability; and
 - that they have received or declined independent legal advice.

The Court has the power to appoint a trustee for the purpose of selling property pursuant to s. 38 of the *Property Law Act 1974*.

Lease of Land

[51-0270]

Unless a greater term is authorised by the trust instrument or document, any lease granted by a trustee must not exceed 21 years (s. 32(1)(e) of the *Trusts Act 1973*).

²Unless authorised by the trust instrument or document, any lease containing an option to renew must not have an aggregate duration that exceeds the maximum term mentioned above (s. 32(3)(a) of the *Trusts Act*). Similarly, any amendment that extends the term must not result in an aggregate that exceeds the maximum allowed.

Mortgage of Land

As Mortgagor

[51-0280]

See Part 2 – Mortgage (National Mortgage Form) esp. [2-0050].

As Mortgagee

[51-0290]

See Part 2 – Mortgage (National Mortgage Form) esp. [2-0100].

Appropriation

[51-0300]

An appropriation made under s. 33(1)(l) of the *Trusts Act 1973* must be accompanied by a statutory declaration from the trustee stating:

- an appropriation has occurred in the course of administering the estate; and
- the provisions of s. 33(1)(l) of the *Trusts Act 1973* have been complied with (i.e. all persons interested in the appropriation have been notified); and
- a search of court records reveals no application has been made to the court to vary the appropriation.

An appropriation which is the subject of the service of notices is not effectual until the expiry of one month after service or such extended time as is allowed by the court.

Death of Mortgagee Trustee

[51-0310]

The correct procedure to be followed on the death of a mortgagee who holds as sole trustee as disclosed by the mortgage document is set out in [51-2080].

Surrender of Onerous Lease or Land

[51-0320]

Any surrender of an onerous lease or onerous land must include a statement that it is being done in accordance with s. 38 of the *Trusts Act 1973*.

Schedule of Trusts in a Form 20 – Trust Details Form

[51-0330]

It should be noted that the Form 20 – Trust Details Form containing the Schedule of Trusts in Item 2 is not an ‘instrument or document’. The registrable ‘instrument or document’ is the Form 1 – Transfer to Trustees.

In the case of land to be held under a Form 1 – Transfer to Trustees for any unincorporated body or club, if the Schedule of Trusts in Item 2 of the Form 20 – Trust Details Form sets out the powers given to the trustee without reference to the rules of the club, there is no necessity to lodge a certified copy of such rules. However, if the Schedule of Trusts in Item 2 of the Form 20 – Trust Details Form simply states that the trustee is to hold in accordance with the rules of the club, then a certified copy of the rules should be produced.

Public Trustee under s. 53A of *Public Curator Act 1915*

[51-0340]

Both s. 53A and s. 53B of the Public Curator Act have been repealed. However, if any are encountered in the register, the matters set out below will apply.

When the Public Trustee of Queensland is registered as ‘Trustee under s. 53A of the *Public Curator Act 1915*’, the Public Trustee is administering the estate in one of the following circumstances:

- (a) the land is devised to a person but the just debts, funeral and testamentary expenses could not be satisfied without recourse to the land; or
- (b) the land is devised to a minor, an alien or a person whose whereabouts are unknown or it is not known whether he/she is alive or dead; or
- (c) having devised the land, the testator then sold it and the purchase price is unpaid.

The Public Trustee may claim transmission as trustee under s. 53A on a certificate under s. 53B. He/she has power to sell, mortgage or lease the land to discharge any debts or liabilities charged upon the testator’s estate. He/she can also invoke any of the powers of a trustee under the *Trusts Act 1973*.

Trustee Company

[51-0350]

By the *Trustee Companies Act 1968* those companies listed in schedule 8AA of the Corporations Regulations 2001 have been given some of the powers previously reserved solely to the Public Trustee of Queensland, in addition to the powers already exercised by them under their respective Acts.

Individuals may join with a trustee company to apply for a grant of representation or may authorise a trustee company to apply for letters of administration with the will annexed (s. 6 of the *Trustee Companies Act 1968*).

Similarly, in intestate estates, an individual entitled to a grant of representation may join with a trustee company to apply for representation, or may authorise the trustee company to apply for representation in its own name (s. 7 of the *Trustee Companies Act 1968*).

In any estate where the gross value does not exceed \$100,000 and no person has applied for administration in Queensland, the trustee company may file in the court an election to administer the estate. The trustee company is then deemed to be the executor of the will or administrator of the estate (s. 12 of the *Trustee Companies Act 1968*).

Where an administrator dies leaving part of the estate unadministered and the value does not exceed \$100,000, a trustee company may file an election to administer the property left unadministered, in lieu of applying for letters of administration *de bonis non*. It is then deemed the administrator of the estate left unadministered (s. 13 of the *Trustee Companies Act 1968*).

Section 20 of the *Trustee Companies Act 1968* permits any executor or administrator with the consent of the court to appoint a trustee company as executor or administrator in his/her place.

Legacies in favour of minors may be paid to a trustee company (s. 26 of the *Trustee Companies Act 1968*). Where land is devised to a person and the debts, liabilities, funeral or administration expenses of the testator cannot be satisfied without recourse to the land or where the land is devised to a minor, the trustee company administering the estate is entitled to have transmission entered up to it as ‘trustee’, and has power to mortgage the land, sell the land at public auction or for the best price obtainable thereafter, or lease the land (s. 30 of the *Trustee Companies Act 1968*). Whenever a trustee company is administering an estate, production of a certificate of appointment is all that is required as evidence of its authority (s. 39 of the *Trustee Companies Act 1968*).

A trustee company, by s. 28 of the *Trustee Companies Act 1968*, has power to sell trust land at public auction, by private contract if not sold after being offered at public auction or with the beneficiaries’ consents in writing. It can also purchase land, subdivide land for the purpose of sale, exchange trust property and make appropriations.

In general, the powers in the *Trustee Companies Act 1968* approximate those in the *Public Trustee Act 1978*, and the *Trusts Act 1973* fills in any gaps.

[51-0360] deleted

Associations Incorporation Act 1981

[51-0370]

The *Associations Incorporation Act 1981* permits the incorporation of certain associations, provided the requirements of the Act are satisfied. The Act defines an association as an association, society, or body that is formed or carried on for a lawful purpose. It excludes:

- an association with fewer than seven individual members;
- a corporation;
- a partnership within the meaning of the *Partnership Act 1891*;
- an industrial organisation within the meaning of the *Industrial Relations Act 1990*;
- a parents and citizens association formed under the *Education (General Provisions) Act 1989*;

- an association formed or carried on for the purpose of providing financial gain for its members;
- an association which is provided for in a special Act that:
 - incorporates:
 - (a) the association's governing body; or
 - (b) the trustees holding property for the association; or
 - provides that the association may sue or be sued, or hold property, in the name of the association or an officer of the association; or
 - otherwise specially regulates the affairs of the association;
- an association, the main purpose of which is the holding of property:
 - in which the members have a disposable interest; or
 - that the members have a right to divide between all or some of them; or
 - for use by some or all of its members or among persons claiming through, or nominated by, some or all of its members; or
 - for distribution of that property, or of the income from the property, among some or all of its members or among persons claiming through, or nominated by, some or all of its members; and
- an association which has an object of raising a fund by subscription of its members to make loans to them.

Once an application for incorporation has been granted, a certificate of incorporation is issued by the Office of Fair Trading and the association thereupon becomes a body corporate having the name shown. The association is then able to hold property in its own name. This certificate of incorporation must be deposited with any instrument or document that will record the incorporated association as a registered owner or the holder of an interest. For information about options for the deposit of supporting documentation see [60-1030].

Where an incorporated association has transitioned to a company registered under the *Corporations Act 2001*, a Form 14 – General Request to Record Change of Name must be deposited. (See [14-2035] for further information).

Legislation

[51-1000]

^{2,3}Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, an interest or dealing may be registered in a way mentioned in the Land Title Act, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act:

- (a) as if a reference to the freehold land register is a reference to the water allocations register; and
- (b) as if a reference to freehold land or land is a reference to a water allocation; and

- (c) as if a reference to a lot is a reference to a water allocation; and
- (d) with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8200] and [0-8300].

Practice

Introduction

[51-2000]

Generally, a trust arises when, by virtue of a deed, will or other instrument or document, the legal owner (the trustee) is bound to hold the property for the benefit of a beneficiary (often for a stated purpose).

Legislation Covering Trusts

Primary

[51-2010]

- *Trusts Act 1973*
- *Land Title Act 1994*
- *Land Act 1994*
- *Public Trustee Act 1978*
- *Trustee Companies Act 1968*
- *Succession Act 1981*
- *Partnership Act 1891*

Secondary

[51-2020]

- *Local Government Act 2009*
- *Ambulance Service Act 1991*
- *Associations Incorporation Act 1981*
- *United Grand Lodge of Antient Free and Accepted Masons of Queensland Trustees Act 1942*
- *Returned & Services League of Australia (Queensland Branch) Act 1956*

Disclosure of Trust

Transfer

[51-2022]

It is not compulsory for a trust to be disclosed on the freehold land register however a person may only hold an interest in a State lease as trustee if a transfer of the interest to the person as trustee is registered (Section 374A of the *Land Act 1994*)

Where a trust is to be disclosed and the transferee recorded on the register in the capacity of trustee:

- (1) 'as trustee' must appear in Item 5 – Transferee of the Form 1 – Transfer; and
- (2) where the writing that will create the trust is the Form 1 – Transfer itself – an original Form 20 - Trust Details Form containing the schedule of trusts must be deposited (see [1-2380]); or
- (3) if the trust has already been created by other writing (e.g. a trust deed) – either:
 - (a) an original Form 20 – Trust Details Form must be deposited; or
 - (b) all document(s) that create the trust including any variation (for example, deed of retirement and appointment, deed of removal and appointment or variation of trust etc.) must be deposited; or
 - (c) in Item 5, all dealings with which the document(s) that create the trust (including any variation) were *deposited* must be referred to (see [1-2390] for examples). Please note that it is not acceptable to refer to a Form 20 – Trust Details Form previously deposited with another instrument or document. A newly completed original Form 20 – Trust Details Form must be deposited with each transfer.

Where a deed of trust or Form 20 – Trust Details Form is deposited and 'as trustee' does not appear in Item 5, or where 'as trustee' appears in Item 5 but the deed of trust or a Form 20 – Trust Details Form has not been deposited, the dealing will be requisitioned for clarification and amendment.

Where a registered owner is recorded on title in his/her own right but in reality holds the land as an undisclosed trustee and he/she wishes to disclose the trust using a Form 1 - Transfer:

- (1) Item 4 of the Form 1 – Transfer must state words to the effect of 'to declare the trust pursuant to s. 109 of the *Land Title Act 1994*' and
- (2) 'as trustee' must appear in Item 5 – Transferee of the Form 1 – Transfer; and
- (3) either:
 - (a) an original Form 20 – Trust Details Form must be deposited; or
 - (b) all document(s) that create the trust including any variation (for example, deed of retirement and appointment, deed of removal and appointment or variation of trust etc.) must be deposited; or
 - (c) in Item 5, all dealings with which the document(s) that create the trust (including any variation) were *deposited* must be referred to (see [1-2390] for examples). Please note that it is not acceptable to refer to a Form 20 – Trust Details Form previously deposited with another instrument or document. A

newly completed original Form 20 – Trust Details Form must be deposited with each transfer.

For further information about options for depositing a trust document see [60-1030].

Where a trust has not previously been disclosed to the Titles Registry and a lodged transfer shows Item 4 – Consideration stating ‘pursuant to a deed of retirement and appointment’ or ‘pursuant to a deed of removal and appointment’ but the words ‘as trustee’ do not appear in Item 5 and a deed of trust or Form 20 – Trust Details Form is not deposited—the transferee will be recorded without reference to the trust capacity.

Request to Vest in Trustee under Order Made Under the *Trusts Act 1973* or Another Act

[51-2025]

Section 90 of the *Trusts Act 1973* states the effect of a vesting order and specifies in subsection (1A) that ‘such property shall vest in the persons named as trustees or otherwise as appears from the order’. Consequently, the court order is paramount when determining the capacity in which the property is to be held. The incoming registered owner must appear on title in the capacity specified in the order, e.g. ‘as trustee’ or ‘as statutory trustee for sale’.

If the request specifies the capacity of the incoming registered owner in the same terms as the court order then it is capable of registration, subject to the usual examination procedures.

Execution by an Attorney for an Undisclosed Trustee

[51-2027]

Where an attorney executes a Titles Registry instrument or document on behalf of a party who appears (from the face of the instrument or document or accompanying instrument or document) to be an undisclosed trustee, the power of attorney must be granted by the donor in their capacity as trustee. The dealing must be accompanied by a letter from the party (donor) or their solicitor stating to the effect:

‘the instrument or document is being executed by the attorney under the authority of the donor acting in the donor's capacity as trustee of the undisclosed trust’.

Transfer to Trustees

[51-2030]

For the purpose of registering a trust in the registry, a trust must generally be created in writing. However, in some instances, e.g. bare trusts, deceased estates and trusts created by court order, the writing that creates the trust will be a Form 1 – Transfer to Trustees, an original will and a Supreme Court order, respectively.

There must be a plain intention to vest the trust property in the trustee. There must also be a beneficiary and it must be certain who the beneficiary is. This is generally apparent in the trust deed, the will or the schedule of trusts for the Form 1 – Transfer to Trustees.

Instrument or Document Required to Record a Transfer to Trustees

[51-2040]

Where the writing that will create the trust is the Form 1 – Transfer itself an original Form 20 – Trust Details Form containing the schedule of trusts in Item 2 must be deposited (see [1-2380]). The Form 20 – Trust Details Form containing the schedule of trusts is separate from the transfer instrument or document and does not form part of the Register.

Where the trust is already in existence then either:

- (a) an original Form 20 – Trust Details Form must be deposited; or

- (b) all document(s) that create the trust including any variation (for example, deed of retirement and appointment, deed of removal and appointment or variation of trust etc.) must be deposited; or
- (c) in Item 5, all dealings with which the document(s) that create the trust (including any variation) were *deposited* must be referred to (see [1-2390] for examples). Please note that it is not acceptable to refer to a Form 20 – Trust Details Form previously deposited with another instrument or document. A newly completed original Form 20 – Trust Details Form must be deposited with each transfer.

These deposited documents are separate from the Form 1 – Transfer and do not form part of the Register.

Deposit of Trust Document

[51-2043]

Some trust documents that are deposited with a Form 1 – Transfer require a duty notation as detailed in the table below which has been prepared in conjunction with the Office of State Revenue.

For further information about the options for the documentation to be deposited with a Form 1 – Transfer to a trustee see [1-2390] and for the options for depositing a trust document see [60-1030].

Titles registry requirements for duty endorsement on deposited trust documents

Description of trust document etc.	Titles registry requirements
Trust documents evidencing the creation of a trust or superannuation fund that commenced before 1 March 2002 (i.e. subject to the repealed <i>Stamp Act 1894</i>)	A lodged dealing will be registered only if trust document has a duty endorsement
Trust document (including a superannuation fund deed and a constitution of a responsible entity for a managed investment scheme registered with the Australian Securities & Investment Commission) evidencing the creation of a trust that commenced on or after 1 March 2002	*A lodged dealing will be registered whether or not trust document/deed/constitution has a duty endorsement
An associated document (e.g. deed of variation) varying the terms of a trust document (including a superannuation fund deed and a constitution of a responsible entity)	*A lodged dealing will be registered whether or not associated document has a duty endorsement. Note: Date of variation does not affect duty endorsement requirements
Deed of removal/retirement and appointment of trustee(s)	A lodged dealing will be registered only if deed has a duty endorsement

*Visit the Office of State Revenue website for further information that can help you determine whether the document requires an endorsement.

If the original trust document has been lost or destroyed and a photocopy of sufficient quality to allow imaging is available, it may be sufficient to satisfy the responsibilities of the Registrar. The photocopy should be submitted with a statutory declaration by the person who had care and custody of the trust document detailing the circumstances of the loss of the original and any

stamped duplicates, the searches undertaken to locate them and states that there have been no amendments or variations for consideration.

Minor differences between the name of the trustee shown in the trust deed and the name of the trustee shown in the lodged instrument or document (e.g. spelling) will be accepted provided the instrument or document is accompanied by a statutory declaration identifying the trustee as being one and the same person. Larger differences (e.g. a changed surname or missing or additional middle names) will require a statutory declaration identifying the trustee as being one and the same person with evidence of the correct name (e.g. a copy of a birth certificate).

Vesting in Trustees

[51-2046]

A person may be registered as trustee of an interest in a lot by way of a Form 14 – Request to Vest that gives effect to an order made under the *Trusts Act 1973* or another Act.

Instrument or Document Required to Record Vesting in Trustees

[51-2049]

A Request to Vest must be in a Form 14. The vesting order made under the *Trusts Act 1973* and either an original Form 20 – Trust Details Form (see [51-4100]) or all documents that state the details of the trust upon which the interest is vested must be deposited. For further information about options for depositing supporting documentation see [60-1030].

^{1, 3}A request to vest an interest in a person as trustee of a State tenure may only be registered if the person is eligible to hold the land in trust under the *Land Act 1994*.

See Part 14, esp. [14-2335].

Recording of New Trustees

[51-2050]

Section 12 of the *Trusts Act 1973* deals with the appointment of a new trustee in circumstances where a trustee (whether original, substituted, appointed by the court or otherwise):

- (a) is dead; or
- (b) remains out of the State for more than one year without having properly delegated the execution of the trust; or
- (c) seeks to be discharged from all or any of the trusts or powers reposed in or conferred on him/her; or
- (d) refuses to act therein; or
- (e) is unfit to act therein; or
- (f) is incapable of acting therein; or
- (g) is a minor; or
- (h) being a corporation, has ceased to carry on business, is under official management, is in liquidation or has been dissolved.

That is, in circumstances where a trust over the property concerned (whether registered or not) is already in existence.

Instrument or Document Required To Record New Trustee

[51-2060]

When a new trustee is appointed because a trustee:

- is dead (whether or not the sole surviving trustee); or
- remains out of the State; or
- seeks to be discharged; or
- is unfit or incapable of acting; or
- is a company that:
 - has ceased to carry on business;
 - is in liquidation:
 - under official management; or
 - is dissolved, and
- the trust instrument or document nominates a person for the purpose of appointing a new trustee;

the instrument or document applicable is a Form 1 – Transfer, together with the deposit of relevant evidence. See Part 1, esp. [1-2400] to [1-2430].

In instances where two or more trustees retire and are replaced by a sole trustee (not a Trustee Corporation as defined in s. 5 of the *Trusts Act 1973*), then the authority for a sole trustee must be contained within the trust instrument (s. 12(2)(c) of the *Trusts Act*).

It is considered that it is the responsibility of the trustee and their legal representative to decide that a deed of trust authorises a sole trustee. The instrument or document must therefore be accompanied by a letter from the trustee or on the trustee's lawyer letterhead stating that there is sufficient authority for a sole trustee unless a Form 20 – Trust Details Form is deposited with the instrument or document. Where a Form 20 – Trust Details Form is deposited with the instrument or document there is no requirement to deposit a letter regarding the authority for a sole trustee.

In the circumstances listed above, the person nominated for the purpose of appointing new trustees by the instrument or document (if any) creating the trust, or if there is no such person or no such person able and willing to act, then the surviving or continuing trustee or trustees for the time being, or the personal representative of the last surviving or continuing trustee, may by writing appoint a person or persons (whether or not being the person or persons exercising the power) to be a trustee or trustees in the place of the trustee first mentioned (s. 12(1) of the *Trusts Act*).

If the death of the last surviving trustee was before 1 July 1973, s. 12 of the *Trustees and Executors Act 1897* applies, and the renunciation of the Public Trustee under that Act should be obtained.

Removal of Trustee without a New Appointment

[51-2065]

If it is only intended to record the removal of a trustee (without the replacement of that trustee by another trustee) in any of the circumstances detailed above in [51-2060], the instrument or document applicable is:

- to record the death of the trustee (if not the last surviving trustee), a Form 4 – Request to Record Death, which may include the recording of the deaths of several trustees if applicable; or

- in all other instances which do not involve a sole trustee, a Form 14 – General Request.

Retirement of Trustee without a New Appointment**[51-2070]**

Section 14 of the *Trusts Act 1973* allows a trustee to retire without the necessity to replace himself/herself if there remains at least two individuals or a trustee corporation to act as trustee/s.

Unless the deed of trust specifically authorises a sole trustee (not a Trustee Corporation as defined in s. 5 of the *Trusts Act*) to remain or a single trustee was originally appointed, then at least two trustees must administer the trust.

It is considered that it is the responsibility of the trustee and their legal representative to decide that a deed of trust authorises a sole trustee. The instrument or document must therefore be accompanied by a letter from the trustee or on the trustee's lawyer letterhead stating that there is sufficient authority for a sole trustee unless a Form 20 – Trust Details Form is deposited with the instrument or document. Where a Form 20 – Trust Details Form is deposited with the instrument or document there is no requirement to deposit a letter regarding the authority for a sole trustee.

The instrument or document required is a Form 14 – General Request to record retirement of trustee.

Death of Sole Surviving Trustee**[51-2080]**

Upon the death of a sole surviving trustee, whether or not the trust is recorded in the Register, the trust property automatically vests in the Public Trustee of Queensland (s. 16(2) of the *Trusts Act 1973*).

The personal representative of the last surviving trustee can request that he/she be recorded as trustee upon deposit of evidence that he/she has notified the Public Trustee in writing in accordance with s. 16(2)(b) of the *Trusts Act*. The land then vests in him/her as trustee upon the trusts recited (s. 15 of the *Trusts Act*).

The documentation required is a Form 1 – Transfer, together with supporting evidence (see Part 1, esp. [1-2400] to [1-2430]).

However, where the property has vested in the Public Trustee of Queensland under s. 16(2) of the *Trusts Act* and there is no one willing or able to appoint a new trustee, the Public Trustee may request to be recorded as trustee in the Titles Registry. In this instance a Form 1 – Transfer to vest is required to be registered. Evidence of death of the trustee must be deposited.

Lodgement fees are applicable and a duty notation is required.

Second Trustee Nominated to Take After Death of First**[51-2090]**

A testator may appoint a trustee of his/her will, and specify that on the death of that trustee another person will assume the office of trustee. If the Form 5 or 5A – Transmission by Death to the first trustee is recorded in the Register and the first trustee dies, a Form 14 – General Request requesting registration of the second trustee should be lodged. Evidence of the death of the first trustee should be annexed to a declaration identifying the applicant with the second trustee named under the will deposited with the Form 5 or 5A – Transmission by Death.

There is no divesting from the Public Trustee required in this case as the deceased trustee was not the last sole surviving trustee.

[51-2100] deleted

[51-2110] deleted

Dealing by Trustee

[51-2115]

Dual Capacity

A person who holds an interest in a lot in his/her own right and who is also a trustee of an interest in another lot cannot transfer or otherwise deal with both interests in one form. Dealings must be by way of a separate form for each estate.

However, one Form 1 – Transfer is acceptable where a person in their own right purchases a share in a lot and also purchases another share as trustee, in the same lot.

[51-2120] deleted

As Mortgagor

[51-2130]

See Part 2 – Mortgage (National Mortgage Form), esp. [2-0050].

As Mortgagee

[51-2140]

See Part 2 – Mortgage (National Mortgage Form), esp. [2-0100].

Trustee Registered Under a Transmission by Death

¹Where Death Occurred Before 1 January 1982

[51-2150]

Previously, where the death occurred before 1 January 1982 (the date of promulgation of the *Succession Act 1981*), trustees were registered under ‘old style transmissions’ with certain limitations after the designation ‘trustee’. For example, as ‘devisee in trust’, ‘devisee in trust with power of sale’, ‘trustee’, ‘trustee by implication’ or ‘trustee for the purpose of carrying out the terms of a contract of sale’.

In addition, the Public Curator (as he then was) was registered as ‘trustee under s. 53A of the *Public Curator Act 1915*’. Since the *Public Trustee Act 1978* repealed this section, no further cases of this kind will occur unless they were executed during the currency of the former Act and have not yet been lodged.

Occasionally a will may neglect to appoint an executor as trustee or, if there is an appointment as trustee, it may neglect to direct the legal estate to the trustee, and yet the will then proceeds to give powers and set out duties to be performed by a trustee. In such cases, the trustee would have been registered as ‘trustee by implication’. An entry on the Register of ‘trustee by implication’ must be examined in conjunction with the will.

In the case of an ‘old style transmission’, where the trustee is registered as ‘trustee for the purpose of carrying out the terms of a contract of sale’, the trustee can only execute a Form 1 – Transfer to the purchaser named in the contract. If the contract is rescinded, a new transmission in favour of the person entitled under the will should be lodged with evidence of the rescission of the contract of sale.

Where Death Occurred on or After 1 January 1982

[51-2160]

In deaths occurring on or after 1 January 1982, the ‘old style’ limitations on the designation ‘trustee’ are no longer used and the trustee is now recorded by the Form 5 or 5A – Transmission by Death as ‘personal representative’.

[51-2170] to [51-2190] deleted

¹Trust on Deed of Grant

[51-2200]

When a deed of grant issues to grantees as trustees, a declaration of trust is received with the deed of grant. This is given a Dealing number after the deed of grant issues and the trustee is recorded in the Register. No fees apply. Any changes in the composition of the named trustees should be by a Form 1 – Transfer recording new trustees, accompanied by a copy of the Order in Council authorising the change.

When a deed of grant issues to trustees generally, and not individually, for public purposes and no other purpose whatsoever under s. 35 of the *Land Act 1994*, no declaration of trust is required to be lodged. An endorsement is entered in the Register, e.g. ‘held upon trust, [etc]’. The Minister’s written approval authorising an action must be deposited with the dealing for any dealings with the land.

Incorporation of Association

[51-2210]

The various circumstances leading to registration of an incorporated association in the registry and the necessary documentation in relation thereto are set out below.

Change of Name of Incorporated Association

[51-2220]

A Form 14 – Request to Change Name must be made by the secretary of the association and lodged with a certified copy of the certificate of registration of change of name.

Amalgamation of Two or More Incorporated Associations

[51-2230]

A Form 14 – Request to Vest in the name of the new association consequent upon amalgamation, signed by the secretary, must be made. A certified copy of the certificate of the amalgamated association is required. The Request is exempt from transfer duty, however lodgement fees are payable.

Incorporation of a Body Presently Holding Letters Patent under the *Religious Educational and Charitable Institutions Act 1861*

[51-2240]

A Form 14 – Request to Vest must be made by the secretary of the association. A certified copy of the certificate of incorporation is required as evidence. The Request is exempt from transfer duty, however lodgement fees are payable.

Cancellation and Vesting of Property

[51-2250]

Provision is also made for the cancellation of the incorporation of an association. On cancellation, the property of the association vests in the Public Trustee of Queensland on the trusts and for the purposes it was held prior to the vesting. The appropriate instrument or document would be a Form 14 – Request to Vest with a copy of the Order in Council vesting the property in the Public Trustee.

The Governor in Council may, by Order in Council, vary the trusts or purposes and/or vest the property of the association, or part thereof, in persons or other incorporated associations. A Form 14 – Request to Vest and a copy of the Order in Council is appropriate.

^{1,2}**Note:** Forms under the *Associations Incorporation Act 1981* cannot be used to incorporate a trustee who holds a deed of grant in trust for a specific purpose. An Order in Council is required.

Property Held on Trust for Incorporated Association Prior to Incorporation

[51-2260]

The *Associations Incorporation Amendment Act 1995* was proclaimed to commence on 8 September 1995. Amongst the provisions proclaimed, the Act repealed Forms 7 and 8 (previously Forms 5A and 5B of the *Associations Incorporations Act 1981*). Those forms and a certified copy of the certificate of incorporation were previously required to record interests already held on trust for an association in the name of the association once it became incorporated.

To satisfy the requirements of the Registrar in maintaining the register as referred to in s. 24(4) of the Associations Incorporation Act, a Form 14 – General Request for recording is required to be lodged. An example of a completed request for a fictitious association is provided under the heading ‘Forms’.

The Request attracts normal lodgement fees and is exempt from transfer duty. Evidence of the incorporation must be deposited with the request. Acceptable evidence is either a certified copy of the certificate of incorporation issued by the Office of Fair Trading or the original certificate of incorporation and a photocopy (which will be compared with the original and noted by the Receiving Officer as being a true copy, the noted copy being retained and the original being returned to the lodger).

Forms

General Guide to Completion of Forms

[51-4000]

For general requirements for completion of forms see part 59 – Forms.

Dealing Number



OFFICE USE ONLY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department's website.

1. Nature of request

RECORDING UNDER THE ASSOCIATIONS
INCORPORATION ACT 1981

Lodger (Name, address, E-mail & phone number) Lodger
Code

JOHN WATERHEAD
24 FLATHEAD STREET
SURFHAVEN QLD 4999
(07) 3456 2354

2. Lot on Plan Description

LOT 999 ON RP901999

Title Reference

50087766

3. Transferor

WILIAM SNADMAN and NORMAN BEACHCOMBER AS TRUSTEES OF THE COASTAL GOLF CLUB UNDER
NOMINATION OF TRUSTEES 610655433

4. Interest

FEE SIMPLE

5. Applicant

COASTAL GOLF CLUB INCORPORATED
ADDRESS FOR SERVICE OF NOTICES TO APPLICANT: 22 REAL STREET, ASHGROVE QLD 4060

6. Request

I hereby request that: the Registrar of Titles record the interest of the above registered proprietor in the name of the applicant in accordance with s. 24 of the *Associations Incorporation Act 1981* and certify that the applicant is incorporated as evidenced by the certificate of incorporation deposited.

7. Execution by applicant

J D Surfboard

JOHN DAVID SURFBOARD
Secretary, Coastal Golf Club Incorporated

31/10/2007
Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Guide to Completion of Form 14

Item 1

[51-4010]

Insert the name of the Request, i.e. a recording under the *Associations Incorporation Act 1981*.

Item 2

[51-4020]

^{1, 2}Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for Crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

^{2, 3}Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

e.g.	Lot on Plan Description	Title reference
	WA 27 on AP 7900	46012345

^{1, 3}State Tenure Description

The description of the relevant State tenure should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘CP’ for a crown plan).

e.g.	Lot on Plan Description	Title reference
	Lot 27 on CP LIV1234	40567123

Item 3

[51-4030]

The registered proprietor, holder of a water allocation or State tenure should be as shown on the current title or lease.

Item 4

[51-4040]

Insert the relevant interest, e.g. ‘fee simple’.

Item 5

[51-4050]

The applicant is the incorporated association.

Item 6

[51-4060]

The Request should be substantially as shown in the example.

Item 7

[51-4070]

Execution of the Form must be by the secretary of the association (s. 24 of the *Associations Incorporation Act 1981*).

The Request is exempt from transfer duty, but normal lodgement fees apply.

Title Reference [50087766]

1. Authority for the Trust

- [] Trust Document(s) creating the Trust (e.g. Trust Deed and any amending Deed(s) or Will)
[X] Schedule of Trusts (complete Item 2)

2. Schedule of Trusts Details (only complete if "Schedule of Trusts" is selected in Item 1)

It is declared that the land in Item 2 of the Form 1 – Transfer is to be held by Queensland City Council upon trust for public use and ancillary uses.

3. Name of Trust

N/A

4. Date of Creation of Trust (leave blank if "Schedule of Trusts" is selected in Item 1)

/ /

5. Beneficiaries (or if applicable – the charitable purpose of a charitable trust)

N/A

6. Trustees

N/A

7. Declaration

The Trustee states that:

1. the information contained in this Form 20 – Trust Details Form is true and correct; and
2. where applicable – any change in Trustee(s) is authorised by the Trust Document, the *Trusts Act 1973* or another authorising law; and
3. any applicable duty under the *Duties Act 2001* has been accounted for.

Where a Solicitor signs on behalf of a Trustee the Solicitor makes the above statements either from their own personal knowledge or from information supplied by the Trustee.

Signer Role

Delegated officer of
Queensland City Council

Signer's Full Name

ANDREW PETER SERVANT

Signature

A Servant

Date

01 / 02 / 2018

Title Reference [50087766]

1. Authority for the Trust

- [] Trust Document(s) creating the Trust (e.g. Trust Deed and any amending Deed(s) or Will)
[X] Schedule of Trusts (complete Item 2)

2. Schedule of Trusts Details (only complete if "Schedule of Trusts" is selected in Item 1)

William Snadman as trustee for Peter Snadman who is a minor (date of birth 20/08/2014) and Jennifer Snadman who is a minor (date of birth 8/05/2016) until they reach the age of 21.

3. Name of Trust

N/A

4. Date of Creation of Trust (leave blank if "Schedule of Trusts" is selected in Item 1)

/ /

5. Beneficiaries (or if applicable – the charitable purpose of a charitable trust)

N/A

6. Trustees

N/A

7. Declaration

The Trustee states that:

1. the information contained in this Form 20 – Trust Details Form is true and correct; and
2. where applicable – any change in Trustee(s) is authorised by the Trust Document, the *Trusts Act 1973* or another authorising law; and
3. any applicable duty under the *Duties Act 2001* has been accounted for.

Where a Solicitor signs on behalf of a Trustee the Solicitor makes the above statements either from their own personal knowledge or from information supplied by the Trustee.

Signer Role

Trustee

Signer's Full Name

WILLIAM SNADMAN

Signature

W Snadman

Date

01 / 02 / 2018

Title Reference [50087766]

1. Authority for the Trust

[X] Trust Document(s) creating the Trust (e.g. Trust Deed and any amending Deed(s) or Will)

[] Schedule of Trusts (complete Item 2)

2. Schedule of Trusts Details (only complete if "Schedule of Trusts" is selected in Item 1)

3. Name of Trust

THE JONES FAMILY DISCRETIONARY TRUST

4. Date of Creation of Trust (leave blank if "Schedule of Trusts" is selected in Item 1)

20 / 12 / 2017

5. Beneficiaries (or if applicable – the charitable purpose of a charitable trust)

Defined in ~~in~~ clause 4 of the Deed of Trust dated 20 December 2017.

6. Trustees

PETER JAMES JONES
MARY SUE JONES

7. Declaration

The Trustee states that:

1. the information contained in this Form 20 – Trust Details Form is true and correct; and
2. where applicable – any change in Trustee(s) is authorised by the Trust Document, the *Trusts Act 1973* or another authorising law; and
3. any applicable duty under the *Duties Act 2001* has been accounted for.

Where a Solicitor signs on behalf of a Trustee the Solicitor makes the above statements either from their own personal knowledge or from information supplied by the Trustee.

Signer Role

Solicitor

Signer's Full Name

WALTER PAUL SYKES

Signature

W Sykes

Date

01 / 02 / 2018

Guide to Completion of Form 20 – Trust Details Form

[51-4100]

Title Reference

[51-4110]

Insert at least one title reference from Item 2 of the Form 1 – Transfer or other instrument.

Item 1

[51-4120]

If the trust has already been created by other writing (e.g. a trust deed) – select Trust Document(s) creating the Trust.

If the Form 1 – Transfer is the writing that will create the trust – select Schedule of Trusts and detail the schedule of trusts in Item 2.

Item 2

[51-4130]

Where Schedule of Trusts has been selected in Item 1 – detail the schedule of trusts. Otherwise leave blank or enter ‘N/A’.

The purpose or any beneficiaries must be identified and if a beneficiary is a minor, the date of birth must be shown.

Item 3

[51-4140]

If the trust has a name – insert the name of the trust. Otherwise insert ‘N/A’.

Item 4

[51-4150]

Where Trust Document(s) creating the Trust has been selected in Item 1 – insert the date that the trust was created (e.g. the date of the first trust deed or the date of death for a testamentary trust).

Where Schedule of Trusts has been selected in Item 1 – leave this field blank.

Item 5

[51-4160]

Where Trust Document(s) creating the Trust (e.g. trust deed) has been selected in Item 1, this item must provide sufficient evidence that one of the following essential elements of a trust exists:

- for a private trust (not a charitable trust) – the existence of a beneficiary (other than a sole trustee as sole beneficiary) or beneficiaries; or
- for a charitable trust – a charitable purpose.

Important Note: sole trustee listed as sole beneficiary

While a trustee may be one of the beneficiaries of a trust, a **sole** trustee cannot be the **sole** beneficiary (because there is no separation of the legal and equitable interests, see [51-0210]).

Therefore, this item must not be completed with a sole trustee listed as the sole beneficiary because this does not provide sufficient evidence of a properly constituted trust.

E.g. If ABC Pty Ltd is the sole trustee for the trust in Item 6 of the Trust Details Form, ABC Pty Ltd cannot also be listed as the sole beneficiary in Item 5 of the Trust Details Form.

If the sole trustee of a trust is listed as the sole beneficiary in Item 5, a requisition will be issued.

Completion

Where Trust Document(s) creating the Trust (e.g. trust deed) has been selected in Item 1:

Type	Completion
Private trust (not a charitable trust**)	Insert the clause/reference in the Trust Document that defines the beneficiaries.* <u>Example:</u> Defined in e Clause 4 of the Trust Deed dated 1 February 2017
Charitable trust**	Detail the charitable purpose of the trust. No reference can be made to a clause/reference in the Trust Document.

* There is no requirement to specifically identify the existing beneficiaries. The Titles Registry will also accept the following (if they provide sufficient evidence of a properly constituted trust):

- the name/s of the beneficiary or beneficiaries (**Important Note: a sole trustee cannot be listed as the sole beneficiary or a requisition will issue**); or
- if the Trust Document describes a class or classes of beneficiaries – the class or classes of beneficiaries.

** a charitable trust is a trust that exists to benefit a purpose as opposed to a private trust that exists for the benefit of specified beneficiaries. There are four principal divisions of charitable trust:

- the relief of poverty;
- advancement of education;
- advancement of religion; and
- purposes beneficial to the community.

Where Schedule of Trusts has been selected in Item 1 and the purpose or beneficiaries have been identified in Item 2 – leave this item blank or enter ‘N/A’.

Item 6

[51-4170]

Where Trust Document(s) creating the Trust has been selected in Item 1 – insert the current legal names of the current Trustees. Where the form is lodged with a Form 1 – Transfer the names must match the names of the Transferees in Item 5. Where Schedule of Trusts has been selected in Item 1 – leave blank or enter ‘N/A’.

Item 7

[51-4180]

The form must be signed by at least one of the current Trustees or a Solicitor on behalf of one of the current Trustees.

In relation to the duty notations applicable to certain Trust Documents refer to [51-2043].

eConveyancing

[51-5000]

Electronic Conveyancing and Electronic Conveyancing Document [51-5010]

Electronic Conveyancing (or eConveyancing) is the term used to refer to the electronic preparation, lodgement, processing and registration of instruments and other documents (Electronic Conveyancing Documents) for the purposes of the *Land Title Act 1994*, *Land Act 1994* and other titling legislation. It is an alternative to the traditional ‘paper based’ conveyancing system which involves the manual completion, execution and lodgement of paper forms either at a Titles Registry lodgement office, by post or through eLodgement.

An Electronic Conveyancing Document is a document under the Electronic Conveyancing National Law (Queensland) (the ECNL) that is lodged electronically through an Electronic Lodgment Network (see s. 14B of the *Land Title Act 1994* and s. 7 of the ECNL).

For more information, refer to Part 62 – eConveyancing.

The terms Electronic Conveyancing and eConveyancing are used interchangeably in this Part and throughout the Land Title Practice Manual.

Scope Restrictions

[51-5100]

Refer to the [Titles Registry Electronic Conveyancing web page](#) for the list of transactions currently available through eConveyancing.

Prescribed Requirements – Trust Details Form

[51-5200]

Under the Participation Rules (Queensland) a Prescribed Requirement is a published requirement of the Registrar that Subscribers to an Electronic Lodgment Network are required to comply with.

Currently there are no Prescribed Requirements for a Form 20 – Trust Details Form (electronic).

Attachments – Trust Details Form

[51-5300]

Currently there is no requirement or provision for any document or evidence to be included as an attachment to a Form 20 – Trust Details Form (electronic) lodged through eConveyancing.

However, please note the requirement for an attachment to a Form 1 (electronic)* where there are more than four trustee transferees that will be recorded as trustees of the same trust (refer to [1-5300] and [1-5320]).

* Please note that the Form 20 – Trust Details Form (electronic) is not an attachment to a Form 1 (electronic). It cannot be provided as an attachment to a Form 1 (electronic) or as a separate dealing.

The Subscriber will enter the information required for the Form 20 – Trust Details Form (electronic) in the relevant fields within the Electronic Lodgment Network Operator interface and the rendered form will be included as part of the Form 1 (electronic) dealing (see [1-5300] and page 3 of Electronic Form Example 2 in [1-5620]).

Execution and Certification

[51-5400]

The requirements for digitally signing and making certifications for an Electronic Conveyancing Document are contained in the Participation Rules (Queensland).

Electronic Form

[51-5600]

Approved Electronic Form

[51-5610]

A Trust Details Form that is an Electronic Conveyancing Document (an eConveyancing Trust Details Form) must be included* with a Form 1 – Transfer (electronic) to a trustee lodged through an Electronic Lodgment Network and be in the form approved by the Registrar under the Electronic Conveyancing National Law (Queensland).

* Please note that the Form 20 – Trust Details Form (electronic) is not an attachment to a Form 1 (electronic). It cannot be provided as an attachment to a Form 1 (electronic) or as a separate dealing.

The Subscriber will enter the information required for the Form 20 – Trust Details Form (electronic) in the relevant fields within the Electronic Lodgment Network Operator interface and the rendered form will be included as part of the Form 1 (electronic) dealing (see [1-5300] and page 3 of Electronic Form Example 2 in [1-5620]).

The eConveyancing Trust Details Form must be digitally signed by or for the trustee transferee/s as required by the approved form and Participation Rules.

A representation of the electronic form approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland) is shown on the following page.

TRUST DETAILS FORM

1. Authority for the Trust

2. Schedule of Trust Details

3. Name of Trust

4. Date of Creation of Trust

5. Beneficiaries

6. Trustees

I certify that:

Signed by:

For
On behalf of
Dated:

Electronic Form Example

[51-5620]

TRUST DETAILS FORM

1. Authority for the Trust

Trust Document

2. Schedule of Trust Details

N/A

3. Name of Trust

Big City Development Trust

4. Date of Creation of Trust

05/01/2021

5. Beneficiaries

Defined in clause 4 of the Trust Deed dated 5 January 2021

6. Trustees

BIG CITY DEVELOPER PTY LTD ACN 654 987 123

I certify that:

1. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
2. The Certifier has retained the evidence supporting this Registry Instrument or Document.
3. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to verify the identity of the transferee or his, her or its administrator or attorney.

Signed by:

Ian Maurice Law
For LAWHOUSE
On behalf of

BIG CITY DEVELOPER PTY LTD AS TRUSTEE

Dated: 08/01/2021

Note: a Form 20 – Trust Details Form (electronic) is included in the Form 1 (electronic) dealing when it is lodged (see Part 1 esp. [1-5000] and page 3 of Electronic Form Example 2 in [1-5620]).

This is a representation of the instrument that was electronically lodged

Electronic Form Notes for Completion

[51-5700]

Refer to the table below for notes for the completion of a Form 20 (electronic) – Trust Details Form.

Item	Notes
Item 5	<p>A sole trustee cannot be listed as the sole beneficiary in Item 5 because this does not provide sufficient evidence of a properly constituted trust (see [51-0210] and [51-4160]).</p> <p><u>Example:</u></p> <p>If BIG CITY DEVELOPER PTY LTD ACN 654 987 123 is listed as the sole trustee for the trust in Item 6 of the Trust Details Form, BIG CITY DEVELOPER PTY LTD ACN 654 987 123 cannot also be listed as the sole beneficiary in Item 5 of the Trust Details Form.</p> <p>For instructions on the completion of Item 5, refer to [51-4160].</p>

[51-6000] deleted

[51-7000] deleted

Fees

[51-8000]

Fees payable to the Titles Registry are subject to an annual review. See the Titles fee calculator available online or [60-8000].

Cross References and Further Reading

[51-9000]

Part 1 – Transfer, esp. [1-2380] to [1-2430]

Part 4 – Request to Record Death

Part 5, 5A, 6 – Transmission Applications

Part 14 – General Request, esp. [14-2360] to 14-2370] and [14-2380]

Part 62 – eConveyancing

Ford & Lee, *Principles of the Law of Trusts*, 3rd edn, Law Book Co. Ltd (loose-leaf service)

Lee, *Manual of Succession Law*, 3rd edn, Law Book Co. Ltd, 1991

Cooper (editor), *Trusts in Action*, Blackstone Press, 1995

Notes in text

[51-9050]

Note ¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note ² – This numbered section, paragraph or statement does not apply to State land.

Note ³ – This numbered section, paragraph or statement does not apply to freehold land.

Part 52 – Administrative Advices

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Part 52 – Administrative Advices

General Law

[52-0000]

An administrative advice is a noting recorded in the relevant register to provide further or miscellaneous information and particulars about land as authorised by legislation. Authority to enter these advices in the registers is contained in ss. 29 and 34 of the *Land Title Act 1994* and ss. 280 and 281 of the *Land Act 1994*. A number of other Acts also provide authority for notices to be provided to the Registrar with information or particulars for entry in the registers.

The purpose of these notices is to advise interested parties that a matter authorised under the relevant Act exists. These notices are entered as administrative advices on the relevant title for the lot that is the subject of the notice.

The entry of an administrative advice may prevent further dealings with the land being registered. This is determined by the legislation authorising the entry of the administrative advice.

The fee payable for the deposit of a dealing to record or remove an administrative advice will apply unless there is a statutory exemption.

Please note that administrative advices mentioned in this Part and throughout this Manual are not an exhaustive list of all administrative advices.

Administrative Advices Which May Prevent Registration of Dealings

Notice under Miscellaneous Legislation

[52-0005]

Entered on title – ADMIN NOTING.

In some instances the legislation under which a notice of this type was entered may prevent registration of a dealing. For general information about notices under miscellaneous legislation see [52-0280].

The following notice is one example that may prevent registration of a dealing.

Notice of Suspension of Attorney's Powers under the *Public Guardian Act 2014*

A Notice of Suspension is given to the Registrar where the Public Guardian, under the provisions of the Public Guardian Act, temporarily suspends the powers of an attorney for a person with impaired decision making capacity (the person) and appoints the Public Trustee as attorney for financial matters for the person during the period of suspension.

A *Form 14 – General Request* with a copy of the Notice of Suspension is required to be deposited. The Notice of Suspension also contains details of the appointment of the Public Trustee as attorney. The Notice of Suspension is recorded on the relevant title.

The notice will remain on the title until the person is no longer the holder of the interest.

²Caveator's Notice of Action under the *Land Title Act 1994*

[52-0010]

Entered on title – NTCE OF ACTN.

Refer to Part 11 - Caveat (esp. [11-0130] for General Law, [11-2040] for Practice, Example 7 and the Guide to completion at [11-4100]).

No deposit fee is payable.

Removal

If a dealing being registered has the effect of removing a caveat from the title, the Registrar will also remove any Notice of Action that is associated with that caveat.

²Caveatee's Notice under s. 126(2) of the *Land Title Act 1994*

[52-0020]

Entered on title – NOTICE.

Refer to Part 11 - Caveat (esp. [11-0120] for General Law, [11-2035] for Practice, Example 6 and the Guide to completion at [11-4100]).

No deposit fee is payable.

Removal

When a dealing being registered has the effect of removing a caveat from title, the Registrar will also remove any caveatee's notice which is associated with the caveat.

¹Notice of Pecuniary Penalty Order under the *Criminal Proceeds Confiscation Act 2002*

[52-0030]

Entered on title – CONF PROFITS.

Section 197 of the Criminal Proceeds Confiscation Act authorises Queensland courts to levy pecuniary penalty orders against persons. Formerly, similar provisions were included in s. 101 of the now repealed *Crimes (Confiscation) Act 1989* (the repealed Act). Pecuniary penalty orders have the effect of charging property with the payment of money. Upon production of evidence of a penalty order from the courts, the Registrar entered an administrative advice in the register.

Section 40 of the repealed Act included authority for Queensland courts to make orders restraining dealings with property. Upon production of evidence from the court, the Registrar entered an administrative advice in the register. This practice no longer applies. The current procedure is for such orders to be filed with a caveat (see part 11, esp. [11-0066]).

¹Notice of Restraining Order under the *Drugs Misuse Act 1986*

[52-0040]

Entered on title – RESTR ORDER.

Restraining orders under the Drugs Misuse Act authorised by courts were issued with a view to impede a person from dealing with a property. Upon production of such a court order, the Registrar entered an administrative advice in the land registry.

This practice no longer applies. The current procedure is for such orders to be filed with a caveat (see part 11, esp. [11-0066]).

Registrar of Titles Noting under the *Land Title Act 1994* or *Land Act 1994*

[52-0050]

Entered on title – RT NOTING.

Section 34 of the Land Title Act allows the Registrar to keep information that the Registrar considers necessary or desirable for the effective or efficient operation of the register. Similar provisions are also included in the Water Act, and in s. 281 of the Land Act. Such information may include information given to the Registrar by another entity.

At the discretion of the Registrar, a noting will be recorded against a title for matters that are considered pertinent to the register.

[52-0055] deleted

Notices under the *Water Act 2000*

^{2, 3}**Water Allocation Notice under the *Water Act 2000***

[52-0060]

Entered on title – 73B NOTICE.

Under the provisions of the Water Act (the Act) when the chief executive of the department administering the Act prepares a water entitlement notice (WEN), the chief executive must also publish a notice stating where copies of the draft WEN are available. The public notice makes provision for existing interest holders to notify the chief executive that they intend to take action to have their interest recorded on the water allocations register (s. 73(1)(b) of the Act).

When a WEN commences, any notices which have been given to the chief executive under s. 73(1)(b) of the Act are entered by the Registrar of Water Allocations against the affected water allocation titles. Such notices remain effective until the earlier of:

- sixty business days from the date that the water allocation is recorded on the water allocation register; or
- the recording on the register of the interest mentioned in the notice.

During its currency, a notice may impede registration of dealings (s. 146A of the Act).

Removal

Notices under s. 73(1)(b) of the Act will appear on searches of affected titles for a period of one hundred days with a status of ‘current’, unless they are withdrawn or otherwise accounted for. The period after the expiry of sixty business days is a grace period, which is allowed for administrative purposes.

Any notice which remains on the water allocation title as current after the expiry of one hundred days from its date of lodgement will be automatically removed from title. Such notices once removed will only appear in historical searches, with a ‘not current’ status.

^{2,3}**Notice of Distribution Operations Licence**

[52-0065]

Entered on title – DIST OPS LIC

Where a distribution operations licence (DOL) applies to a water allocation, s. 153(2) of the *Water Act 2000* makes provision for the chief executive of the administering department to give notice to the Registrar that the water allocation is one to which a DOL applies. Section 1007(3) of the Act requires the Registrar to enter notices given under s. 153(2) against the titles to affected water allocations.

All transfers, transmission by death applications and leases lodged over water allocation titles the subject of a DOL must be accompanied by an acknowledgement notice (s. 170(6) Water Act).

Removal

If a water allocation is one to which a DOL no longer applies, the chief executive must notify the Registrar (s. 154(4) of the Act). The Registrar must remove the DOL notice from affected water allocations (s. 1007(4) of the Act).

Notice of Appointment of Administrator under the *Guardianship and Administration Act 2000***[52-0070]**

Entered on title – APPT ADMIN.

Tribunal Orders

Under the provisions of the Guardianship and Administration Act (the Act), the Queensland Civil and Administrative Tribunal may appoint an administrator for a matter involving an interest in land of a person with impaired decision making capacity. The administrator must notify the Registrar (s. 21 of the Act) and provide a copy of the Tribunal's order.

Subject to specific terms which may be included in the Tribunal's Order, a notice will affect transactions in the name of the person and signed during the period of the order. Documents executed during the currency of the advice will be scrutinised to ensure that they are signed by the administrator, or sanctioned by the Tribunal. The notice will remain recorded on the title until the interest is no longer held by the person.

Sections 27 and 32A of the Act provide mechanisms for notifying the Registrar of changes to the authority of appointed administrator/s.

Court Orders

Chapter 11 Part 3 of the Act also authorises Queensland's District Court and Supreme Court to appoint an administrator. The notification must be accompanied by a copy of the court issued order (see [60-1030] for information about depositing supporting documentation).

Removal

The Registrar will remove an advice under the Act from title when the interest affected is disposed of. Until such time as the interest is disposed of, any change, ending or revocation of appointment under the Act may be recorded on title if requested and the request is accompanied by a Tribunal/court order.

²Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice under the *Land Title Act 1994***[52-0080]**

Entered on title – PRIORITY NTC.

XTD PRTY NTC

W/D PRTY NTC

See part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice.

¹Notice of Road Licence under the *Land Act 1994***[52-0090]**

Entered on title – ROAD LICENCE

Where a road licence has issued under the provisions of s. 103(1)(a) of the Land Act and it is not the subject of a registered covenant, a notation is entered on the title for the road licence and the title of the adjoining land.

Transfer

To comply with the Land Act, the road licence and the adjoining land must remain in the same ownership. Therefore, where the ownership of the adjoining land is changing (for example by a transfer, record of death or a transmission application), the following applies:

- (a) the transfer or other form must also include the details of the road licence; or
- (b) the transfer or other form must be accompanied by the appropriate form to also change the ownership of the road licence, to be registered at the same time.

See [1-2095] for information about a transfer of a road licence.

Plan of Subdivision

Where a plan of subdivision of adjoining land is lodged and the relevant title is noted with a road licence administrative advice, the following will apply.

- the noting will not prevent registration of the plan.
- the noting will be brought forward to only the new title for every lot that adjoins/abuts the road licence.
- the road licence must be allocated on the back of the plan in a similar manner as other administrative advices.

Intended lodgers should address the issue of the road licence with State Land Asset Management prior to lodging the plan, otherwise any following transfer may experience lengthy delays when lodged.

Administrative Advices Which Do Not Prevent Registration of Dealing

¹Notice of Intention to Resume under the *Acquisition of Land Act 1967*

[52-0100]

Entered on title – NOTC INT RES.

A constructing authority, within the meaning of the Acquisition of Land Act (the Act), may resume freehold land, an interest in freehold land or native title rights and interests in State land, for the purposes set out in the Schedule to the Act. The Act defines a constructing authority as the State, a local government, or a person authorised by an Act to take land for any purpose.

When a constructing authority proposes to resume, it shall serve a notice of intention to resume (NIR) upon any and every person who, to the knowledge of the constructing authority:

- (a) will be entitled to claim compensation under the Act in respect of the taking of the land concerned; or
- (b) is a mortgagee of the land (s. 7(1) of the Act).

²If the subject of the notice is freehold land or an interest in freehold land, the constructing authority shall forward a copy of the notice to the Registrar for noting on the relevant title (s. 7(4) of the Act). The notice must specify the purpose for which the land to be taken is required, and state the description of the land.

³If the subject of the notice is native title rights and interests in State land, the relevant area of the department administering the Act will forward a copy of the notice to the Registrar for noting on the title. In these cases s. 280 of the *Land Act 1994* is relied on as it provides discretionary powers for the chief executive to record anything that the chief executive considers to be recorded to ensure the registers are usable records of State Land.

Notices of intention to resume are also authorised by provisions included in the *Transport Planning and Coordination Act 1994* and the *State Development and Public Works Organisation Act 1971*. Notices under these Acts may relate to non-freehold land.

A NIR from a constructing authority (usually the Department of Transport and Main Roads or a local government) may contain preliminary information identifying the area of land that is to be taken. Typically this is a design plan and the NIR will refer to the area shown on that plan but subject to final design and survey. The first “taking of land” notice which is published in the government gazette will often also refer to the area taken as shown on the design plan. At a later date when the survey is completed, an amending “taking of land” notice is published in the government gazette. The second notice forms the basis of the resumption document lodged in the registry.

Details of the resumption, including the purpose are given in a taking of land/taking of easement notice made by the constructing authority and published in the government gazette. The notice determines the name of the constructing authority that is recorded on the title and the manner in which the taken land is to be held.

If the registered owner lodges a plan of subdivision following the deposit of an NIR the surveyor must allocate which lots are affected by the notice. The Registrar will record the NIR against the relevant titles created for those lots.

Removal

If a constructing authority amends or discontinues a resumption action, it is required to file with the land registry a notice of the amendment or discontinuance (s. 7(4A) of the Act).

The Registrar will also remove notices of intention to resume from the register when recording a resumption which fully satisfies the requirements of a constructing authority.

¹Notice under the *River Improvement Trust Act 1940*

[52-0110]

Entered on title – RIV IMP NOT.

Section 7 of the River Improvement Trust Act (the Act) authorises the creation of River Improvement Trusts as bodies corporate. The individual bodies corporate are identified and named in the regulations to the Act. Section 11 of the Act authorises a trust for a river improvement area to issue an improvement notice. The notice is in relation to river banks, and is served on the occupier and the owner of affected land.

Section 11A of the Act requires a trust to notify the Registrar that an improvement notice has been issued, or ceased to subsist or to operate.

¹Notice under the *Land Valuation Act 2010*

[52-0115]

Entered on title – DSI/OFFSET.

Under s. 258 of the Land Valuation Act the Valuer-General may notify the Registrar that a site improvement deduction applies to the land. If notified under this provision the Registrar will enter a noting against the relevant titles.

Under s. 282 of the Land Valuation Act the Valuer-General may notify the Registrar that an offsets allowance applies to the land. If notified under this provision the Registrar will enter a noting against the relevant titles.

A deposit fee is not applicable.

Removal

On notification by the Valuer-General, the Registrar must remove the notices under the Land Valuation Act from the register (ss. 259 and 283).

A deposit fee is not applicable.

¹Notice of Owner Builder Permit under the *Queensland Building and Construction Commission Act 1991*

[52-0120]

Entered on title – OWNER BUILDR.

Where the Queensland Building and Construction Commission (the Commission) has issued a permit to the owner of land to carry out building work, the Commission must notify the Registrar of the granting of such permit (s. 46(1) of the Act). If the Commission becomes aware that building work has been carried out by the land owner when a permit should have been, but was not obtained under s. 44 of the Act, it must also notify the Registrar of the carrying out of the building work without a permit (s. 46(2) of the Act).

Removal

Notices under s. 46(1) or (2) of the Act will be removed by the Registrar on the expiry of seven years from the initial entry in the Register (s. 46(4) of the Act) when another dealing is being registered.

¹Notice of Carbon Farming Initiative Project under the *Carbon Credits (Carbon Farming Initiative) Act 2011 (Cth)*

[52-0125]

Entered on title – CFI NOTING.

The Carbon Credits (Carbon Farming Initiative) Act makes provision for the administrator of a Commonwealth scheme to deposit an administrative advice to record any of the following:

- a declaration of an eligible carbon offset project;
- a variation;
- a declaration that a project is subject to a carbon maintenance program.

A deposit fee is applicable.

Item 6 should include wording to identify the specific purpose of the administrative advice.

¹Notice of Contaminated Land under the *Environmental Protection Act 1994*

[52-0130]

Entered on title – CONTAM LAND.

The Environmental Protection Act (the Act) makes provision for the administering authority to maintain various registers. One such register is the contaminated land register.

Section 379 of the Act requires the administering authority to give written notice to the Registrar of particulars of land that has been recorded in the contaminated land register.

The administering authority must also notify the Registrar when a change is made to the particulars recorded about land recorded in the contaminated land register (s. 386 of the Act).

Removal

When land is removed from the contaminated land register, the administering authority must notify the Registrar (s. 386 of the Act).

¹Notice of Agreement under the *Nature Conservation Act 1992*

[52-0140]

Refer to [14-3020].

~~Entered on title—NATURE REFUGE NOTING.~~

~~Under s. 45 of the Nature Conservation Act (the Act), a land holder and the minister administering the Act can enter into an agreement in relation to the land holder's land.~~

~~If a conservation agreement is entered into in relation to specified private land (which is defined as land other than State land), then the chief executive of the administering authority must give the Registrar notice of the agreement (s. 134 of the Act).~~

~~A nature refuge noting will be recorded on a title in the Easements, Encumbrances and Interests schedule.~~

~~A conservation agreement that is recorded by the Registrar is binding on the landholder, the landholder's successors in title and other persons who have an interest in the title (s. 51 of the Act).~~

~~A deposit fee is not applicable.~~

Removal

~~When a conservation agreement is terminated, the chief executive must notify the Registrar (s. 134(4) of the Act). The Registrar must remove the particulars of the land from the Registrar's records (s. 134(5) of the Act).~~

¹Notice of an Enforcement Order under the *Nature Conservation Act 1992*

[52-0145]

Entered on title – NAT ENF ORD.

Under s. 173J of the Nature Conservation Act (the Act), the chief executive, after receiving notification under s. 173I(2) of the Act that an enforcement order has been made, must give the Registrar written notice that the order has been made (for recording in the register).

A deposit fee is not applicable.

Removal

Under s. 173L of the Act, the Registrar must remove the notice if asked to do so by the chief executive.

¹Notice of Site Registered under the *Queensland Heritage Act 1992*

[52-0150]

Entered on title – HERITAGE SITE.

Under s. 174 of the Queensland Heritage Act (the Act) the chief executive notifies the Registrar if:

- a place is entered in the Queensland heritage register as a State heritage place or an archaeological place; or
- the chief executive, under section 80 of the Act, enters into a heritage agreement that attaches to land; or

- the chief executive, under section 80(3) of the Act, changes a heritage agreement to state that it attaches to the land the subject of the agreement.

While the heritage agreement has effect and is recorded on title, the agreement is binding on the registered owner (s. 174(7) of the Act).

Removal

Section 174 of the Act provides for the Registrar to record a removal or ending if the chief executive gives notice of such removal or ending.

¹Notice of Access Right under the *Sugar Industry Act 1999*

[52-0160]

Entered on title – ACCESS RIGHT or TRAM EASE.

Where a permit to pass or cane railway easement under s. 63 of the Sugar Industry Act is granted, the grantee must give the Registrar a signed notice in the form of a request to record an administrative advice within 28 days of the grant (ss. 70(2) and 71(2) of the Sugar Industry Act).

For a **permit to pass** the notice must:

- state the permit to pass has been granted; and
- identify the parties to the permit and the land affected; and
- be accompanied by a copy of the permit to pass.

For a **cane railway easement** the notice must:

- state the cane railway easement has been granted; and
- identify the parties to the easement and the land affected.

Alternatively, a cane railway easement may be notified to the Registrar by lodging for registration a properly completed *Form 9 – Easement*.

A notice of an access right granted under a repealed Act is shown on a search of a title as 'TRAM EASE'. A notice of an access right granted under the Sugar Industry Act is shown on the title as 'ACCESS RIGHT'.

¹Notice of Relinquishment or Cancellation of Sugar Access Right

[52-0165]

Relinquishment

Where an access right is relinquished by the grantee, a request to remove the administrative advice may be lodged in the land registry. A copy of the relinquishment document must be deposited with the request (s. 70(2) or s. 71(2) of *Sugar Industry Act 1999*).

Cancellation by Agreement

Where a land-holder whose land is affected by an access right and the holder of the access right has cancelled the right by agreement under s. 72(1) of the Sugar Industry Act, a request to cancel the administrative advice may be lodged in the land registry. Evidence of the agreement must be deposited with the request.

Cancellation by Order of the Land Court

Where the Land Court makes an order to cancel a sugar access right under s. 72(2) of the Sugar Industry Act, a request to cancel the right may be lodged in the land registry. A copy of the order must be deposited with the request.

¹Notice under the *Wet Tropics World Heritage Protection and Management Act 1993* [52-0170]

Entered on title – WET TROPICS.

Under the provisions of the Wet Tropics World Heritage Protection and Management Act (the Act) the Wet Tropics Management Authority (the Authority) prepares management plans for the wet tropics area and notifies the Registrar that a management plan has been approved.

Under the Act, a management plan may be noted against private land. Private land is defined as freehold land, or land held under a lease or licence under any Act.

Removal

On notification by the Authority, the Registrar must remove the particulars of the land from the registrar's records on:

- (a) the repeal of a management plan over private land, or
- (b) the removal of private land from the operation of a management plan (s. 66(4) of the Act).

¹Notices under the *Coastal Protection and Management Act 1995***¹Compliance Notice****[52-0180]**

Entered on title – COAST PROT.

Section 59 of the Coastal Protection and Management Act (the Act) authorises the chief executive of the administering authority to issue coastal protection notices in respect of land that is within declared coastal management districts. The notices direct persons associated with affected land to take specific steps to protect the land.

Section 60 of the Act further authorises the chief executive to issue tidal works notices in respect of land. The notifications are sent to persons deemed to be responsible for existing tidal works, and direct such persons to comply with requirements set out in the notice.

Written notification of the issue of either type of notice must be given to the Registrar for entry in the registry (s. 63(2) of the Act).

Removal

Once the requirements of either notice mentioned above have been complied with, the chief executive must give written notice for the removal of the earlier notice to the Registrar (s. 63(5) of the Act).

¹Compensation Notice**[52-0190]**

Entered on title – COAST PROT.

Under Chapter 5 Part 1 of the Act, the owner of an interest in land may be entitled to monetary compensation if the existing use that could have been made of affected land is changed by a prohibition imposed by a coastal plan, or by the declaration of a coastal management district.

When compensation has been paid, notification of the compensation is provided to the Registrar for recording on the relevant title (s. 158 of the Act).

¹Reconfiguration Notice

[52-0200]

Entered on title – RT NOTING.

The Act provides that the chief executive of the administering authority may notify the Registrar that a development application for a reconfiguration has been made for a lot in a coastal management district. If notified under the above provision the Registrar will enter a Registrar of Titles Noting (see [52-0050]).

The Registrar will not register a plan of subdivision dealing with the reconfiguration of the lot until the chief executive has issued a development permit for the application (s. 188(6)(b) of the Act).

Removal

Where the Registrar has recorded a notice under s. 188(5) of the Act and the chief executive becomes aware that the information no longer applies or has been changed, the chief executive will notify the Registrar to update the register (s. 188(7) of the Act).

Notices under the *Vegetation Management Act 1999*

¹Vegetation Management Notice

[52-0210]

Entered on title – VEG NOTICE.

Under s. 70B of the Vegetation Management Act (the Act) the chief executive of the department administering the Act must give the Registrar written notice where a property map of assessable vegetation (PMAV) is made and contains a category A area.

Removal

The chief executive must give written notice to the Registrar if a PMAV is replaced. The chief executive may also ask the Registrar to remove the particulars of the PMAV if the chief executive considers it is necessary or desirable to achieve the purposes of the Act or because the particulars are no longer relevant for the land the subject of the PMAV.

The Registrar must adjust or remove the particulars shown in the register as soon as is practicable.

Notice of Declared Area and Management Plan

[52-0211]

Entered on title – VEG NOTICE.

Under s. 19K(1) of the Vegetation Management Act (the Act) the chief executive of the department administering the Act must, as soon as practicable after declaring an area to be a declared area, give the Registrar written notice of the declaration and the management plan for the declared area.

Removal

Under s. 19K(5) of the Act the chief executive must give written notice to the Registrar after a declaration ends or a management plan for the land the subject of a declaration ends.

The Registrar must remove the particulars shown in the register as soon as is practicable.

¹Restoration Notice**[52-0215]**

Entered on title – RESTORATION.

Section 54B of the Vegetation Management Act (the Act) allows the chief executive and authorised officers of the department administering the Act to issue restoration notices. A restoration notice is issued when an authorised officer reasonably believes that a person has committed a vegetation clearing offence and the matter is capable of being rectified.

If a restoration notice is issued, the chief executive must notify the Registrar that a restoration notice has been given (s. 55A(1) of the Act). The Registrar once notified must keep records showing the restoration notice has been given to a person.

A restoration notice under the Act attaches to land, and has effect in relation to each successor in title to the land (s. 55(1) of the Act).

Removal

When a restoration notice has been complied with, withdrawn or terminated, written notice must be given to the Registrar for it to be removed from the register (s. 55A(5) of the Act). Such notices should be from an authorised officer of the department administering the Act.

Notices under the *Water Act 2000*

[52-0220] and [52-0225] deleted

^{2,3}Notice of Private Water Supply Agreement**[52-0230]**

Entered on title – WATER ADVICE.

Where a holder of land (including a lessee or licensee) has taken on self-management of water supplied to their land and entered into a written agreement under the provisions of Chapter 8 Part 4A of the Water Act (the Act) the holder who has entered into such an agreement must give the chief executive of the department administering the Act a copy of the agreement. The chief executive must give the Registrar notice of the agreement (s. 1001 of the Act).

An amendment made to a private water supply agreement may also be recorded. The Registrar is notified under s. 1003(4) of the Act.

Removal

If a private water supply agreement is cancelled, as soon as practicable after the cancellation, the parties to the agreement must give the chief executive notice of the cancellation. The chief executive must give the Registrar notice of the cancellation. The Registrar must remove the particulars of the agreement from the register (s. 1001 of the Act).

[52-0235] deleted

^{2,3}Notice of Closed Water Activity Agreement**[52-0236]**

Entered on title – WATER ADVICE.

Where all registered owners of the land in an authority area have entered into a closed water activity agreement under the provisions of s. 695A of the Water Act (the Act), the chief executive of the department administering the Act must give the Registrar notice of the agreement (s. 1001(1)(b) of the Act).

Under s. 1003(5) of the Act, the Registrar must record notice of an amended agreement if asked to do so by the chief executive.

Removal

Under s. 1001(3)(c) of the Act, the Registrar must remove the notice if asked to do so by the chief executive.

[52-0240] moved to [52-0065]

^{1,3}Remedial Action Notice under the *Land Act 1994*

[52-0250]

Entered on title – REM ACT NOT.

Section 214 of the Land Act (the Act) allows the minister administering the Act to give a State lessee or licensee a written notice to take remedial action in respect of their land.

The department will provide notification to the Registrar that a State lessee or licensee has been given notice to take remedial action. If a lessee or licensee does not carry out the remedial action required within the time stated in the notice, the tenure may be terminated.

No fee is payable for recording or removing a remedial action notice from the register.

^{1,3}Change of Capabilities Notice under the *Land Act 1994*

[52-0260]

Entered on title – CAPB NOTICE.

The minister administering the Land Act (the Act) may, under s. 130A(1) of the Act, request the Registrar to note in the register against a lease that:

- independent assessment of the applicant's or transferee's financial and managerial capabilities has been made in relation to the lease; or
- the lease is a lease that will have a significant impact on the environment or the economic and social development of a locality, a region or the State; and involve a high level of investment, a substantial development period and lease conditions requiring extensive development.

Removal

Section 130A(9) allows the minister to remove a note made under the section if, having regard to the significant development to which the lease relates, the Minister considers its removal is appropriate.

¹Notice of Voluntary Environmental Agreement under the *State Development and Public Works Act 1971*

[52-0270]

Entered on title – VOL ENV AGR.

Where the Coordinator-General has entered into a voluntary environmental agreement in relation to land under s. 76S of the State Development and Public Works Act (the Act), the Coordinator-General must give the Registrar written notice of the agreement (s. 76U(1) of the Act). An agreement in relation to land may, under s. 76T of the Act, contain terms that are binding on registered owners of land and a registered owner's successors in title.

Removal

As soon as practical after an agreement ends, the Coordinator-General must give the Registrar written notice. The Registrar must remove the particulars of the agreement from the register (s. 76U(5) of the Act).

Notices under Miscellaneous Legislation**[52-0280]**

Entered on title – ADMIN NOTING.

Where an Act requires an entity or agency to notify the Registrar to enter an advice on title but there is not sufficient need to create a separate administrative advice type, an ‘Administrative Notice Miscellaneous’ will be used.

The following is not an exhaustive list of the miscellaneous administrative advices which may be entered:

¹Notice of Affected Area under *Planning (Urban Encroachment—Milton Brewery) Act 2009*

Under the provisions of s. 9 of the *Planning (Urban Encroachment—Milton Brewery) Act* (the Act) an applicant for a development approval for land within the designated affected area must give notice to the Registrar to record a notation on the title of the affected land.

If the development application is refused the applicant must request the Registrar to remove the notice.

No fee is payable for recording or removing a notice from the register under the provision of the Act.

Note: The Act was repealed on 17 February 2012 upon enactment of the *Sustainable Planning and Other Legislation Amendment Act 2012*. Chapter 8A of the *Sustainable Planning Act 2009* and section 292 of the *Planning Act 2016* preserves and transitions the rights and immunities that were created pursuant to the Act in respect of the Milton Brewery and as such any recorded administrative advices will continue to be valid on affected titles.

¹Notice of Compulsory Acquisition of Native Title Rights and Interests under the *Acquisition of Land Act 1967*

A request to record a notation on a title that native title rights and interests have been compulsory acquired by a constructing authority (or a similar authority so authorised by an Act to compulsorily acquire land) may be lodged by the relevant area of the department administering the *Acquisition of Land Act*. A copy of the gazettal notice is required to be deposited with the request.

A deposit fee is not applicable.

Notice of Disclaimer of Onerous Property of a Bankrupt under the *Bankruptcy Act 1966* (Cth)

Where the Registrar is notified under the provisions of s. 133(3) of the *Bankruptcy Act* that a trustee of a bankrupt has disclaimed onerous freehold land or a lease or a licence under the *Land Act 1994*, a noting to this effect will be made on the relevant title.

A deposit fee is not applicable.

Notice of Intention to Exercise Power of Sale in relation to Disclaimed Property

Section 84A of the *Property Law Act 1974* provides for a mortgagee of disclaimed property (on or after 25 May 2020) to exercise their power of sale over the disclaimed property. The mortgagee must provide a notice in the approved form (*PLA Form 17 – Notice of Intention to Exercise Power of Sale in Relation to Disclaimed Property – Property Law Act 1974*, Section 84A) to the Registrar and each person who has an interest in the property.

The notice must be provided to the Registrar by way of a Form 14 accompanied by a *PLA Form 17*.

A deposit fee is applicable.

¹Notice of Licence Agreement under the *Transport Infrastructure Act 1994*

Where a licence is granted or there is a variation of a licence under the provisions of s. 303AB(1) of the Transport Infrastructure Act, the chief executive administering that Act must give the Registrar a written notice of the licence for recording on the title to the relevant land (s. 303AB(3) of the Transport Infrastructure Act.

A deposit fee is not applicable.

¹Notice of Pre-Acquisition Declaration under *Lands Acquisition Act 1989* (Cth)

A notification may be given to the Registrar to enter a noting that a pre-acquisition declaration has been made under the provisions of s. 38 of the Lands Acquisition Act (Cth). The request must be accompanied by a copy of the pre-acquisition declaration.

A deposit fee applies.

¹Notice of Dedication of Low Impact Future Act under *Native Title Act 1993* (Cth)

A notification may be given to the Registrar to enter a noting that land or water is dedicated as a low impact further act under the provisions of s. 24LA of the Native Title Act.

A deposit fee is not applicable.

¹Notice of Recreation Area Agreement under the *Recreation Areas Management Act 2006*

Under the provisions of s. 10 of the Recreation Areas Management Act (the Act), the chief executive after entering into a recreation area agreement must notify the Registrar to enter a noting against the relevant titles.

A deposit fee is not applicable.

Removal

On notification by the chief executive officer that the recreation area agreement is amended or cancelled, the Registrar must remove the notice from the register (s. 13(2) of the Act).

A deposit fee is not applicable.

¹Notice of Transfer under the *South East Queensland Water (Restructuring) Act 2007*

Where the Registrar has received notification under s. 116A(8) of the South East Queensland Water (Restructuring) Act that s. 116A applies to the land, a noting to this effect will be recorded on the relevant title. A deposit fee is applicable.

Removal

Under s. 116(9) of the South East Queensland Water (Restructuring) Act, the Registrar must cancel the notice if asked to do so by the asset owner.

A deposit fee is applicable.

¹Notice of Native Title Determination under the *Native Title Act 1993* (Cth)

[52-0290]

Entered on title – NT DETERM.

Where a native title determination has been made under the Native Title Act a request by the department administering the *Native Title (Queensland) Act 1993* is made to the Registrar to enter a noting against relevant titles.

¹Notice of Land Management Plan under the *Land Act 1994*

[52-0295]

Entered on title – LAND NOTICE.

Where approval of a land management plan for trust land has been given by the ~~Minister~~chief executive, a notification may be given to the Registrar to enter a noting against relevant titles (s. 48 of the Land Act).

A deposit fee is not applicable.

[52-0300] deleted

¹Notice of an Affected Area under the *Planning Act 2016*

[52-0305]

Entered on title – AFF AREA NOT.

Under section 269(2) of the Planning Act (the Act), the owner of registered premises with an affected area must give notice, within 20 business days after the premises are registered under the Act, to the Registrar to record a noting against relevant titles.

Under section 271(2) of the Act, an applicant for a relevant development application within an affected area must give notice, within 20 business days after making the application, to the Registrar to record a noting against relevant titles.

A deposit fee is applicable.

Removal

On notification by the registered owner, that registration of the premises has ended, or on notification by the applicant that the relevant development application has been refused, lapsed or withdrawn, the Registrar must remove the notice from the register (s. 269(7) or s. 271(3) of the Act).

The Registrar may, if requested, remove a notice if satisfied on reasonable grounds that the registration of the premises has expired or been cancelled or that the relevant development application has been refused, lapsed or withdrawn.

A deposit fee is applicable.

¹Notice of an Environmental Offset Protection Area under the *Environmental Offsets Act 2014*

[52-0310]

Entered on title – OFFSET AREA.

Under s. 30 or 33 of the Environmental Offsets Act (the Act), the chief executive of the department administering the Act may declare that land is an environmental offset protection area.

Notice must be given to the Registrar that the declaration has been made and this information is recorded in the register (s. 31 or s. 34 of the Act).

A deposit fee is not applicable.

Removal

Under s. 34 of the Act, the Registrar must remove the notice if asked to do so by the chief executive.

¹Notice of a Conduct and Compensation Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014***[52-0315]**

Entered on title – CON COM AGMT

Where a conduct and compensation agreement (CCA) is entered into under section 83 of the Mineral and Energy Resources (Common Provisions) Act (the MERC Act), the resource authority holder must give the Registrar a notice to record an administrative advice within 28 days of entering into the CCA (section 92(1) of the MERC Act).

There is no requirement for a copy of the agreement to be deposited. If the applicant is acting as an agent for the resource authority holder or the current resource authority holder differs from that named in the original agreement, reference to this must be stated on the Form 14 - General Request.

Where a solicitor signs the Form 14 on behalf of the applicant, they must print their name in full adjacent to their signature. Where the applicant signs the Form 14 the details of the signatory's authority to sign on behalf of the applicant must be provided (i.e. their name, position or designation and the name of the company). If an agent is acting on behalf of the applicant they must also include reference to their authority to sign on behalf of the applicant.

Deposit fees apply and are the responsibility of the resource authority holder as the applicant.

Removal

The administrative advice must be removed in the following circumstances.

Under section 92(4), (5) and (6) of the Mineral and Energy Resources (Common Provisions) Act, the resource authority holder must give a notice to the Registrar to remove the administrative advice from the title where:

- the agreement ends, or
- the land that is the subject of the CCA is subdivided, and the CCA no longer applies to a new lot or lots created as a result of the subdivision.

Alternatively, any party to a CCA may give a notice to the Registrar to remove the administrative advice from the title (see section 92(7) of the MERC Act). If requested to do so by a party to the agreement, and the Registrar is satisfied that the agreement has ended or is no longer relevant the Registrar must remove the administrative advice. The MERC Act defines a party to a CCA to include the personal representatives, successors and assigns of the parties that are bound by the agreement.

A statement setting out the circumstances of the removal must be included at Item 6 of the Form 14 – General Request. The dealing number that was allocated to the administrative advice must be stated in the request.

Deposit fees are applicable.

Notice of an Opt-Out Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014***[52-0320]**

Entered on title – OPT OUT AGMT

Where an opt-out agreement is entered into under section 45 of the Mineral and Energy Resources (Common Provisions) Act (MERC Act), the resource authority holder must give the Registrar a notice to record an administrative advice within 28 days of entering into the agreement (section 92(1) of the MERC Act).

There is no requirement for a copy of the agreement to be deposited. If the applicant is acting as an agent for the resource authority holder or the current resource authority holder differs from that named in the original agreement, reference to this must be stated on the Form 14 - General Request.

Where a solicitor signs the Form 14 on behalf of the applicant, they must print their name in full adjacent to their signature. Where the applicant signs the Form 14 the details of the signatory's authority to sign on behalf of the applicant must be provided (i.e. their name, position or designation and the name of the company). If an agent is acting on behalf of the applicant they must also include reference to their authority to sign on behalf of the applicant.

Deposit fees apply and are the responsibility of the resource authority holder as the applicant.

Removal

The administrative advice must be removed in the following circumstances.

Under sections 92(4), (5) and (6) of the Act the resource authority holder must give a notice to the Registrar to remove the administrative advice from the title where:

- the agreement ends, or
- the land that is the subject of the opt-out agreement is subdivided, and the agreement no longer applies to a new lot or lots created as a result of the subdivision.

Alternatively, any party to a CCA may give a notice to the Registrar to remove the administrative advice from the title (see section 92(7) of the MERC Act). If requested to do so by a party to the agreement, and the Registrar is satisfied that the agreement has ended or is no longer relevant the Registrar must remove the administrative advice. The MERC Act defines a party to a CCA to include the personal representatives, successors and assigns of the parties that are bound by the agreement.

A statement setting out the circumstances of the removal must be included at Item 6 of the Form 14 – General Request. The dealing number that was allocated to the administrative advice must be stated in the request.

Deposit fees are applicable.

^{1, 2}Notice of an Enforcement Order or Interim Enforcement Order under the *Planning Act 2016*

[52-0325]

Entered on title – PLAN ENF ORD

Chapter 5 of the *Planning Act 2016* (the Act) provides for the making of enforcement orders including:

- in the Magistrates Court – an enforcement order (see Part 4 and s. 176 of the Act); and
- in the Planning and Environment Court –
 - an enforcement order (see Part 5 and s. 180(2) of the Act); or

- an interim enforcement order pending a decision in proceedings for an enforcement order (see Part 5 and s. 180(4) of the Act).

These orders attach to the relevant premises and bind the registered owner, successors in title and occupiers of the premises unless the relevant Court orders otherwise: (ss. 176(6) and 180(9) of the Act).

When the orders attach to premises the defendant/respondent must ask the Registrar to record the making of the order on the titles for the premises using a Form 14 – General Request (ss. 176(7), 176(11), 180(10) and 180(14) of the Act). A copy of the sealed enforcement order or interim enforcement order must be deposited with the request.

Deposit fees are applicable (ss. 176(11) and 180(14) of the Act).

See **Example 1** and the guide to completion at [52-4200].

Removal

Any person may apply to the relevant Court for a compliance order which states that an enforcement order or interim enforcement order has been complied with (ss. 176(8) and 180(11) of the Act).

If a person gives notice to the Registrar that a compliance order has been made using a Form 14 – General Request together with a copy of the sealed compliance order, the Registrar must remove the record of the enforcement order or interim enforcement order from the titles for the relevant premises (ss. 176(9), 176(11), 180(10) and 180(12) of the Act). See **Example 2** and the guide to completion at [52-4300].

Any person may also apply to the Planning and Environment Court to cancel an enforcement order or interim enforcement order (s. 181(4) of the Act). If a person gives notice to the Registrar that an order cancelling the enforcement order or interim enforcement order has been made using a Form 14 – General Request together with a copy of the sealed order, the Registrar will remove the record of the enforcement order or interim enforcement order from the titles for the relevant premises.

Deposit fees are applicable (ss. 176(11) and 180(14) of the Act).

^{1,3}**Notice of an exemption from seeking written approval to transfer under the *Land Act 1994*** [52-0330]

Entered on title – EXEMPT CONS

The transfer process for state leases in the *Land Act 1994* (s. 322AA) has been amended to introduce an exemption for certain leaseholders.

When transferring a state lease, eligible leaseholders will be exempt from seeking approval from the ~~Department of Natural Resources, Mines and Energy~~ chief executive under s. 322 of the *Land Act* prior to lodging their transfer with the Titles Registry.

The exemption also applies to transfers of subleases and transfers of sub subleases of exempt leases. The exemption does not apply to parties who are a mortgagee in possession, a mortgagee exercising power of sale or an appointed receiver/manager.

Legislation

[52-1000]

^{2,3}Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the *Water Act*, an interest or dealing may be registered in a way mentioned in the *Land Title Act*, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the *Land Title Act*:

- (a) as if a reference to the freehold land register is a reference to the water allocations register; and
- (b) as if a reference to freehold land or land is a reference to a water allocation; and
- (c) as if a reference to a lot is a reference to a water allocation; and
- (d) with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8200] and [0-8300].

Practice

Administrative Advice Types

[52-2000]

A list of the administrative advices which at present are recorded in the Automated Titles System is set out below. The list is referenced under the entry which appears on a printed title search:

- ^{2,3}**73B NOTICE** (Water Allocation Notice under the *Water Act 2000*), see [52-0060] – **WAN**
- ¹**ACCESS RIGHT** (Access Right under the *Sugar Industry Acts*), see [52-0160] – **SAR**
- **ADMIN NOTING** (Notice under miscellaneous legislation), see [52-0005] and [52-0280] – **ANM**
- **AFF AREA NOT** (Notice of an affected area under the *Planning Act 2016*), see [52-0305] – **AAN**
- **APPT ADMIN** (Appointment of Administrator Notification under the *Guardianship and Administration Act 2000*), see [52-0070] – **APA**
- ^{1,3}**CAPB NOTICE** (Change of Capabilities Notice under the *Land Act 1994*), see [52-0260] – **CCN**
- ¹**CFI NOTING** (Notice of Carbon Farming Initiative project under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth)), see [52-0125] – **CFI**
- ¹**COAST PROT** (Notice under the *Coastal Protection and Management Act 1995*), see [52-0180 to 52-0200] – **CPN**

- ¹**CON COM AGMT** (Conduct and Compensation Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*), see [52-0315] – **CDC**
- ¹**CONF PROFITS** (Order under the *Criminal Proceeds Confiscation Act 2002*/Pecuniary Penalty Order), see [52-0030] – **CPR**
- ¹**CONTAM LAND** (Notice of contaminated land under the *Environmental Protection Act 1994*), see [52-0130] – **CLN**
- ^{2,3}**DIST OPS LIC** (Notice of a Distribution Operations Licence under the *Water Act 2000*), see [52-0065] – **DOL**
- ¹**DSI/ OFFSET** (Notice under the *Land Valuation Act 2010*), see [52-0115] – **LVA**
- ¹**HERITAGE SITE** (Site registered under the *Queensland Heritage Act 1992*), see [52-0150] – **HRS**
- ^{1,3}**EXEMPT CONS** (Exemption from Consent under the *Land Act 1994*), see [52-0330] – **EXC**
- ^{1,3}**LAND NOTICE** (Land Management Plan under the *Land Act 1994*), see [52-0295] – **LMP**
- ¹**NATURE ENFORCEMENT ORDER** (Enforcement order under the *Nature Conservation Act 1992*), see [52-0145] – **NEO**
- ¹**NATURE REFUGE NOTING** (Agreement under the *Nature Conservation Act 1992*), see [~~14-3020~~[52-0140](#)]
- ¹**NOTC INT RES** (Notice of Intention to Resume under the *Acquisition of Land Act 1967*), see [52-0100] – **NIR**
- ²**NOTICE** (Caveatee's Notice under the *Land Title Act 1994*), see [52-0020] – **NOT**
- ²**NTCE OF ACTN** (Lodgement of Caveator's Notice of Action under *Land Title Act 1994*), see [52-0010] – **NOA**
- ¹**NT DETERM** (Notice of Native Title Determination under the *Native Title Act 1993* (Cth)), see [52-0290] – **NTD**
- ¹**OFFSET AREA** (Notice under the *Environmental Offsets Act 2014*), see [52-0310] – **EOA**
- ¹**OPT OUT AGMT** (Opt-Out Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*), see [52-0320] – **OPA**
- ¹**OWNER BUILDR** (Owner Builder Permit under the *Queensland Building and Construction Commission Act 1991*), see [52-0120] – **OBN**
- ^{1,2}**PLAN ENF ORD** (Enforcement Order or Interim Enforcement Order under the *Planning Act 2016*), see [52-0325] – **PAE**
- ²**PRIORITY NTC** (Priority Notice under the *Land Title Act 1994*), see [52-0080] – **PNN**
- ^{1,3}**REM ACT NOT** (Remedial Action Notice under the *Land Act 1994*), see [52-0250] – **RAN**

- ¹**RESTORATION** (Restoration Notice under the *Vegetation Management Act 1999*), see [52-0215] – **COM**
- ¹**RESTR ORDER** (Restraining Order under the *Drugs Misuse Act 1986*), see [52-0040] – **RSO**
- ¹**RIV IMP NOT** (Notice under the *River Improvement Trust Act 1940*), see [52-0110] – **RIT**
- ¹**ROAD LICENCE** (Notice of Road Licence under the *Land Act 1994*), see [52-0090] – **RDL**
- **RT NOTING** (Registrar of Titles Noting under the *Land Title Act 1994*), see [52-0050] – Registrar of Titles Noting under the *Land Title Act 1994* – **RTN**
- ¹**TRAM EASE** (Access Right under the Sugar Industry Acts), see [52-0160] – **STE**
- ¹**VEG NOTICE** (Vegetation Management Notice or Notice of Declared Area and Management Plan under the *Vegetation Management Act 1999*), see [52-0210] and [52-0211] – **VMN**
- ¹**VOL ENV AGR** (Voluntary Environmental Agreement under the *State Development and Public Works Act 1971*), see [52-0270] – **VEA**
- ²**W/D PRTY NTC** (Withdrawal of Priority Notice under the *Land Title Act 1994*), see [52-0080] – **PNW**
- **WATER ADVICE** (Water Act Advice under the *Water Act 2000*), see [52-0230]; [52-0236] and [52-0240] — **WAA**
- ¹**WET TROPICS** (Notice under the *Wet Tropics World Heritage Protection and Management Act 1993*), see [52-0170] – **WTN**
- ²**XTD PRTY NTC** (Extension of Priority Notice under the *Land Title Act 1994*), see [52-0080] – **PNE**

Note – Enquiries relating to an administrative advice should be directed to the relevant authority or department administering the legislation or issuing the notice.

The registry will not provide any further detail other than that disclosed on the notice.

Recording an Administrative Advice

[52-2010]

Where a notice is to be given to the Registrar under the provisions of an Act a *Form 14 – General Request* must be lodged, unless another form is appropriate, for example a *Priority Notice Form*. The form must identify all lots the subject of the notice and details of the legislative authority. Where required, the request must be accompanied by any relevant supporting documentation. On lodgement, the notice is allocated a dealing number and entered against the relevant title/s.

Certain administrative advices are entered by or on behalf of the person taking action. Examples of these include, but are not limited to:

- notices to the Registrar by a Caveator pursuant to s. 126(4)(b) of the *Land Title Act 1994* (Caveator’s Notice of Action)

- notices to the Registrar by a Caveatee pursuant to s. 126(2) of the *Land Title Act 1994* (Caveatee's Notice to Registrar)
- notices of appointment of an administrator under the *Guardianship and Administration Act 2000*
- notices of a Conduct and Compensation Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*
- notices of an Opt-Out Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*
- notices of an Enforcement Order or Interim Enforcement Order under the *Planning Act 2016*

Other administrative advices must be entered by or on behalf of the relevant government department, agency or statutory authority or another entity authorised under the relevant legislation.

A duty notation is not required but a deposit fee applies unless there is a statutory or other exemption.

Removal of an Administrative Advice

[52-2020]

An administrative advice may only be removed by the lodgement of a Form 14 – Request to remove administrative advice, unless otherwise provided for by legislation. An authorised delegate of the authority that lodged the original administrative advice notice must execute the Form 14. Where necessary, supporting evidence must also be deposited.

The dealing number that was allocated to the administrative advice must be stated in the request.

A duty notation is not required but a deposit fee applies unless there is a statutory exemption.

Forms

General Guide to Completion of Forms

[52-4000]

For general requirements for completion of forms see part 59.

Dealing Number



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1. Nature of request

ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number) **Lodger Code**

Queensland Building and Construction
Commission
22 Montague Road
West End Qld 4101
mail@qbcc.com.au
1300 272 272

2. Lot on Plan Description

LOT 3 ON RP24687

Title Reference

16072084

3. Registered Proprietor/State Lessee

WAYNE ROBERT DERN
LINDA ANN DERN

4. Interest

NOT APPLICABLE

5. Applicant

QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION

6. Request

I hereby request that: a notation be made pursuant to ss. 46(1) and 46(2) of the *Queensland Building and Construction Commission Act 1991*, an Owner Builder Permit has been issued in relation to the land described above

File reference v 2.5/20478675.doc.

7. Execution by applicant

B Mayberry

BRIAN WILLIAM MAYBERRY FOR GENERAL MANAGER
7/9/2007

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

General Guide to Completion of Form 14 - Request to record an administrative advice

Item 1

[52-4010]

Insert nature of request, i.e. ‘administrative advice’.

Item 2

[52-4020]

Each lot the subject of the notice must be fully identified with a lot on plan description and a title reference.

^{1, 2}Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for Crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

^{2, 3}Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

e.g.	Lot on Plan Description	Title reference
	WA 27 on AP 7900	46012345

^{1, 3}State Tenure Description

The description of the relevant State tenure should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘CP’ for a crown plan).

e.g.	Lot on Plan Description	Title reference
	Lot 27 on CP LIV1234	40567123

Item 3

[52-4030]

Insert full name of registered proprietor/holder. However, where the name is considered not relevant to the notice, ‘Not Applicable’ may be inserted provided approval has been given by the Registrar prior to lodgement or a written submission stating the reasons, is deposited with the form.

Item 4

[52-4040]

Insert interest – fee simple, water allocation or State leasehold. Not Applicable may also be inserted.

Item 5

[52-4050]

Insert full name of applicant.

Item 6**[52-4060]**

Insert full details of the request including reference to the provisions of relevant authorising legislation.

Item 7**[52-4070]**

Complete and execute where indicated.

Dealing Number



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1. Nature of request

REMOVAL OF ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number) **Lodger Code**

Queensland Building and Construction
Commission
22 Montague Road
West End Qld 4101
mail@qbcc.com.au
1300 272 272

2. Lot on Plan Description

LOT 3 ON RP24687

Title Reference

16072084

3. Registered Proprietor/State Lessee

WAYNE ROBERT DERN
LINDA ANN DERN

4. Interest

NOT APPLICABLE

5. Applicant

QUEENSLAND BUILDING AND CONSTRUCTION COMMISSION

6. Request

I hereby request that: Pursuant to s. 46 of the *Queensland Building and Construction Commission Act 1991* the administrative advice recorded on the above title under dealing number 960123456 be removed.

File reference v 2.5/20478675.doc.

7. Execution by applicant

B Mayberry

BRIAN WILLIAM MAYBERRY FOR GENERAL MANAGER
7/9/2007

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

General Guide to Completion of Form 14 - Request to remove an administrative advice

Item 1

[52-4100]

Insert nature of request, i.e. ‘removal of an administrative advice’.

Item 2

[52-4110]

Each lot the subject of the notice must be fully identified with a lot on plan description and a title reference.

^{1, 2}Freehold Description

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for Crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

^{2, 3}Water Allocation Description

A water allocation should be identified as ‘Water Allocation’, ‘Allocation’ or ‘WA’. All plans referring to water allocations are administrative plans. Administrative plan is abbreviated to AP as the prefix of the plan identifier.

e.g.	Lot on Plan Description	Title reference
	WA 27 on AP 7900	46012345

^{1, 3}State Tenure Description

The description of the relevant State tenure should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘CP’ for a crown plan).

e.g.	Lot on Plan Description	Title reference
	Lot 27 on CP LIV1234	40567123

Item 3

[52-4120]

Insert full name of registered proprietor/holder. However, where the name is considered not relevant to the notice, ‘Not Applicable’ may be inserted provided approval has been given by the Registrar prior to lodgement or a written submission stating the reasons, is deposited with the form.

Item 4

[52-4130]

Insert interest – fee simple, water allocation or State leasehold. Not Applicable may also be inserted.

Item 5**[52-4140]**

Insert full name of applicant.

Item 6**[52-4150]**

Insert full details of the request including reference to the provisions of relevant authorising legislation and the dealing number of the administrative advice to be removed.

Item 7**[52-4160]**

Complete and execute where indicated.

Example 1 – Request to record an Enforcement Order or Interim Enforcement Order under the *Planning Act 2016*

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

FORM 14 Version 4
Page 1 of 1

Dealing Number

**OFFICE USE ONLY****Privacy Statement**

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1. Nature of request

ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number) **Lodger Code**

Peter Mayberry
2 Fields Road
West End Qld 4101
pmayberry@fields.com.au
3012 5205

2. Lot on Plan Description**Title Reference**

LOT 1 ON RP24687

16072082

LOT 2 ON RP24687

16072083

LOT 3 ON RP24687

16072084

3. Registered Proprietor/State Lessee

NOT APPLICABLE

4. Interest

NOT APPLICABLE

5. Applicant

PETER MAYBERRY

6. Request

I hereby request that: pursuant to s. 176(7) or s. 180(10) of the Planning Act 2016 the Registrar record the making of the attached enforcement order/interim enforcement order against the land described in item 2.

7. Execution by applicant

21/01/2019

Execution Date

P Mayberry

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- a copy of the sealed Enforcement Order or Interim Enforcement Order

^{1, 2}Guide to Completion of Form 14 for Example 1

[52-4200]

Item 1

[52-4210]

Insert nature of request, i.e. ‘administrative advice’.

Item 2

[52-4220]

Insert the lot on plan description and title reference for the relevant premises to which the order has attached in accordance with the Enforcement Order or Interim Enforcement Order.

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for Crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

Item 3

[52-4230]

Insert ‘Not Applicable’ or ‘N/A’.

Item 4

[52-4240]

Insert ‘Not Applicable’ or ‘N/A’.

Item 5

[52-4250]

Insert the full name of the applicant (the defendant or respondent named in the enforcement order or interim enforcement order).

Item 6

[52-4260]

Insert:

“I hereby request that: pursuant to s. 176(7) or s. 180(10) of the Planning Act 2016 the Registrar record the making of the attached enforcement order/interim enforcement order against the land described in item 2.”

Item 7

[52-4270]

Complete and execute where indicated.

Items to be deposited

[52-4280]

A copy of the sealed enforcement order or interim enforcement order must be deposited with the Form 14.

Example 2 – Request to remove a record of an Enforcement Order or Interim Enforcement Order under the Planning Act 2016 on the basis of a compliance order

QUEENSLAND TITLES REGISTRY
Land Title Act 1994, Land Act 1994 and Water Act 2000

GENERAL REQUEST

Duty Imprint

FORM 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REMOVAL OF ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number) **Lodger Code**

Peter Mayberry
2 Fields Road
West End Qld 4101
pmayberry@fields.com.au
3012 5205

2. Lot on Plan Description

Title Reference

LOT 1 ON RP24687

16072082

LOT 2 ON RP24687

16072083

LOT 3 ON RP24687

16072084

3. Registered Proprietor/State Lessee

NOT APPLICABLE

4. Interest

NOT APPLICABLE

5. Applicant

PETER MAYBERRY

6. Request

I hereby request that: pursuant to s. 176(9) or 180(12) of the Planning Act 2016 the Registrar receive notice of the making of the attached compliance order and remove the administrative advice recording the making of the enforcement order/interim enforcement order with the dealing number 712345678 from the land described in item 2.

7. Execution by applicant

21/01/2019

Execution Date

P Mayberry

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:
• a copy of the sealed Compliance Order.

^{1, 2}Guide to Completion of Form 14 for Example 2

[52-4300]

Item 1

[52-4310]

Insert nature of request, i.e. ‘removal of an administrative advice’.

Item 2

[52-4320]

Insert the lot on plan description and title reference for the relevant premises for which the enforcement order or interim enforcement order has been complied with under the compliance order.

The description of the relevant lot/s should always read ‘Lot [no.] on [plan reference]’. Plan references must contain the appropriate prefix (e.g. ‘SP’ for a survey plan, ‘RP’ for a registered plan, ‘BUP’ for a building units plan, ‘GTP’ for a group titles plan or the relevant letters for Crown plans). The area of the lot/s is not shown.

e.g.	Lot on Plan Description	Title reference
	Lot 27 on RP 204939	11223078

Item 3

[52-4330]

Insert ‘Not Applicable’ or ‘N/A’.

Item 4

[52-4340]

Insert ‘Not Applicable’ or ‘N/A’.

Item 5

[52-4350]

Insert the full name(s) of the applicant(s).

Item 6

[52-4360]

Insert:

“I hereby request that: pursuant to s. 176(9) or s. 180(12) of the *Planning Act 2016* the Registrar receive notice of the making of the attached compliance order and remove the administrative advice recording the making of the enforcement order/interim enforcement order with the dealing number [DEALING NUMBER] from the land described in item 2.”

The dealing number of each administrative advice that records the relevant enforcement order or interim enforcement order must be included.

Item 7

[52-4370]

Complete and execute where indicated.

Items to be deposited

[52-4380]

A copy of the sealed compliance order must be deposited with the Form 14.

Case Law

[52-7000]

Nil.

Fees

[52-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60-8000].

Cross References and Further Reading

[52-9000]

Part 49 – Water Allocations

Notes in text

[52-9050]

Note¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note² – This numbered section, paragraph or statement does not apply to State land.

Note³ – This numbered section, paragraph or statement does not apply to freehold land.

Part 61 – Witnessing and Execution of Instruments or Documents

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Part 61 – Witnessing and Execution of Instruments or Documents

Legislation

[61-0000]

^{2,3}Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, an interest or dealing may be registered in a way mentioned in the Land Title Act, subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act:

- (a) as if a reference to the freehold land register is a reference to the water allocations register; and
- (b) as if a reference to freehold land or land is a reference to a water allocation; and
- (c) as if a reference to a lot is a reference to a water allocation; and
- (d) with any other necessary changes.

Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, the Land Title Act applies to the registration of an interest or dealings for a water allocation on the water allocations register subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the Land Title Act:

- (a) as if a reference to the Registrar of Titles were a reference to the Registrar of Water Allocations; and
- (b) as if a reference to the freehold land register were a reference to the water allocations register; and
- (c) as if a reference to freehold land or land were a reference to a water allocation; and
- (d) as if a reference to a lot were a reference to a water allocation; and
- (e) with any other necessary changes.

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994* and reference to the registrar of water allocations in the *Water Act 2000*

Refer to [0-8100] and [0-8200] and [0-8300].

^{1,3}Reference to the Chief Executive in the *Land Act 1994*

The functions of the Chief Executive under the Land Act relating to the keeping of registers are carried out by the Registrar of Titles under delegation given under s. 393 of the Land Act.

Witnesses to Executions

General Law

[61-1000]

²An instrument required by a provision of the *Land Title Act 1994* to be validly executed, is validly executed by an individual if it is executed in a way permitted by law and the execution is witnessed by a person mentioned in Schedule 1 of the Land Title Act (s. 161(2) of the Land Title Act).

^{1,3}A document required by a provision of *Land Act 1994* to be validly executed, is validly executed by an individual if it is executed in a way permitted by law and the execution is witnessed by a person prescribed under the regulations (s. 310(2) of the Land Act and section 73 of the Land Regulation 2020).

Witnesses mentioned in Schedule 1 of the *Land Title Act 1994* and section 73 of the Land Regulation 2020

[61-1100]

The persons who can witness the execution of an instrument or document are listed in Schedule 1 of the Land Title Act or s. 73 of the Land Regulation, being:

- a notary public;
- a justice of the peace;
- a commissioner for declarations;
- a lawyer;
- a licensed conveyancer from another State;
- another person approved by the Registrar; and
- a person prescribed by regulation (where the place of execution of the instrument is outside Australia only).

Definitions in the Land Title Act, the *Justices of the Peace and Commissioners for Declarations Act 1991*, the *Acts Interpretation Act 1954* and other Acts apply to some of the terms in this list. Additional information about each type of witness is outlined below.

Notwithstanding that a person may be authorised to take a declaration, they are not authorised to witness the signing of an instrument or a document unless included in a category listed in Schedule 1 of the Land Title Act or s. 73 of the Land Regulation. For example, the following are not authorised unless they also hold an office or qualification mentioned in Schedule 1 of the Land Title Act, s. 73 of the Land Regulation or have been approved by the Registrar as ‘another person’:

- an *ex officio* commissioner for declarations under the *Oaths Act 2001* (Tas);
- a person who is an authorised witness under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA);
- a person authorised under the *Statutory Declarations Act 1959* (Cth);
- a legal executive or a paralegal;
- a commissioner for taking affidavits in the Supreme Court of South Australia under the *Oaths Act 1936* (SA).

A notary public**[61-1110]**

A notary public is a person appointed to that office in accordance with the legal requirements of the appointing jurisdiction. In Queensland, notaries public are appointed by the Court of Faculties in England under the guidance of the Archbishop of Canterbury. In other Australian states and territories the appointment of notaries public is governed by legislation, e.g. *Public Notaries Act 2001* (Vic). In addition to the general requirements in [61-2040], for witnessing practice requirements specific to this category inside Australia see [61-2120] and outside Australia see [61-2220].

A justice of the peace or commissioner for declarations**[61-1120]**

A ‘justice of the peace’ or ‘commissioner for declarations’ means a person holding the relevant office under the *Justices of the Peace and Commissioners for Declarations Act 1991* i.e. a Queensland justice of the peace or Queensland commissioner for declarations.

A justice of the peace appointed prior to 1 November 1991 who has not applied to be appointed as a commissioner for declarations by 30 June 2000 ceases to hold that office and instead holds the office of a justice of the peace (commissioner for declarations) (s. 42(1) of the *Justices of the Peace and Commissioners for Declarations Act*). Section 42(1) does not apply to a lawyer who remains a justice of the peace for life.

See [61-2120] for witnessing practice requirements specific to this category in addition to the general requirements in [61-2040]. See [61-1150] for justices of the peace and commissioners for declarations appointed by other Australian states and territories.

A lawyer**[61-1130]**

A ‘lawyer’ is defined as an Australian lawyer under section 5(1) the *Legal Profession Act 2007* (see Schedule 2 of the *Land Title Act 1994* and Schedule 1 of the *Acts Interpretation Act 1954*).

Under the *Legal Profession Act* an Australian lawyer is any person who has been admitted to a Supreme Court of an Australian state or territory as an Australian lawyer, lawyer, solicitor, barrister or barrister and solicitor (depending on the terminology used in the jurisdiction at the time of admission). The term Australian lawyer includes all Australian legal practitioners i.e. an Australian solicitor, barrister or barrister and solicitor.

The term “lawyer” in Schedule 1 of the *Land Title Act* and s. 73 of the *Land Regulation 2020* does not include lawyers from foreign jurisdictions. See [61-1150] for New Zealand lawyers.

See [61-2220] for witnessing practice requirements specific to this category for witnessing instruments or documents outside Australia (for the general requirements see [61-2040]).

A licensed conveyancer from another State**[61-1140]**

To be classified as a licensed conveyancer, the person must hold a current licence to practice as a conveyancer in a state outside Queensland which has a licensing regime for conveyancers. Queensland does not have a licensing regime for conveyancers.

Another person approved by the Registrar**[61-1150]**

The Registrar may also approve ‘another person’ in a state or territory of Australia, or in any place outside Australia to witness the execution of an instrument or document.

Inside Australia

Categories of persons who have been generally approved by the Registrar to witness executions inside Australia are:

- a justice of the peace or commissioner for declarations under the law of an Australian state or territory other than Queensland. Note that an *ex officio* commissioner for declarations under the *Oaths Act 2001* (Tas) is not approved;
- a licensed settlement agent authorised under the *Settlement Agents Act 1981* (WA);
- a registrar or deputy registrar of the Supreme, District or Magistrates Courts of Western Australia;
- a commissioner for oaths appointed in the Northern Territory.

Outside Australia (including external Australian territories)

Categories of persons who have been generally approved by the Registrar to witness executions outside Australia are:

- a Norfolk Island justice of the peace being a person who has been appointed as a justice of the peace for Norfolk Island or is otherwise a justice of the peace under the *Justices of the Peace Act 1972* (NI).

See [61-2220] for additional witnessing practice requirements specific to this category;

- a Norfolk Island practitioner being a person who is registered as a practitioner on the register of practitioners of the Supreme Court of Norfolk Island in accordance with the *Legal Profession Act 1993* (NI). Norfolk Island practitioners will likely also fall within the definition of an Australian lawyer. See [61-1130] for information about Australian lawyers.

See [61-2220] for additional witnessing practice requirements specific to this category;

- a New Zealand lawyer who holds a current practising certificate under the *Lawyers and Conveyancers Act 2006* (NZ) (i.e. a solicitor, barrister or barrister and solicitor) where the place of execution of the instrument or document is New Zealand.

Please note that a person enrolled as a barrister and solicitor of the High Court of New Zealand is not an approved witness unless they also hold a current practising certificate. Therefore a witness with a qualification stated as an ‘enrolled barrister and solicitor of the High Court of New Zealand’ or similar will not be accepted unless further evidence can be provided that the witness holds a practising certificate under the *Lawyers and Conveyancers Act 2006* (NZ).

See [61-2220] for additional witnessing practice requirements specific to this category;

- a commissioner for oaths appointed under the *Oaths, Affirmations and Statutory Declarations Act 1962* (Papua New Guinea) where the place of execution of the instrument or document is Papua New Guinea.

See [61-2220] for additional witnessing practice requirements specific to this category.

These categories of witnesses are only approved to witness instruments or documents in the country of their appointment i.e. a commissioner for oaths appointed under the *Oaths, Affirmations and Statutory Declarations Act* may only witness instruments or documents where the place of execution is Papua New Guinea.

The Registrar may also approve ‘another person’ to witness the execution of an instrument or document on an individual case by case basis. Such approval will usually only be given in exceptional circumstances. The requirements for making a submission to the Registrar to

approve ‘another person’ to witness the execution of an instrument or document are outlined in [61-2400].

A person prescribed by regulation

[61-1160]

Where an instrument or document is executed outside Australia a person prescribed by regulation is also authorised to witness an execution.

Persons prescribed by regulation include:

- an Australian consular officer or an authorised employee of the Commonwealth under the *Australian Consular Officers’ Notarial Powers and Evidence Act 1946* and *Consular Fees Act 1955* (Cth).

Honorary consuls are not authorised to undertake notarial functions including witnessing the execution of an instrument or the signing of a document.

See [61-2220] for additional witnessing practice requirements specific to this category.

- a competent officer as defined under the Defence Regulation 2016 (Cth) where they are witnessing the execution of an instrument or document by:
 - a member of the Australian Defence Force currently on service outside Australia; or
 - a person who is accompanying a part of the Australian Defence Force outside Australia.

A competent officer is defined in s. 52 of the Defence Regulation as:

- any officer in the Australian Defence Force; or
- an officer (or an equivalent rank) in the Canadian, New Zealand, United Kingdom or United States of America armed forces (naval, military or air force); or
- the official representative of Australian Defence Force members who are prisoners of war or other persons detained or interned.

Officer is comprehensively defined in s. 4 of the *Defence Act 1903* (Cth).

To be accompanying a part of the Australian Defence Force the person must be formally accompanying the deployment, not just co-located with it. For example, civilian air crew or medical staff will likely be persons accompanying the Australian Defence Force. Spouses of members of the Australian Defence Force who have chosen to relocate to the country in which their spouse is serving but are not accompanying the deployment will not be persons accompanying the Australian Defence Force.

See [61-2220] for additional witnessing practice requirements specific to this category.

Instrument or document not witnessed

[61-1200]

Section 161(3) of the *Land Title Act 1994* and s. 310(3) of the *Land Act 1994* also give the Registrar discretion in exceptional circumstances to register an instrument or document even though the execution is not witnessed or was witnessed by a person other than mentioned in Schedule 1 of the Land Title Act or in s. 73 of the Land Regulation 2020.

Obligations of witnesses for individuals

[61-1300]

Section 162 of the *Land Title Act 1994* and s. 311 of the *Land Act 1994* require a person who witnesses an instrument or document executed by an individual to:

- first take reasonable steps to verify the identity of the individual and ensure that the individual is the person entitled to sign the instrument or document;
- have the individual execute the instrument or sign the document in their presence; and
- not be a party to the instrument or document.

Under s. 162(2) of *Land Title Act* and s. 311(2) of the *Land Act*, a witness will take reasonable steps to verify the identity of the individual if they comply with practices included in this Land Title Practice Manual for verifying the individual's identity. Relevant practices are outlined in [61-2300].

A witness is also required to retain either of the following for a period of 7 years after they witness the execution or signing of the instrument or document:

- a written record of the steps taken by the witness to verify the identity of the individual and ensure that the individual is the person entitled to sign the instrument or document; or
- originals or copies of the documents and other evidence obtained by the witness to verify the identity of the individual and ensure that the individual is the person entitled to sign the instrument or document.

The Registrar may, whether before or after the registration of the instrument, ask the witness to produce the written record or evidence (s. 162(4) of the *Land Title Act* and s. 311(4) of the *Land Act*).

Electronic conveyancing documents

[61-1400]

Refer to [62-3000].

Practice

[61-2000]

When witnessing is required

[61-2010]

Executions signed personally by an individual are required to be witnessed.

For witnessing requirements in relation to executions by corporations refer to [61-3030].

For witnessing requirements in relation to execution by an attorney see [61-3050].

² Section 161(3A) of the *Land Title Act 1994* provides that for an instrument that transfers or creates an interest in a lot (or where the instrument or document indicates), the execution by the legal practitioner acting for the transferee or the person in whose favour the interest is created need not be witnessed. Where a legal practitioner executes an instrument in this capacity, their full name and qualification must be shown adjacent to or below their signature. See [61-3060].

Additional witnessing requirement for Form 1, Mortgage (National Mortgage Form) and Form 3

[61-2020]

Form 1 – Transfer, Mortgage (National Mortgage Form) and Form 3 – Release of Mortgage require the completion of a separate witnessing provision for each signature which is required to be witnessed, even if the signatures are made in front of the same witness.

See examples in [1-4000] and [2-4010].

[61-2021] deleted

Multiple executions

[61-2030]

For instruments or documents which require separate witnessing provisions for each signature and where multiple executions are needed due to signatories signing before different witnesses, separate witnessing provisions must be completed by each witness.

In cases where there is insufficient room on the instrument or document, a Form 20 – Enlarged Panel may be used subject to the following:

- It is permissible for the execution Item (e.g. Item 6 on a Form 1 – Transfer) to appear partially on the face of the instrument or document and partially on a Form 20 – Enlarged Panel. However, the full execution for each party (signature, date and completed witnessing provision) must appear on the same page of the instrument or document.
- It is not permissible for all of the executions to appear on a Form 20 – Enlarged Panel where there is space on the face of the instrument or document for one of the executions.
- The Item number and heading (e.g. ‘**Item 6 Execution**’) must be included on the Form 20 – Enlarged Panel and otherwise comply with requirements for completing a Form 20. See [20-2020].

General witnessing requirements

[61-2040]

The Registrar requires the name and qualification of a witness to be shown legibly adjacent to or below their signature.

A witness may either write their full name or their name as it is registered or recorded with the relevant registering authority, e.g. a notary public who is recorded with the relevant notarial body as John J Jones does not have to write his middle name in full.

If the witness has been issued with an official seal, stamp or registration number they should write or type the registration number and / or apply the seal or stamp adjacent to or below their signature.

Where a witness applies an official seal or stamp the witness should ensure the stamp does not obscure the witness’s name.

Practices for witnessing within Australia

[61-2100]

There are three practice requirements related to the witnessing of instruments or documents within Australia:

1. instruments or documents must be witnessed by a person mentioned in Schedule 1 of the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020* as a person who can witness execution at any place inside Australia (see [61-1100] and [61-2110]);
2. witnessing practice requirements – including requirements for specific categories of witness must be met (see [61-2040] and [61-2120]);
3. the witness must comply with their obligations under s. 162 of the *Land Title Act* or s. 311 of the *Land Act 1994* (see [61-2300]).

Witnesses who can witness instruments or documents within Australia**[61-2110]**

Witnesses who can witness executions where the instrument or document is executed inside Australia include:

- a notary public;
- a justice of the peace (Qld);
- a commissioner for declarations (Qld);
- a lawyer, being an Australian lawyer or Australian legal practitioner (solicitor or barrister);
- a licensed conveyancer from another State;
- any of the following (being persons approved by the Registrar to witness instruments and documents within Australia):
 - a justice of the peace or commissioner for declarations under the law of an Australian state or territory other than Queensland;
 - a licensed settlement agent authorised under the *Settlement Agents Act 1981* (WA);
 - a Registrar or Deputy Registrar of the Supreme, District or Magistrates Courts of Western Australia;
 - a commissioner for oaths appointed in the Northern Territory;
- a specific person approved by the Registrar in response to a submission requesting that the Registrar approve that person – see [61-2400].

Definitions and additional information about these types of witnesses is outlined in [61-1100].

Specific practice requirements for witnessing instruments or documents within Australia**[61-2120]**Justice of the peace

When witnessing the execution of instruments or documents, justices of the peace must clearly write, type, print or stamp their name and the words ‘justice of the peace’ or the abbreviation ‘JP’ adjacent to or below their signature.

Where a justice of the peace has been given a registration number, this number should also be included adjacent to or below their signature.

Commissioner for declarations

Commissioners for declarations must clearly write, type, print or stamp their name and the following adjacent to or below their signature:

- the words ‘commissioner for declaration’, ‘Com Dec’ or the abbreviation ‘CDec’; and
- their registration number.

When witnessing the execution of instruments or documents a justice of the peace (commissioner for declarations) should repeat their full title or use the abbreviation ‘JP (C.Dec)’.

Notary public

A notary public who witnesses the execution of instruments or documents within Australia must clearly write, type, print or stamp their name, qualification and jurisdiction (e.g. Australian state or territory) adjacent to or below their signature.

Witnessing outside Australia (including external Australian territories)

[61-2200]

There are five practice requirements related to the witnessing of instruments or documents outside Australia:

1. instruments or documents must be witnessed by a person mentioned in Schedule 1 of the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020* (see [61-1100] and [61-2210]);
2. witnessing practice requirements – including requirements for specific categories of witness must be met (see [61-2040] and [61-2220]);
3. the witness must comply with their obligations under s. 162 of the *Land Title Act* or s. 311 of the *Land Act 1994* (see [61-2300]);
4. a properly completed witnessing certification must be deposited (see [61-2500]);
5. a letter from an Australian legal practitioner or authorised employee of an Australian law firm or financial institution stating that they have taken reasonable steps to ensure that the individual is the person entitled to sign the instrument or document must be deposited where specified below (see [61-2530] and [61-2540]).

Witnesses who can witness instruments or documents outside Australia

[61-2210]

Witnesses who can witness executions where the instrument or document is executed outside Australia include:

- a notary public;
- a lawyer, being an Australian lawyer or Australian legal practitioner (solicitor or barrister);
- a person prescribed by regulation including:
 - an Australian consular officer or authorised employee of the Commonwealth;
 - a competent officer as defined under the *Defence Regulation 2016* where witnessing an execution by a member of the Australian Defence Force currently on service outside Australia or a person who is accompanying a part of the Australian Defence Force outside Australia;
- another person approved by the Registrar including:
 - a Norfolk Island justice of the peace;
 - a Norfolk Island practitioner;
 - a New Zealand lawyer (solicitor, barrister or barrister and solicitor) where the place of execution of the instrument or document is New Zealand;

- a commissioner for oaths appointed under the *Oaths, Affirmations and Statutory Declarations Act 1962* (Papua New Guinea) where the place of execution of the instrument or document is Papua New Guinea;
- a specific person approved by the Registrar in response to a submission requesting that the Registrar approve that person – see [61-2400].

Definitions and additional information about these types of witnesses is outlined in [61-1100].

Specific practice requirements for witnessing instruments or documents outside Australia

[61-2220]

Australian consular officer or authorised employee of the Commonwealth

An Australian consular officer or authorised employee of the Commonwealth must clearly write, type or stamp their full name and legibly affix the official seal of their mission or post adjacent to or below their signature.

Refer to [61-1160] for further information about these types of witnesses.

Competent officer as defined under the Defence Regulation 2016 (Cth)

Where a competent officer as defined under the Defence Regulation 2016 has witnessed the signature of a member of the Defence Force serving outside Australia the following is required:

- the competent officer (witness) must print their full name and rank adjacent to or below their signature; and
- supporting documentation must be deposited to verify the execution was made while the member of the Australian Defence Force executing the instrument or document was serving overseas or accompanying a part of the Australian Defence Force outside Australia, for example a letter from an Australian legal practitioner. There is no need to state the country in which the member of the Defence Force was serving.

Refer to [61-1160] for further information about the requirements under the Defence Regulation and definitions.

Australian lawyer

An Australian lawyer who witnesses the execution of instruments or documents outside Australia must clearly write, type, print or stamp their full name and qualification (i.e. Australian lawyer, Australian legal practitioner, solicitor or barrister or solicitor and barrister) adjacent to or below their signature.

An overseas lawyer who is not an Australian lawyer is not able to witness the execution of an instrument or document outside Australia unless:

- they have an additional qualification mentioned in Schedule 1 of the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020* which permits them to witness the execution of an instrument or document outside Australia e.g. they are also a notary public. If this is the case they must show that qualification adjacent to or below their signature and on the Form 20 - Identity / Witnessing Certification; or
- the Registrar of Titles has approved the overseas lawyer as ‘another person’ before lodgement of the instrument or document in accordance with the process outlined in [61-2400]; or
- they are a New Zealand lawyer and the place of execution of the instrument or document is New Zealand (see [61-1150] and New Zealand lawyer below).

New Zealand lawyer (solicitor, barrister or barrister and solicitor with a practising certificate)

A New Zealand lawyer who witnesses the execution of instruments or documents within New Zealand must clearly write, type, print or stamp their full name and qualification (e.g. New Zealand solicitor or New Zealand barrister or New Zealand barrister and solicitor) adjacent to or below their signature.

Note: a witness with a qualification stated as an ‘enrolled barrister and solicitor of the High Court of New Zealand’ or similar is not acceptable unless further evidence can be provided that the witness holds a current practising certificate under the *Lawyers and Conveyancers Act 2006* (NZ).

A New Zealand lawyer is not approved to witness the execution of an instrument or document outside New Zealand unless:

- they have an additional qualification mentioned in Schedule 1 of the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020* which permits them to witness the execution of an instrument or document outside Australia e.g. they are also a notary public. If this is the case they must show that qualification adjacent to or below their signature and on the Form 20 - Identity / Witnessing Certification; or
- the Registrar of Titles has approved the specific New Zealand lawyer to witness the instrument or document outside New Zealand before lodgement of the instrument or document in accordance with the process outlined in [61-2400].

Notary public

Where an instrument or document is signed outside of Australia, in the presence of a notary public, the following requirements apply:

- the name (either full name or name as registered or recorded with the relevant registering authority), qualification or description of public office or commission, date of expiry of the commission (if applicable) and official stamp/seal (if one is required to be used) of the notary public must be shown clearly:
 - on the face of the instrument or document adjacent to or below their signature; or
 - in the manner required of a notary public when undertaking a witnessing function.

Note: if the notary public signs a separate document, rather than the face of the instrument or document, the details of the instrument or document must be clearly referenced on the separate document - for example, type of instrument or document, property and party details and a submission must be made to the Registrar in accordance with the requirements outlined in [61-2610];

- a translation of any non-English part of the execution or Form 20 - Identity/ Witnessing Certification including stamps / seals must be provided. Note that an informal translation is acceptable e.g. via a letter.

Norfolk Island justice of the peace

Norfolk Island justices of the peace must clearly write, type, print or stamp their name and the words ‘justice of the peace’ or the abbreviation ‘JP’ adjacent to or below their signature.

Refer to [61-1150] for more information.

Norfolk Island practitioner

A Norfolk Island Practitioner who witnesses the execution of instruments or documents outside Australia must clearly write, type, print or stamp their name, qualification and jurisdiction (e.g. Norfolk Island) adjacent to or below their signature. If the Norfolk Island practitioner is also an Australian lawyer they may write either Australian lawyer or Norfolk Island lawyer.

Refer to [61-1150] for more information.

Commissioners for oaths under the *Oaths, Affirmations and Statutory Declarations Act 1962* (Papua New Guinea)

A commissioner for oaths appointed under the *Oaths, Affirmations and Statutory Declarations Act 1962* (Papua New Guinea) must clearly write, type or stamp their full name and legibly affix their official seal or stamp adjacent to or below their signature.

Refer to [61-1150] for more information.

This category of witness is only approved to witness instruments and documents where the place of execution of the instrument or document is Papua New Guinea.

Obligations of witnesses

[61-2300]

Under s. 162 of the *Land Title Act 1994* and s. 311 of the *Land Act 1994* a person who witnesses an instrument or document executed by an individual is required to:

1. take reasonable steps to verify the identity of the individual;
2. take reasonable steps to ensure that the individual is the person entitled to sign the instrument or document;
3. retain either of the following for a period of 7 years after they witness the signing of the instrument or document:
 - a written record of the steps taken by the witness to verify the identity of the individual and ensure that the individual is the person entitled to sign the instrument or document; or
 - originals or copies of the documents and other evidence obtained by the witness to verify the identity of the individual and ensure that the individual is the person entitled to sign the instrument or document;
4. have the individual execute the instrument or sign the document in their presence; and
5. not be a party to the instrument or document.

Each of these requirements is explained further below.

Take reasonable steps to verify the identity of the individual

[61-2310]

A witness has statutory obligation to take reasonable steps to verify the identity of the individual whose execution they have been asked to witness. This means the witness must take the steps that an ordinarily prudent witness would take in the circumstances to ensure that the individual is the person who they claim to be.

A witness will take reasonable steps if they verify the identity of the individual using the Verification of Identity Standard outlined in [61-2700]. Verifying an individual in accordance with the Verification of Identity Standard involves a face-to-face, in-person interview between

the witness, the ‘Identity Verifier’, and the individual, the ‘Person Being Identified’, where the individual supplies original identity documents from the list of documents outlined in the Verification of Identity Standard. The witness must carefully inspect the documents used to verify the identity of the individual and ensure the documents are original (not copies), current (except for an expired Australian passport which may have expired within the last two years) and appear to be genuine.

Mere mechanical compliance with the Verification of Identity Standard, without attention to detail, is not sufficient. Accordingly, paragraph 8 of the Verification of Identity Standard requires a witness to undertake further steps to verify the identity of the individual where:

- an identity document does not appear to be genuine;
- a photograph on an identity document is not a reasonable likeness;
- the individual executing the instrument or document does not appear to be the person to which the identity documents relate, for example because the individual appears not to be of the same gender as the current registered owner or holder of the relevant interest, as indicated by the name of the registered owner or holder of the interest or by any other information reasonably available to the witness;
- it is otherwise reasonable to take further steps, for example because:
 - there appears to be an inconsistency between the identity documents and the instrument or document being executed such as differing signatures;
 - there is a discrepancy between identity documents, e.g. middle name missing, name apparently abbreviated or anglicised on a document;
 - the witness is aware or has reason to believe that there is a relative of the individual with a similar or the same name;
 - the individual appears to be younger than the current registered owner or holder of the interest, as indicated by the date that the person became registered on title or by any other information reasonably available to the witness;
 - where the individual executing the instrument or document has very limited identity documents and there is no plausible explanation as to why.

Examples of further steps that could be taken include (but are not limited to):

- obtaining more identity documents or other supporting evidence;
- where the identity documents are Australian using electronic verification services;
- where it is a foreign identity document checking the identification document looks the same as those on the respective country’s government website.

Take reasonable steps to ensure the individual is entitled to sign

[61-2320]

A witness also has a statutory obligation to take reasonable steps to ensure that the individual is the person entitled to sign the instrument or document. This means the witness must take the steps that an ordinarily prudent witness would take in the circumstances to confirm both the true legal identity of the individual and also ensure that the individual is the registered proprietor of an interest or about to become the registered proprietor of the relevant interest in land.

Verifying entitlement to sign requires the witness to sight sufficient supporting evidence that includes the name of the individual whose entitlement to sign is being verified and the property or transaction details and clearly links the registered proprietor or interest holder to the land.

For an outgoing party or mortgagor, evidence that may assist in establishing entitlement to sign may include originals, copies or records of the following:

- a registration confirmation statement or current title search showing the individual as a registered proprietor;
- a current local government rates notices;
- a current land valuation notice;
- a current land tax assessment notice for the property;
- the mortgage granted by the mortgagor (if one exists).

For a party coming on the title, such as a transferee or a mortgagee, evidence that may assist in establishing entitlement to sign may include originals, copies or records of the following:

- a contract of sale for the property;
- loan documentation;
- a letter from a solicitor confirming that the individual is entitled to sign the instrument or document.

Recordkeeping obligations

[61-2330]

A witness is also required to retain either of the following for a period of 7 years after they witness the signing of the instrument or document:

- a written record of the steps taken by the witness to verify the identity of the individual and ensure that the individual is the person entitled to sign the instrument or document; or
- originals or copies of the documents and other evidence obtained by the witness to verify the identity of the individual and ensure that the individual is the person entitled to sign the instrument or document.

Where the witness opts to retain a written record the record should include as a minimum:

- the full name of the individual;
- the date the witnessing occurred;
- a description of the steps taken by the witness to verify the identity of the individual and their entitlement to sign e.g. a description of the identity documents and other evidence sighted by the witness. It is not necessary for the record to include the serial numbers of identity documents.

The Registrar may, whether before or after the registration of the instrument or document, ask the witness to produce the written record or evidence. It is anticipated that production of records would be required where the Registrar is investigating a particular allegation or other matter.

Where the instrument or document has been witnessed outside Australia then the witness's recordkeeping obligations will be satisfied by the deposit of a properly completed certification (see [61-2500]).

Justices of the peace and commissioners for declarations

Where a justice of the peace or commissioner for declarations witnesses an individual's signature on a paper instrument or document inside Australia, it is acceptable for the purposes of s. 162(3) of the *Land Title Act 1994* and s. 311(3) of the *Land Act 1994* for the justice of the peace or commissioner for declarations to only retain a written record. There is no expectation that a justice of the peace or commissioner for declarations will retain originals or copies of the documents or other evidence.

Australian legal practitioners

Where an Australian legal practitioner employed by an Australian law firm witnesses a paper instrument or document inside Australia it is acceptable for the record or evidence of the steps taken under s. 162(1) of the *Land Title Act 1994* or s. 311(1) of the *Land Act 1994* to be retained by the firm. There is no expectation that an Australian legal practitioner who has changed firms or retired from the profession would retain the records or evidence provided the practitioner's former firm has retained such records or evidence.

Have the individual execute the form in the witness's presence

[61-2340]

To comply with this requirement the witness must be physically present when the individual executes the instrument or document with a 'wet' signature.

Titles Registry forms provide spaces for each individual and witness to sign separately. The date of execution must also be included in the space provided.

There is currently no provision in Queensland for instruments or documents to be witnessed 'electronically' or remotely via Skype or other electronic means.

Not be a party to the instrument

[61-2350]

Any person with a vested interest in the transaction cannot also be a witness to the execution of the instrument or document. For example, if A and B own the land together and A is a justice of the peace, A cannot witness B's signature if they are both signing a Titles Registry instrument or document.

Care should also be taken when someone is signing under a power of attorney. For example, where A and B own the land together and C is both an attorney for B and an Australian lawyer. If A signs in their own right and C signs on behalf of B, C cannot then witness either signature as he or she is involved in the transaction.

The requirement that a witness must not be a party to the instrument or document is not infringed by an employee of a bank or other entity, who is a qualified witness by virtue of Schedule 1 of the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020* witnessing the execution of an instrument or document that their employer is a party to. For example, a bank officer who is a justice of the peace is not a party to a mortgage to the bank.

Another person approved by the Registrar

[61-2400]

In exceptional circumstances (for example, due to the remote location of the party signing the instrument or document), the Australian legal practitioner or financier for the individual executing the instrument or document may seek approval from the Registrar for 'another person' (other than a person mentioned in Schedule 1 of the *Land Title Act 1994* or s.73 of the

Land Regulation 2020) to witness the execution of the instrument or document (for example, an overseas lawyer) before it is lodged.

The Registrar will only consider a submission seeking approval where it is supported by the following:

- a letter from the Australian legal practitioner or financier for the person which details the special circumstances which mean it is unreasonable to expect the individual to execute the instrument or document in the presence of a witness listed in Schedule 1 of the Land Title Act or s. 73 of the Land Regulation;
- either a statement by an Australian legal practitioner or financier on their letterhead, or a statutory declaration by the person responsible within the law firm or financial institution, explaining how he or she knows that they are dealing with the individual entitled to execute the instrument or document, a combination of the following:
 - the individual is a long standing client or customer;
 - the Australian legal practitioner or financier had met with the individual prior to their departure to the remote location in relation to the sale/mortgage etc.;
 - the Australian legal practitioner or financier has taken independent steps to verify the identity of the individual;
 - the Australian legal practitioner or financier has contacted the proposed witness and verified their qualifications;
 - where the instrument or document is to be executed outside Australia – the Australian legal practitioner or financier has contacted the person on an email address or telephone number that the individual provided prior to leaving the country; and
- where the instrument or document is executed outside Australia a Form 20 - Identity/Witnessing Certification in the form in [61-2540].

Note: It is expected that such submissions are made before lodgement of the instrument or document to allow the Registrar reasonable time to consider each submission.

Please note that where the Registrar approves ‘another person’ to witness the execution of the instrument or document:

- the other general requirements will still apply i.e. the full name and qualification of the witness must be shown legibly adjacent to or below their signature; and
- where the instrument or document is executed outside Australia a Form 20 - Identity/Witnessing Certification in the form in [61-2540] must be prepared by the witness and deposited with the instrument or document; and
- the letter or email of approval must be deposited with the instrument or document at lodgement. The letter or email of approval will be imaged with the instrument or document and will form part of the publicly searchable registers under s. 35 of the Land Title Act.

Certifications

[61-2500]

Every person witnessing the execution of an instrument or document outside Australia is required to complete a certification in relation to the instrument or document being executed and

the original certification must be lodged/deposited with the relevant instrument or document that was witnessed when it is lodged in the Titles Registry.

If a witness refuses to comply with their obligations or complete the certification then, in the first instance, steps should be taken to locate an alternative witness. An Australian legal practitioner or financier may wish to contact an intended witness in advance to confirm that they are willing to comply with their obligations and complete the certification.

Links to copies of these certifications are available on the [Titles Registry's forms page](#).

Types of certification

[61-2510]

There are two types of certifications:

- The Australian Embassy/High Commission/Consulate Identity and Witnessing Certification for witnessing carried out by an Australian consular officer or authorised consular employee of the Commonwealth (see [61-2530] below for a completed example and specific form requirements); and
- The Form 20 - Identity/Witnessing Certification for all other categories of witness (see [61-2540] below for a completed example and specific form requirements).

Please ensure that the correct certification is used based on the category of witness carrying out the witnessing. Further information and requirements in relation to each type of certification is outlined below.

Separate certification required for each and every individual execution

[61-2520]

A separate certification is required for each individual execution outside Australia and for each instrument or document. A certification should not relate to the execution of more than one person or be for the execution of more than one instrument or document.

It is acceptable for a single certification to be provided where an instrument or document requires the same individual to sign in two places e.g. where the relevant Titles Registry form requires it to be signed on the face of the form and also requires a signed declaration to accompany the form.

For example, where X & Y are executing a Form 1 – Transfer and Mortgage (National Mortgage Form) overseas four separate certifications will be required:

- a certification in relation to the execution of the Form 1 – Transfer by X;
- a certification in relation to the execution of the Form 1 – Transfer by Y;
- a certification in relation to the execution of the Mortgage (National Mortgage Form) by X; and
- a certification in relation to the execution of the Mortgage (National Mortgage Form) by Y.

Australian Embassy/High Commission/Consulate Identity and Witnessing Certification

[61-2530]

This type of certification must be completed where the witness is an Australian consular officer or authorised consular employee of the Commonwealth.

Specific requirements

Please note the following specific requirements:

- This certification must NOT be on a Form 20. This form has been developed by the Department of Foreign Affairs and Trade (DFAT) to reflect DFAT policy requirements. If a Form 20 - Identity/Witnessing Certification is provided to a consular officer or authorised consular employee in error, they may refuse to complete the certification as it is not in the form required by DFAT.
- Copies of this certification are available from the Titles Registry Forms page or from the relevant DFAT website.
- A separate certification by the witness is required for every execution outside Australia. A certification must not relate to the execution of more than one person or be for the execution of more than one instrument or document. It is acceptable for a single certification to be provided where an instrument or document requires the same individual to sign in two places.
- The original certification must be lodged/deposited with the instrument or document.
- Copies of identification documents sighted by the witness must not be deposited in the Titles Registry when the relevant instrument or document is lodged.
- Any identification document numbers referred to in the certification must be obliterated by black marking pen prior to lodgement of the instrument or document.
- The certification must be completed by the witness in full. In particular, the witness must complete the description of documents produced and endorsed in the table.

Letter relating to entitlement to sign

A letter must be deposited by an Australian legal practitioner or authorised employee of an Australian law firm or financial institution stating that they have taken reasonable steps to ensure that the individual is the person entitled to sign the instrument or document.

Completed example

A completed example of the Australian Embassy / High Commission / Consulate Identity and Witnessing Certification is shown on the following page.

Australian Embassy/High Commission/Consulate Identity and Witnessing Certification

"I, John James Jones [full name of consular/diplomatic officer or authorised consular employee]
of Australian Consulate – General
1 Smith Street, Chelsea, London, United Kingdom, SW3 2EZ [Australian Embassy/High Commission/Consulate]

being a consular officer, diplomatic officer or an authorised consular employee within the meaning of the Section 3 of the *Consular Fees Act 1955* (Cth) hereby certify that:

- (a) the identification/witnessing relates to

Samuel Stephen Smith

[full name of the person being identified] ('the person being identified'); and

- (b) the verification of identity/witnessing was carried out on 2 January 2019 [date]; and
(c) the current identification documents as listed below were produced to me and copies of these documents signed, dated and endorsed by me as true copies were provided to the person being identified; and
(d) the verification of identity/witnessing was conducted in accordance with the Department of Foreign Affairs and Trade policy for verification of identity, witnessing signatures on documents and making of endorsed copies; and
(e) the person being identified was physically present for the verification of identity and the witnessing of the document(s) listed at paragraph (g); and
(f) I am not a party to the transaction; and
(g) I witnessed the person being identified execute the following document(s)

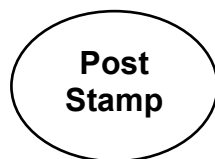
Transfer of Land

(e.g., Client Authorisation, transfer of land, mortgage of land); and

- (h) this signed, dated and endorsed certification; the signed, dated and endorsed copy identity documents (listed below); and the witnessed document(s) listed in paragraph (g); were returned to the person being identified."

J Jones

.....
Signature of consular officer, diplomatic officer or authorised consular employee



Post Stamp

List of identification documents produced (see (c) above):

Description of identity documents produced and endorsed
<u>Australian passport</u>
<u>Australian drivers licence</u>

Form 20 - Identity/Witnessing Certification**[61-2540]**

This type of certification must be completed by all categories of witness (outside Australia) other than an Australian consular officer or authorised consular employee of the Commonwealth.

Specific requirements

Please note the following specific requirements:

- This certification must be on a Form 20. The certification is available for download as a word document or PDF on the Titles Registry Forms page.
- A separate certification is required for every execution carried out by a person outside Australia. A certification must not relate to the execution of more than one person or be for the execution of more than one instrument or document. It is acceptable for a single certification to be provided where an instrument or document requires the same individual to sign in two places.
- The original certification must be lodged/deposited with the instrument or document.
- Copies of identification documents sighted by the witness must not be deposited in the Titles Registry when the relevant instrument or document is lodged.
- Any identification document numbers referred to in the certification must be obliterated by black marking pen prior to lodgement of the instrument or document.
- The certification must be completed by the witness in full. In particular, the table entitled 'description of documents produced and endorsed' must be completed and must include a brief description of the documents produced to the witness e.g. Australian passport, drivers licence, title search, rates notice, loan documentation etc.

Letter relating to entitlement to sign

If the 'description of identity documents produced and endorsed' does not include documents used to verify entitlement to sign (e.g. title search and rates notice) then a letter must be deposited by an Australian legal practitioner or authorised employee of an Australian law firm or financial institution stating that they have taken reasonable steps to ensure that the individual is the person entitled to sign the instrument or document.

Completed example

A completed example of the Form 20 – Identity/Witnessing Certification is shown on the following page.

Title Reference [50087766]

I, John James Jones
[Full name of witness e.g. notary public, competent officer of the defence force, Australian lawyer]

of 1 Smith Street, Chelsea, London, United Kingdom, SW3 2EZ
[Provide full postal address (other than competent officer of the defence force)]

Telephone number: +44 02 1234 5678 Email address: jjones@londonnotaries.co.uk

being a Notary Public
[Qualification or description of public office or commission, date of expiry of the commission (if applicable) or rank for competent officer]

hereby certify that:

- (a) the identification/witnessing relates to
Samuel Stephen Smith
[Full name of the person being identified] ('the person being identified'); and
- (b) I took reasonable steps to both verify the identity of the person being identified and ensure they are the person entitled to sign the witnessed document in paragraph (g); and
- (c) the verification of identity/witnessing was carried out on 2 January 2019 [date]; and
- (d) the original current identification documents and documents demonstrating the person being identified's entitlement to sign the witnessed document as listed below were produced to me and copies of these documents signed, dated and endorsed by me as true copies were provided to the person being identified; and
- (e) the person being identified was physically present for the verification of identity, verification of entitlement to sign and the witnessing of the document listed at paragraph (g); and
- (f) I am not a party to the transaction; and
- (g) I witnessed the person being identified execute the following document
Transfer of land
(e.g. transfer of land or mortgage of land etc.); and
- (h) this signed, dated and endorsed certification; the signed, dated and endorsed copies of documents (listed below); and the witnessed document listed in paragraph (g); were returned to the person being identified.

List of documents produced (see (d) above):

Description of documents produced and endorsed (both identification documents and documents demonstrating entitlement to sign). Please do not include identification document numbers (e.g. "Australian Passport" not "Australian Passport N123456789").
<i>Australian Passport</i>
<i>Australian Drivers Licence</i>
<i>Title search</i>
<i>Rates Notice</i>

J Jones

Signature of witness

Notary
Stamp

Stamp (if applicable)

Witnessing not in accordance with the Registrar's requirements**[61-2600]**

A submission can be made to the Registrar in relation to an instrument or document that has been witnessed by a person who is a qualified witness by virtue of Schedule 1 of the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020* but, where the witnessing does not meet the Registrar's requirements, for example where a witness does not sign on the face of the instrument or document. This submission should be made before the instrument or document is lodged.

Legal or other Restrictions applying to a particular witness**[61-2610]**

If the reason that the Registrar's requirements have not been met is a legal or other restriction applying to a particular witness, a submission should be made to the Registrar in writing outlining the reasons it was not possible for the witness to comply with the Registrar's requirements.

The submission should include reference to any relevant legislative provisions and attach supporting documentation where appropriate. For example, legislation in a jurisdiction may require that the witness provide information or endorse documents in a prescribed format.

Any other reason**[61-2620]**

If the Registrar's requirements have not been met for any other reason, a submission should be made to the Registrar detailing:

- what specific requirements have not been met and the reasons why they have not been met; and
- if the failure to meet the requirements impacts on the evidence available to the Registrar to be satisfied that the instrument or document has been properly executed and witnessed including reasonable steps taken to verify the identity of the person signing the instrument or document and the person's entitlement to sign the instrument or document, further evidence should be provided to show how the Registrar can be satisfied of the above requirements.

Verification of Identity Standard**[61-2700]**

This part relates only to Verification of Identity. For Witnessing see [61-1000] and Executions see [61-3000].

This Verification of Identity Standard is substantially the same as the verification of identity standard in schedule 8 of the current Queensland Participation Rules for electronic conveyancing determined under section 23 of the Electronic Conveyancing National Law (Queensland). The current Queensland Participation Rules are available on the Electronic lodgement and conveyancing page at:

<http://goo.gl/BXrxcB>

This Verification of Identity Standard provides practices which may be used for:

- (a) the verification of identity of mortgagors under the following provisions of the Land Titles Legislation:
 - (i) Section 11A of the *Land Title Act 1994*;
 - (ii) Section 11B of the *Land Title Act 1994*;
 - (iii) Section 288A of the *Land Act 1994*;
 - (iv) Section 288B of the *Land Act 1994*.

See part 1 – Transfer [1-2495] and part 2 –Mortgage (National Mortgage Form) [2-2005].

- (b) Verification of identity by witnesses to the execution of instruments or documents under the following provisions of the Land Titles Legislation:
- (i) Section 162 of the *Land Title Act 1994*;
 - (ii) Section 311 of the *Land Act 1994*.
- See [61-2310].

1 Definitions

In this Verification of Identity Standard capitalised terms have the meanings set out below:

ADI or authorised deposit-taking institution has the meaning given to it in the *Banking Act 1959* (Cth).

Adult means an individual who is 18 or more.

Attorney means in relation to a Power of Attorney the Person to whom the power is given.

Australian Legal Practitioner has the meaning given to it in the relevant legislation of the Jurisdiction in which the land the subject of the Conveyancing Transaction is situated.

Australian Passport means a passport issued by the Australian Commonwealth government.

Bank Manager means a Person appointed to be in charge of the head office or any branch office of an ADI carrying on business in Australia under the *Banking Act 1959* (Cth).

Category means the categories of identification Documents set out in the table in Verification of Identity Standard paragraph 4, as amended from time to time.

Commonwealth means the Commonwealth of Australia but, when used in a geographical sense, does not include an external Territory.

Community Leader means, in relation to an Aboriginal or Torres Strait Islander community:

- (a) a Person who is recognised by the members of the community to be a community elder; or
- (b) if there is an Aboriginal council that represents the community, an elected member of the council; or
- (c) a member, or a member of staff, of a Torres Strait Regional Authority established under the *Aboriginal and Torres Strait Islander Act 2005* (Cth); or
- (d) a member of the board, or a member of staff, of Indigenous Business Australia established under the *Aboriginal and Torres Strait Islander Act 2005* (Cth); or
- (e) a member of the board, or a member of staff, of an Indigenous Land Corporation established under the *Aboriginal and Torres Strait Islander Act 2005* (Cth); or
- (f) a member, or a member of staff, of an Aboriginal Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

Conveyancing Transaction means a transaction that involves one or more parties and the purpose of which is:

- (a) to create, transfer, dispose of, mortgage, charge, lease or deal with in any other way an estate or interest in land, or
- (b) to get something registered, noted or recorded in a register kept under the Land Titles Legislation, or
- (c) to get the registration, note or record of something in the titles register changed, withdrawn or removed.

Court Officer means a judge, master, magistrate, registrar, clerk or the chief executive officer of any court in Australia.

Doctor means a Person who is registered under any Commonwealth, State or Territory law as a practitioner in the medical profession.

Donor means in relation to a Power of Attorney the Person giving the power.

Identifier Declaration means the declaration set out in Verification of Identity Standard paragraph 5.

Identity Declarant means a Person providing an Identifier Declaration.

Identity Verifier means the Person conducting the verification of identity in accordance with this Verification of Identity Standard.

Individual means a natural person.

Land Council Officeholder means a chairperson or deputy chairperson (however described) of an Australian land council or land and sea council established under any Commonwealth, State or Territory law.

Licensed Conveyancer means a Person licensed or registered under the relevant legislation of the Jurisdiction in which the land the subject of the Conveyancing Transaction is situated and in Western Australia is a real estate settlement agent for the purposes of the *Settlement Agents Act 1981* (WA).

Local Government Officeholder means a chief executive officer or deputy chief executive officer (however described) of a Local Government Organisation.

Local Government means a local government council (however described) established under any Commonwealth, State or Territory law.

Land Titles Legislation means any of the following—

- (a) the *Body Corporate and Community Management Act 1997*;
- (b) the *Building Units and Group Titles Act 1980*;
- (c) the *Integrated Resort Development Act 1987*;
- (d) the *Land Act 1994*;
- (e) the *Land Title Act 1994*;
- (f) the *Mixed Use Development Act 1993*;
- (g) the *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*;
- (h) the *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*;
- (i) the *Sanctuary Cove Resort Act 1985*;
- (j) the *South Bank Corporation Act 1989*;
- (k) the *Water Act 2000*;
- (l) any other Act prescribed under a regulation for this definition;
- (m) a regulation made under an Act mentioned in any of paragraphs (a) to (k) or prescribed under paragraph (l);
- (n) any other law of this jurisdiction that authorises or requires something to be deposited, registered, noted or recorded in a titles register.

Nurse means a Person registered under any Commonwealth, State or Territory law as a practitioner in the nursing and midwifery profession.

Person includes an individual or a body politic or corporate.

Person Being Identified means any of the Persons required to be identified under a provision of the Land Titles Legislation or the Land Title Practice Manual kept under section 9A of the *Land Title Act 1994*.

Photo Card is a card issued by the Commonwealth or any State or Territory showing a photograph of the holder and enabling the holder to evidence their age and/or their identity.

Police Officer means an officer of any Commonwealth, State or Territory police service.

Power of Attorney means a [registered] written document by which a Donor appoints an Attorney to act as agent on his, or her behalf.

Public Servant means an employee or officer of the Commonwealth, a State or a Territory.

Record includes information stored or recorded by means of a computer.

Relative means a Person's spouse or domestic partner or a child, grandchild, sibling, parent or grandparent of the Person or of the Person's spouse or domestic partner.

State means New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia.

Statutory Declaration means a declaration made under an Act, or under a Commonwealth Act or an Act of another jurisdiction, that authorises a declaration to be made otherwise than in the course of a judicial proceeding.

Territory means the Australian Capital Territory or the Northern Territory of Australia.

Verification of Identity Standard means this verification of identity standard, as amended from time to time.

2 Face-to-face regime

- 2.1 The verification of identity must be conducted during a face-to-face in-person interview between the Identity Verifier and the Person Being Identified.
- 2.2 Where Documents containing photographs are produced by the Person Being Identified, the Identity Verifier must be satisfied that the Person Being Identified is a reasonable likeness (for example the shape of his or her mouth, nose, eyes and the position of his or her cheek bones) to the Person depicted in those photographs.

3 Categories of identification Documents and evidence retention

- 3.1 At the face-to-face in-person interview described in paragraph 2.1, the Identity Verifier must ensure that the Person Being Identified produces original Documents in one of the Categories in the following table, starting with Category 1.
- 3.2 The Identity Verifier must be reasonably satisfied that a prior Category cannot be met before using a subsequent Category.
- 3.3 The Identity Verifier must:
 - (a) sight the originals of all Documents from Categories 1, 2, 3, 4, 5 or 6 produced by the Person Being Identified; and
 - (b) retain copies of all Documents produced by the Person Being Identified and any Identity Declarant.
- 3.4 The Documents produced must be current, except for an expired Australian Passport which has not been cancelled and was current within the preceding 2 years.

Category	Minimum Document Requirements
	For Persons who are Australian citizens or residents:
1	Australian Passport or foreign passport or Australian Evidence of Immigration Status ImmiCard or Australian Migration Status ImmiCard <u>plus</u> Australian drivers licence or Photo Card <u>plus</u> change of name or marriage certificate if necessary
2	Australian Passport or foreign passport or Australian Evidence of Immigration Status ImmiCard or Australian Migration Status ImmiCard <u>plus</u> full birth certificate or citizenship certificate or descent certificate <u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card <u>plus</u> change of name or marriage certificate if necessary

Category	Minimum Document Requirements
3	Australian drivers licence or Photo Card <u>plus</u> full birth certificate or citizenship certificate or descent certificate <u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card <u>plus</u> change of name or marriage certificate if necessary
4	(a) Australian Passport or foreign passport or Australian Evidence of Immigration Status ImmiCard or Australian Migration Status ImmiCard plus another form of government issued photographic identity Document plus change of name or marriage certificate if necessary (b) Australian Passport or foreign passport or Australian Evidence of Immigration Status ImmiCard or Australian Migration Status ImmiCard plus full birth certificate plus another form of government issued identity Document plus change of name or marriage certificate if necessary
5	(a) Identifier Declaration plus full birth certificate or citizenship certificate or descent certificate plus Medicare or Centrelink or Department of Veterans' Affairs card plus change of name or marriage certificate if necessary. (b) Identifier Declaration by a Person specified in Verification of Identity Standard paragraph 4.4(e) plus Medicare or Centrelink or Department of Veterans' Affairs card plus change of name or marriage certificate if necessary. <i>Note: Refer to Verification of Identity Standard paragraph 4.</i>
	For Persons who are not Australian citizens or residents:
6	(a) Foreign passport <u>plus</u> another form of government issued photographic identity Document <u>plus</u> change of name or marriage certificate if necessary (b) Foreign passport <u>plus</u> full birth certificate <u>plus</u> another form of government issued identity Document <u>plus</u> change of name or marriage certificate if necessary.

4 The Identifier Declaration

4.1 Where the requirements of:

- (a) Categories 1 to 4 cannot be met, Category 5(a) may be used; and
- (b) Category 5(a) cannot be met, Category 5(b) may be used,
including the provision of an Identifier Declaration in accordance with this paragraph.

4.2 The Identity Verifier must ensure that both the Person Being Identified and the Identity Declarant attend the same face-to-face in-person interview described in paragraph 3.1.

4.3 The Identity Verifier must verify the identity of the Identity Declarant in accordance with this Verification of Identity Standard except that the Identity Verifier cannot utilise Category 5.

4.4 The Identity Verifier must undertake reasonable enquiries to satisfy themselves that the Identity Declarant is:

- (a) an Adult; and
- (b) an Individual who has known the Person Being Identified for more than 12 months; and
- (c) not a Relative of the Person Being Identified; and
- (d) not a party to the Conveyancing Transaction(s) the Person Being Identified has entered into or is entering into; and

- (e) where Category 5(b) is used, an Australian Legal Practitioner, a Bank Manager, Community Leader, Court Officer, Doctor, Land Council Officeholder, Licensed Conveyancer, Local Government Officeholder, Nurse, Police Officer or Public Servant.

4.5 The Identity Verifier must ensure that the Identity Declarant provides a Statutory Declaration detailing the following:

- (a) the Identity Declarant's name and address; and
- (b) the Identity Declarant's occupation; and
- (c) the Identity Declarant's date of birth; and
- (d) the nature of the Identity Declarant's relationship with the Person Being Identified; and
- (e) that the Identity Declarant is not a relative of the Person Being Identified; and
- (f) that the Identity Declarant is not a party to the Conveyancing Transaction(s) the Person Being Identified has or is entering into; and
- (g) the length of time that the Identity Declarant has known the Person Being Identified; and
- (h) that to the Identity Declarant's knowledge, information and belief the Person Being Identified is who they purport to be; and
- (i) where Category 5(b) is used, that the Identity Declarant is an Australian Legal Practitioner, a Bank Manager, Community Leader, Court Officer, Doctor, Land Council Officeholder, Local Government Officeholder, Nurse, Public Servant or Police Officer.

5 Body corporate

The Identity Verifier must:

- (a) confirm the existence and identity of the body corporate by conducting a search of the Records of the Australian Securities and Investments Commission or other regulatory body with whom the body corporate is required to be registered; and
- (b) take reasonable steps to establish who is authorised to sign or witness the affixing of the seal on behalf of the body corporate; and
- (c) verify the identity of the Individual or Individuals signing or witnessing the affixing of the seal on behalf of the body corporate in accordance with the Verification of Identity Standard.

[Note: *body corporate* includes an incorporated association.]

6 Individual as Attorney

The Identity Verifier must:

- (a) confirm from the [registered] Power of Attorney the details of the Attorney and the Donor; and
- (b) take reasonable steps to establish that the Conveyancing Transaction(s) is authorised by the Power of Attorney; and
- (c) verify the identity of the Attorney in accordance with the Verification of Identity Standard.

7 Body Corporate as Attorney

The Identity Verifier must:

- (a) confirm from the [registered] Power of Attorney the details of the Attorney and the Donor; and
- (b) take reasonable steps to establish that the Conveyancing Transaction(s) is authorised by the Power of Attorney; and
- (c) comply with Verification of Identity Standard paragraph 5.

[Note: *body corporate* includes an incorporated association.]

8 Further checks

The Identity Verifier must undertake further steps to verify the identity of the Person Being Identified and/or the Identity Declarant where:

- (a) the Identity Verifier knows or ought reasonably to know that:
 - (i) any identity Document produced by the Person Being Identified and/or the Identity Declarant is not genuine; or
 - (ii) any photograph on an identity Document produced by the Person Being Identified and/or the Identity Declarant is not a reasonable likeness of the Person Being Identified or the Identity Declarant; or
 - (iii) the Person Being Identified and/or the Identity Declarant does not appear to be the Person to which the identity Document(s) relate; or
- (b) it would otherwise be reasonable to do so.

Execution of Instruments or Documents

[61-3000]

General

[61-3010]

Section 11(1) of the *Land Title Act 1994* requires that an instrument to transfer or create an interest in a lot must be executed by:

- the transferor or the person creating the interest; and
- the transferee or the person in whose favour the interest is to be created or a solicitor authorised by the transferee or the person.

The execution date must be included when the transferor, transferee, person or solicitor executes the document.

Execution Where Different Capacities in Same Instrument or Document

[61-3020]

Where a party has entered into a transaction in two different capacities, as a trustee and in their own right, and it is acceptable to use one instrument or document (see further [51-2115] and [59-2020]), the form may be executed separately in each capacity. Alternatively, a single execution is acceptable provided a statement appears in the appropriate item of the form that the party was executing in both capacities.

Execution by Corporation

[61-3030]

See part 50, esp [50-2000] and [50-2030] to [50-2050]).

Execution with Marksman Clause

[61-3040]

A person who is illiterate, blind, infirm or too ill to sign may affix a mark, instead of a signature. The witness to the signature then writes the words '[name in full], his or her mark', around the mark, and places their signature at the witness signature position on the form.

A Form 20 – Declaration is required to include the following statements by the witness:

- (a) that the witness is the attesting witness to the mark of the person executing the instrument or document in respect of the property being transferred (the property must be fully described);
- (b) that the witness certifies that the mark was made in their presence; and

- (c) that prior to the mark being made, the witness read the instrument or document to that person, who appeared to understand the nature and effect of the instrument or document.

Execution by Attorney

[61-3050]

The signature of an attorney who signs an instrument or document for an individual must be witnessed. Acceptable witnesses to executions, whether inside or outside Australia, are listed in Schedule 1 to the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020*.

The signature of an individual as attorney for a corporation who executes a transfer, mortgage, lease etc. as transferor, mortgagor, lessor etc. must be witnessed in the same manner as for individuals above. However, an execution by an attorney for a corporation as transferee, mortgagee etc. in a transfer, mortgage, lease etc. need not be witnessed as no conveyance is involved (s. 46 of the *Property Law Act 1974*). The signature of an individual as attorney for a corporation who executes a release of mortgage or a surrender of lease or easement as mortgagee, lessee or grantee must be witnessed.

A conveyance executed by a corporation as an attorney (with or without a common seal) is not required to be witnessed in accordance with Schedule 1 of the *Land Title Act* or s. 73 of the *Land Regulation 2020* (see also part 50 – Corporations and Companies, esp [50-2000]).

Where an instrument or document (other than the *National Mortgage Form*, *Priority Notice Form*, *Extension of Priority Notice Form* and *Withdrawal of Priority Notice Form*) is executed by an individual as attorney for another person, or for a corporation, the execution clause must read:

‘John Smith [or John Smith & Co Pty Ltd ACN 001 002 003] by his [its] duly constituted attorney William Smith [name in full] under power of attorney No X9999999Y’.

Where an instrument or document (other than the *National Mortgage Form*, *Priority Notice Form*, *Extension of Priority Notice Form* and *Withdrawal of Priority Notice Form*) is executed by a corporation as attorney for another person, or for a corporation, the execution clause must read:

‘John Smith [or John Smith & Co Pty Ltd ACN 001 002 003] by his [its] duly constituted attorney William Smith & Co Pty Ltd ACN 004 005 006 under power of attorney No X9999999Y’.

The execution by the corporation must comply with the requirements outlined in part [50-2000].

Refer to Part 2, Part 23 and the relevant guide to completion for information about completing the relevant execution panel of the *National Mortgage Form*, *Priority Notice Form*, *Extension of Priority Notice Form* and *Withdrawal of Priority Notice Form* for an execution by an attorney.

Where an instrument* or document is executed by a substitute attorney (refer to [16-0160]) for another person, or for a corporation, the execution clause must include a reference to both the substitutionary power of attorney and head power of attorney. For example:

‘John Smith [or John Smith & Co Pty Ltd ACN 001 002 003] by his [its] duly constituted sub-attorney William Smith [name in full] under substitutionary power of attorney No X9999999Y under head power of attorney No X8888888Z’.

* In the *National Mortgage Form* the dealing numbers of the substitutionary power of attorney and the head power of attorney may be shown as in the example below. However, please refer to the

requirements for completing an execution panel for an attorney executing under a registered power of attorney that are detailed in [2-4090].

Mortgagee Execution

Executed on behalf of	JOHN SMITH & CO PTY LTD
under power of attorney	X9999999Y&X8888888Z
Signer Name	WILLIAM SMITH
Signer Role	ATTORNEY
Signature	W Smith
Execution Date	27 / 07 / 2017

The Registrar does not require proof that the attorney has not received notice of the death of the principal or revocation of the power of attorney.

Where a lodged instrument or document is signed under a power of attorney that is restricted to deal with certain property, but the property is identified by other than lot on plan description, a statutory declaration is required to identify the property in the instrument or document as the property referred to in the power of attorney. Similarly, a declaration is required to be deposited with an instrument or document signed under a power of attorney limited to property identified by lot on plan description, but the property has been subdivided.

Where two or more persons have jointly appointed a common attorney under a power of attorney or have a common attorney under separate powers of attorney, one execution of the instrument by the attorney suffices. That is, 'A and B by their attorney C'. However, reference to the relevant power(s) of attorney must be shown.

Where there are two or more attorneys for a single principal under a power of attorney, only one witnessing provision need be completed for attorneys signing at the same time before a witness.

Where an attorney is executing on behalf of a custodian, appointed by a responsible entity incorporated under the *Corporations Act 2001* (Cth), a statutory declaration by the attorney is required stating the interest being dealt with is held in the capacity of custodian. The declaration must also identify the trust/scheme referred to in the registered power of attorney. Alternatively, a letter from the solicitor acting on behalf of the custodian may be deposited, stating the interest being dealt with is held in the capacity of custodian and identifying the trust or scheme referred to in the registered power of attorney.

Execution by a legal practitioner

[61-3060]

If a legal practitioner, where permitted by the *Land Title Act 1994* or indicated by an instrument or document, executes on behalf of a party to an instrument or document, the legal practitioner's signature need not be witnessed. The legal practitioner's full name must be printed underneath the signature along with the words, solicitor, barrister or Australian legal practitioner as appropriate. Legal practitioner is defined in Schedule 1 of the Land Title Act.

Execution by a Receiver Appointed by a Mortgagee for an Individual

[61-3070]

Where an instrument or document is executed by a receiver appointed by a mortgagee of the property of a mortgagor who is an individual, the following applies:

- evidence of the appointment must be deposited with the instrument or document or a reference to the instrument or document where the evidence was deposited must be provided;

- the relevant clause(s) in the mortgage (and the deed of appointment if this is where the receiver's power authorising the transaction is stated) must be identified in the form or by letter;
- the name and appointment capacity (e.g. 'Receiver') must be printed adjacent to their signature; and
- a qualified person mentioned in Schedule 1 of the *Land Title Act 1994* must witness the signature.

Execution by an Administrator under the *Guardianship and Administration Act 2000*

[61-3080]

Where an instrument or document is executed by an administrator appointed under the *Guardianship and Administration Act 2000* the execution must be made in the following manner (s. 45(2) of the *Guardianship and Administration Act*):

- executed with the administrator's own signature;
- show that the administrator is executing the form as administrator for the registered owner or holder of an interest for example, John Brian Smith as administrator for Benjamin Keith Jones; and
- a qualified person mentioned in Schedule 1 of the *Land Title Act 1994* must witness the signature.

Execution for a Minor

[61-3090]

There is no authority for a minor (a person who has not yet reached 18 years of age) to execute a transfer as transferor. Accordingly, a transfer by a minor, either as a sole transferor or as one of several transferors is not acceptable unless a Court Order authorises a person to execute the transfer on behalf of the minor (s. 136 of the *Land Title Act*).

The Registrar will accept execution by or for a minor as transferee, or any other instrument that a minor is authorised to execute, in the following ways:

- by a person authorised by Court Order to execute the instrument on behalf of the minor;
- by the minor if the instrument is accompanied by a letter from a solicitor, instructed and employed independently of any other party to the instrument. The letter must state that the solicitor is satisfied the minor understands the nature and effect of the instrument and the minor is entering into the transaction freely and voluntarily;
- by a solicitor acting for the minor.

The above list does not necessarily include all methods of execution permitted by law. The normal witnessing requirements for an individual or a solicitor apply to this type of execution.

See also part 1 – Transfer, [1-2060].

Execution by Public Trustee

[61-3100]

The Public Trustee of Queensland is authorised by the *Public Trustee Act 1978* and various other Acts to execute instruments or documents for individuals in certain circumstances, such as incapacitation or imprisonment.

All instruments or documents must be executed in a way showing the appointment or authority under which the public trustee acts (s. 12 of the Public Trustee Regulation 2012). For example, where the Public Trustee executes an instrument or document for an incapacitated person, a statement to the following effect should be added:

‘Signed in the name of and on behalf of the said [name] by [name and position], Public Trust Office, the Public Trustee being authorised to manage the estate of the said [name] pursuant to Part 6 of the *Public Trustee Act 1978*’.

Seal of the public trustee

[61-3110]

The seal of the Public Trustee may be used in the execution of an instrument or document. However this is not essential and an instrument or document not under seal is still effective at law (s. 11C of the *Public Trustee Act 1978* and s. 227 of the *Property Law Act 1974*).

Execution by delegates of the Public Trustee

[61-3120]

Where such authorisation exists, the execution may be by a delegate of the Public Trustee. The delegate should add after the delegate’s signature a statement to the following effect ‘Signed as delegate for the Public Trustee under section 11A of the *Public Trustee Act 1978*’.

Execution for prisoners

[61-3130]

The Public Trustee is the manager of estates of prisoners who are undergoing sentences of imprisonment for over three years and is therefore the proper person to execute instruments or documents dealing with the prisoner’s property, unless the Public Trustee has discontinued management (s. 92 of the *Public Trustee Act 1978*) or has given consent for the prisoner to execute the instrument or document dealing with the property themselves (s. 95 of the Public Trustee Act).

Witnessing requirements

[61-3140]

The usual witnessing requirements apply to the execution.

Execution by Local Government

[61-3200]

General Law

[61-3210]

Section 236(1) of the *Local Government Act 2009* provides that the following persons may sign a document on behalf of a local government:

- (a) the head of the local government (defined in s. 236(2) of the Local Government Act);
- (b) a delegate of the local government (powers of delegation are provided by s. 257 of the Local Government Act);
- (c) a councillor or local government employee who is authorised by the head of the local government, in writing, to sign documents.

Practice

[61-3220]

A document executed by a local government before 1 July 2010 must be signed by either:

- the mayor;
- an authorised councillor;

- the chief executive officer; or
- an authorised employee of the council (i.e. delegate or authorised officer).

A document executed by a local government on or after 1 July 2010 must be signed by either:

- the mayor;
- the chief executive or interim administrator;
- a delegate;
- an authorised councillor; or
- an authorised local government officer.

The name of the local government and designation of the signatory (for example, Mayor, Delegate or Authorised Officer) must be shown adjacent to the signature. The authorising provision of the Act is not required to be stated and the Registrar makes no inquiry as to whether the delegation has been made or a person is so authorised by a local government. There is no requirement for the names of the signatories to be shown.

The execution must be witnessed by a person with a qualification mentioned in Schedule 1 of the *Land Title Act 1994* or s. 73 of the *Land Regulation 2020* where an instrument or document has a witnessing provision. The signing of an approval to a plan of subdivision does not require witnessing.

Style of Local Government Name

[61-3230]

Under the provisions of s. 5(2) of the *Local Government (Operations) Regulation 2010* a local government may be called either—

- ‘Council of the... (*insert /City/Town/Shire/Region*) of... (*insert name of local government area*)’; or
- ‘... (*insert name of local government area*)... (*insert /City/Town/Shire/Regional*) Council’.

Also, an Aboriginal Shire Council may be called ‘(*insert name of local government area*) Aboriginal Shire Council’ (s. 5(3) of the *Local Government (Operations) Regulation 2010*).

The Registrar is not concerned with which of the style names is used. However the name stated in the relevant item of a document that creates an interest in the local government, will be recorded in the register. Where there is ambiguity in style names when recording a local government in the register, for example where a new lot is being created from two lots in different style names, clarification will be required e.g. by way of letter from an authorised officer of the council or the lodger of the document.

Local Government Reform

[61-3240]

The following requirements apply to local governments affected by local government reform in March 2008 brought about by amendments to the *Local Government Act 1993*.

Where an interest is recorded in a previous council’s name and it is not being dealt with, the new council does not need to take any action with regard to that interest.

However, action will be required in instances where an interest is being dealt with and the council will subsequently retain the interest. In such cases, the new council must first vest the interest in the new council by registering a Form 14 – General Request. Item 6 of the form must

state ‘... the interest in item 4 be vested in [*name of new/adjusted council*] pursuant to the *Local Government Act 1993*’. The form is exempt from lodgement fees. A duty notation is not required under special dispensation by the Office of State Revenue.

Where an interest in land is held in the name of a previous council and the new council is disposing of the interest, the new name does not need to first be recorded in the Titles Registry. However, the instrument or document lodged to record the disposing of the interest must contain in the appropriate item on the prescribed form, a statement showing both the new name and the previous council name; and be executed by the new council.

For example, a lot held in the name of the Caboolture Shire Council that is being transferred to another party, the instrument or document 1 – Transfer must state at item 3 – Transferor –

‘Moreton Bay Regional Council (formerly Caboolture Shire Council) pursuant to the *Local Government Act 1993*’

Cross References and Further Reading

[61-9000]

Part 62 – eConveyancing.

Notes in text

[61-9050]

Note ¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note ² – This numbered section, paragraph or statement does not apply to State land.

Note ³ – This numbered section, paragraph or statement does not apply to freehold land.