Titles QUEENSLAND

Land Title Practice Manual

(QUEENSLAND)

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Note[3]—This part does not apply to freehold land.

Introduction

The Land Title Practice Manual provides information and guidance to industry practitioners conducting business with the Titles Registry (also known as the Land Registry and the Titles Office).

Section 9A of the *Land Title Act 1994* gives statutory recognition to the Land Title Practice Manual.

The manual is divided into parts, which are generally numbered according to the relevant registry form. For example, part 18 relates to *Form 18—General consent*.

However, the following parts are not numbered according to a registry form:

- Part 2 – Mortgage (National Mortgage Form);
- Part 23 – Priority Notice Form, Extension of Priority Notice Form and Withdrawal of Priority Notice Form; and
- the parts numbered 45 and onwards which deal with particular subject areas which impact on a broad range of forms and titling transactions.

Each part that deals with a registry form is divided into the following sections:

a. general law—relevant principles of law applicable to the titling transaction(s) contemplated by the form
b. practice—requirements for lodgement of the form
c. form—general requirements for the form and attachments, an itemised guide for completion of the form and some example(s)
d. case law—some relevant references
e. fees—references to prescribed fees for lodgement of the form
f. cross referencing and further reading.

References to statutes, rules and regulations are Queensland-specific unless stated otherwise. Statutes and regulations are those in force at the time of the manual's publication.

The examples throughout the manual are by way of illustration only, and names are fictitious. Any similarity to the name of any person (living or dead) is purely coincidental.

The Titles Registry is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the Titles Registry has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the Human Rights Act, regard will be had to that Act in undertaking the act or making the decision.

Titles QUEENSLAND

Introduction to the Land and Water Allocation Registries

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Introduction to the Land and Water Allocation Registries

[0-0000] The Land Registry

[0-0000] Early History of Titling in Queensland[1]

To establish ownership of land in Australia, it is necessary to have some form of proof of ownership which is recognised by law. The systems adopted in the past to provide evidence of ownership were based on the method known and accepted at the time.

When Australia was first settled, the English method of recording land dealings was adopted. This method was contained in the *Registration of Deeds Act 1843*. Land under this Act is referred to as 'Old System' land.

Under this system, land was granted to a subject of the Crown by issue of a deed of grant to the 'grantee'. This was the only deed ever issued for the land and it was written on long lasting parchment. When the original grantee sold the land, he/she had his/her solicitor draw up the lengthy and costly deed of conveyance necessary to legally transfer the land to the purchaser. This, together with the deed of grant, was given to the purchaser, who was required to keep them safe, as they were his/her 'title' of ownership.

No copy of the deed was maintained in a government register. It was up to the owner to prove ownership.

All land in Queensland identified as previously being under the *Registration of Deeds Act 1843* has now been brought under the *Land Title Act 1994*.

Queensland became a state in its own right in 1859 by separating from New South Wales. By the creation of the State, the Crown in the right of the State of Queensland owned all the land in the State except that which had previously been granted to individuals. Where a grant had taken place, an estate in fee simple (freehold title) was conveyed to the grantee. That is, the Crown passed outright ownership to the individual and, in legal terms, the land had been alienated from the Crown, subject to any stated reservations.

A separate title issued for each owner when the land was brought under the provisions of the *Real Property Act 1861*, now the *Land Title Act 1994*, under the Torrens System of registration.

[0-0010] What is Land?[1]

The legal definition of 'land' in the *Macquarie Dictionary* is:

> 'Land is any part of the earth's surface which can be owned as property, and everything annexed to it, whether by nature or by the hand of man.'

For the purposes of land ownership, 'land' can include earth, water and airspace.

Land forms the basis of most economic, social and environmental development in a region, State or country. As a precious and limited resource, it provides society with most of our material needs such as food, water, minerals and recreation, and is administered by governments all over the world in two basic ways:

1. by recording ownership and interests in land; and
2. for future planning in land use, i.e. ensuring a balanced approach to development which takes into account economic, social and environmental issues.

From a titling perspective, land may be described as a particular piece or part of the surface of the earth (including what is above and below the surface), contained within defined boundaries or limits.

A home or business unit that comprises:

- part of a building, commonly known as a 'building unit'; or
- part of a building and part of adjacent land, commonly known as a 'group title unit',

is also referred to as land (see [0-0390] to [0-0410] for further information regarding building and group title units).

[0-0020] How is Land Identified?

[0-0020] Location[1]

To enable equitable administration, parcels of land have always been allocated a unique description, i.e. no two parcels have the same description.

At the time of European settlement all land was considered vacant Crown land (now 'unallocated State land'). Queensland was divided into parishes. Parishes were divided into portions. Portions were divided into subdivisions ('subs'). Subdivisions were divided into resubdivisions ('resubs') and so on.

Therefore, a particular parcel of land could be described as, e.g. 'Resub 3 of Sub 2 of Portion 1 in the Parish of Enoggera, County of Stanley'. Parcels of land in towns were sometimes described differently as 'subs of allotments of Section …, Town of …'.

In 1965, because many of these descriptions had become extremely lengthy and complex, a new method of uniquely identifying land was devised. From that time on, all freehold land was identified as a lot on a survey plan, e.g. 'Lot 3 on Registered Plan (RP) 102396'.

In 1985, the Lot on Plan method of identifying land was adopted for land administered by the State.

All land, except for unallocated State land that has not been surveyed, now has a Lot on Plan description.

[0-0030] Description[1]

Over the years, land has basically been described by two methods, i.e. by its dimensions or by the extent of the boundaries of the parcel of land.

[0-0040] The Present System – Survey Plans[1]

Boundaries of parcels of land are defined by 'survey plans'.

A survey plan shows:

- the description of lot/s, bearings (angles measured in relation to true North), distances and area of the land described on the plan; and
- location in relation to other land boundaries.

It may also show:

- natural monuments or features, such as a lake, stream or cliff; and
- artificial monuments, such as a survey peg, fence or building.

Plans of survey enable the development of land to proceed in an orderly manner. They provide an effective base for those engaged in property related professions to accurately identify the extent, location and value of individual pieces or parcels of land.

[0-0050] Land Boundaries Prior to Survey Plans[1]

Under the 'Old System' (i.e. under the *Registration of Deeds Act 1843*, prior to the Torrens System), plans of survey did not exist. A reference to the boundaries of a property was made by a metes and bounds description (a series of compass bearings and distances from and to an identified reference point).

[0-0060] System of Plan Records[1]

The system of recording Cadastral (survey plan) details is maintained. These records enable a client to establish the legal land description and location of a parcel of land and provide references to individual plans of subdivision.

[0-0070] Who Deals With Land?[1]

Land can be dealt with by a wide variety of individuals, bodies, corporations, etc, but those who usually deal with land do so in the capacity of one of the following categories:

- natural person;
- company;
- trustee;
- personal representative;
- attorney; or
- legal representative.

[0-0080] How is Land Held?[1]

Land can be held in any one of the following ways:

- Sole tenancy – by one person or corporate body.
- Joint tenancy – by two or more persons without each having a separate or distinct title or share and there is a right of survivorship i.e. on the death of a joint tenant the interest of the deceased vests in the surviving joint tenant/s.
- Tenancy in common – by two or more people in shares determined by the tenants. On the death of any of them, their interest passes in accordance with their will or the laws of intestacy. Transfers of part shares are possible under a tenancy in common.

[0-0090] Land Tenures[1]

Land tenure is the means of identifying who has the right to use and occupy land in accordance with the varying degrees of ownership.

Security of tenure is a term which is commonly used to differentiate between the 'value' of certain tenures. For example, freehold is considered a more 'secure' and valuable tenure than State leasehold.

The following is a brief description of the various tenure types.

[0-0100] Non-Freehold Land[1]

Apart from freehold titles, the remainder of Queensland is State land administered by the administering Department of the *Land Act 1994*. The Land Act is an Act consolidating all previous Acts relating to the administration, alienation, leasing and occupation of non-freehold land.

Non-freehold land is land that has not been freeholded and includes:

- all land in Queensland, including land below the high-water mark (in the sense that while the Land Act generally applies to non-freehold land, most freehold land contains a reservation to the State for minerals); and
- all other unallocated State land.

[0-0110] 'Unallocated State Land'[1]

A separate Act of Parliament in England gave Queensland letters patent and in that Act, the borders between Queensland and New South Wales, South Australia and the Northern Territory were established. Islands off the coast are generally considered part of the State.

'Unallocated State land' means all land in Queensland that is not:

a. Freehold land or land contracted to be granted in fee simple by the State.

b. A road or reserve, including national parks, conservation parks, State forests and timber reserves. A reserve contains land required for a community purpose and includes:
   - beach protection areas;
   - cemeteries;

- parks;
- racecourses;
- showgrounds; and
- public amenities.

These are the more familiar public purposes and are indicative of purposes for the benefit of members of the community.

c. Subject to a lease, licence or permit issued by the State.

Many government departments have the authority to deal with State land and, by specific Acts of Parliament, are able to deal with land by issuing a lease or licence over that land. Where a lease or licence has been issued, by the issuance of that lease or licence the land in question is then no longer unallocated State land for the purpose of the Land Act.

Every parcel of unallocated State land has a title reference in the Automated Titles System commencing at 47000000. The details of each parcel are entered against the respective title.

Where State land is not required for public purposes, either now or in the future, the land can be offered to the public in a number of ways, by offer, auction, tender or ballot. It is necessary to establish the area and the means of making the land available. Having these choices, a tenure is decided. Tenures vary from occupation through leases for a term or in perpetuity (forever) (see [0-0120]) to a freeholding tenure (see [0-0130]). Some land is sold outright (see [0-0140]).

[0-0120] State Leasehold[1]

Apart from the leases or licences issued by other government departments, all State land is controlled by the *Land Act 1994*, and the administering Department issues a number of types of leases and licences under that Act.

In all such tenures, the State gives the lessee exclusive use of the leased land and the lessee is able to use the land within the conditions imposed. The lessee has basically the same ability to deal with leasehold land as he/she has for freehold land, including the right to raise money by mortgage, to sell the lease, to sublease and to enter into an arrangement which can be registered as a charge over the lease, such as an easement.

[0-0130] Freeholding Tenure[1]

A freeholding tenure is a lease which has been issued by the State that will convert to freehold tenure once all conditions of the lease have been complied with and the money owing on the purchase has been paid. Following these prerequisites, a deed of grant will issue.

[0-0140] Freehold Land[1]

Outright freehold title is where the land has been alienated from the State and the ownership rests with the individual owner for an estate in fee simple. This simply means that the State has no right or claim to the land and, should the State require the land, it must acquire it from the owner either by negotiation or by resumption and payment of compensation. However, with very few exceptions, all minerals and petroleum are reserved to the State. These reservations were extended to include quarry material as from 31 December 1991.

Freehold land is held by way of an indefeasible title recorded in the Freehold Land Register (see [0-0200]).

A deed of grant issues when the land is alienated from the State, the particulars of which are recorded in the Freehold Land Register to create an indefeasible title.

[0-0150] Native Title[1]

In the 1992 *Mabo* case (*Mabo v Queensland (No. 2)* (1992) 107 ALR 1), the High Court of Australia recognised the existence of indigenous title to land. In doing so, it brought Australian law into line with the law in some other countries in this regard (e.g. Canada, New Zealand and the USA).

Native title is not 'land rights legislation'. It is a form of proprietary rights governed by the laws and customs of indigenous peoples. The significance of the *Mabo* decision is that native title is now legally recognised.

The High Court *Mabo* decision defines native title as follows:

> 'The rights and interests possessed under traditional laws acknowledged, and the traditional customs observed, by Aboriginal and Torres Strait Islander peoples.'

The details and mechanisms to establish the extent of native title and how it can be claimed became law in Queensland and the Commonwealth in December 1993 (*Native Title Act 1993* (Cth)).

[0-0170] How is Land Administered?[1]

When a parcel of land is alienated (i.e., no longer held by the State), it is converted to freehold, and ownership is granted in fee simple or reserved for public purposes with specified reservations to the State.

The lease or title that issues for each parcel contains the Lot on Plan description and is part of the Land Registry. It is given a title identifier reference for identification which consists of eight digits.

All transactions or dealings with the land are recorded on the relevant title.

[0-0180] Torrens Title System[1]

The Torrens Title System is the system of land administration which applies in Queensland.

The main architect of the land titling system which now bears his name was Robert Richard Torrens, who was born in Cork in 1814 and educated in Dublin. He arrived in South Australia in 1840 and was appointed Collector of Customs. In 1852, he became Registrar General and pursued, amongst others, the reform of the land title registration system.

Despite bitter opposition, the *Real Property Act 1858* (SA) was proclaimed in South Australia. Queensland was the first State to follow the lead of South Australia in introducing the Torrens System by the proclamation of the *Real Property Act 1861.*

The Torrens System was probably based on an amalgam of concepts from the English *Merchant Shipping Act 1854*, registration systems in the Hanseatic towns (a group of towns in Northern Germany) and the report of English Royal Commissioners of 1857.

[0-0190] The Principles of the Torrens System[1]

The main concern that prompted Torrens to devise the System was the need to ensure that a person purchasing land would be able to acquire a secure title to that land in a process that facilitated land dealings for the community. The Torrens System, through the provisions of the *Land Title Act 1994* in Queensland, ensures that the interests of registered owners, and other registered proprietors, of land are protected.

This system was implemented in Queensland with the proclamation of the *Real Property Act 1861*. Under the Torrens System, the State guarantees title to land on registration of instruments.

The Torrens System basically enables transactions over land to be recorded in a government managed register. However, it is important to note that the system is ‘title by registration’, and not ‘registration of title’. That is, you must register your interest to have legal title.

A record of the indefeasible title is held by the Registrar of Titles in the Land Registry by way of the computerised Automated Titles System.

A register of State leasehold tenures parallels the Freehold Land Register to the degree possible. A procedure of issuing lease tenure documents was discontinued from 8 March 2000.

[0-0200] Freehold Land Register and Indefeasible Title[1]

The Registrar must record in the Freehold Land Register details of every lot and of every interest in a lot (ss. 27 and 28 of the *Land Title Act 1994*). Upon the recording of particulars of a lot in the Freehold Land Register, an indefeasible title for that lot is created (s. 37 of the Land Title Act). The Registrar must register instruments which comply with the Land Title Act and, upon doing so, such instruments form part of the Register (ss. 30 and 31 of the Land Title Act). The indefeasible title of a lot is the current particulars for the lot within the Freehold Land Register (s. 38 of the Land Title Act).

Upon payment of the prescribed Titles Registry fees, any person may search and obtain a copy of:

- the indefeasible title of a lot;
- a registered instrument;
- a lodged instrument which has not been registered, provided the instrument has not been withdrawn on the basis that it should not have been lodged (s. 159(2) of the Land Title Act); or
- other information kept under the Land Title Act,

(s. 35 of the Land Title Act).

[0-0210] deleted

[0-0220] Transferring and Creating Interests[1]

It is the act of registration which transfers or creates interests in lots. Until that time, an instrument does not transfer or create an interest in a lot at law (s. 181 of the *Land Title Act 1994*). Upon registration of an instrument that by its terms transfers or creates an interest in a lot, the interest is transferred or created and vests in the person identified in the instrument as the person entitled to the interest (s. 182 of the Land Title Act). Upon lodging an executed instrument and any other required documents and otherwise complying with the Land Title Act, a person to whom an interest is to be transferred or in whom an interest has been created has a right to have the instrument registered (s. 183 of the Land Title Act).

The Registrar registers an instrument by recording its details in the Register (s. 173 of the Land Title Act). It is from then that the instrument is taken to be registered. However, the instrument forms part of the Register from the time when it was lodged (ss. 174 and 175 of the Land Title Act). Instruments have priority according to when each of them was lodged, not according to when they were executed (ss. 177 and 178 of the Land Title Act).

[0-0230] Indefeasibility[1]

Notwithstanding actual or constructive notice of an unregistered interest affecting a lot, the registered proprietor of an interest holds that interest subject only to other registered interests and free from all other non-registered interests (ss. 184(1) and 184(2)(a) of the Land Title Act). Accordingly, a registered proprietor is only liable for a proceeding for possession of the lot or an interest in the lot if such proceeding is brought by the registered proprietor of an interest affecting the lot (s. 184(2)(b) of the Land Title Act). As a result of ss. 184(1) and (2) of the Land Title Act, a registered proprietor has indefeasibility of title.

[0-0240] Exceptions to Indefeasibility[1]

There are, however, some exceptions to indefeasibility. These exceptions can be found in ss. 184(3)(b) and 185 of the Land Title Act.

In certain circumstances where an exception to indefeasibility applies, the Registrar may correct the indefeasible title (s. 186(1) of the Land Title Act). The person affected by the correction may apply to the Supreme Court within one month after receiving notice of the correction for an order that the correction be amended or set aside (ss. 186(2) and (3) of the Land Title Act). Pursuant to s. 187 of the Land Title Act, the Supreme Court may make any orders which it considers just.

The Titles Office

A Brief History

[0-0250] 1861[1]

Proclamation of the *Real Property Act 1861* (now repealed) on 7 August 1861 marked the introduction to Queensland of the Torrens System of registering interests in land. Freehold land granted by the Crown prior to that time was dealt with under the 'Old System' of titling under the *Registration of Deeds Act 1843*. Unlike other States, all identified 'Old System land' in Queensland has now been converted to Torrens Title.

The most relevant element of the Torrens System is that purchasers and other parties acquiring interests in land 'gain their interest on registration', as opposed to simply registering an interest they have already acquired. In other words, at law, until an interest is registered by the Registrar of Titles, there is no legal interest.

[0-0260] 1884[1]

Administration of the Titles Office (and associated responsibilities and authority) was moved to the Registrar of Titles by the *Registrar of Titles Act 1884* (now repealed).

[0-0270] 1887[1]

Semi-autonomous district Registries, centred at Townsville (Northern District) and Rockhampton (Central District), each under the control of a Deputy Registrar of Titles, were authorised by the *Real Property (Local Registries) Act 1887* (now repealed). Brisbane remained as the Registry for the Southern District.

[0-0280] 1988[1]

It was recognised that a freehold title Land Information System was unique and provided industry important information about a natural resource. As a result, the Titles Office changed from a sub-department of Justice to the Department of Freehold Land Titles in July of this year.

[0-0290] 1990[1]

On 7 December 1989, Cabinet decided to amalgamate portfolios with similar responsibilities. As a result of this decision, the Department of Freehold Land Titles was amalgamated with the Departments of Land Management, Geographic Information and the Valuer-General to form the Department of Lands early in 1990.

[0-0300] 1994[1]

On 24 April 1994 the *Land Title Act 1994* was proclaimed. This Act provided for the implementation of a computerised register (the Automated Titles System (or 'ATS' as it is known) to replace the existing paper-based Register.

Another major change resulting from that Act was the abolition of the automatic issue of Certificates of Title. Owners of land could apply for a Certificate of Title (by lodging a Form 19 – Application for Title) providing the consent of any mortgagee was provided. All Certificates of Title (whether they existed prior to or were issued after 24 April 1994) were still valid and needed to be deposited for cancellation with any further dealings.

With ATS, registration of ownership of interests are recorded on the indefeasible title (i.e. the computer file held in ATS). ATS was first introduced in Rockhampton on 26 April 1994. Townsville and Brisbane followed soon after on 9 and 30 May 1994 respectively.

The *Land Title Act 1994* repealed all of the previous *Real Property Acts.*

[0-0310] 1995[1]

The project of converting all current title information (from 2.6 million paper titles) to computer data in ATS was completed (in just 18 months).

[0-0320] 1996[1]

In February 1996, new departments were formed and as a result land titling became part of the Department of Natural Resources (since renamed).

[0-0325] 1998[1]

Early in 1998 the Titles Registry adopted the use of imaging technology for the examination and registration of documents. The imaging of all documents lodged for registration eliminated the need for the physical movement of the paper throughout the state to the offices where registration could be affected. This has enabled a document lodged in any office to be examined and registered in any of the registration offices. It has also assisted in reducing the time taken for a document to be registered.

[0-0327] 2019[1]

On 1 October 2019 paper Certificates of Title were discontinued.

From this date Certificates of Title were no longer issued and there was no longer a requirement to deposit or dispense with the production of a previously issued Certificate of Title with any further dealings.

[0-0330] Historical Land Register

Parcels of land that were not unallocated State land had a title on which ownership and other detail were contained. A search of an historical title is available by obtaining a print of the digital image.

Titles were produced in original form (Titles Office copy of the Register) and in duplicate (the client's copy), and are held over:

- freehold land (deed of grant or Certificate of Title);
- State leasehold (leases, licences and permits); and
- other tenures, such as Queensland Housing Commission leases.

Over time, these titles have been produced in a variety of ways.

Freehold titles (D/G or C/T) were either in a bound book format or a loose leaf format.

Registrations made on titles stored in bound book format were endorsements made by affixing a stamp and hand writing the details. Registrations appeared in chronological order.

Registrations on titles stored in loose leaf format were made by typing the latest details and ruling through superseded endorsements.

Deeds of grant and Certificates of Title provide the following information:

- reference to the title or deed by Volume and Folio;
- estate or interest held (e.g. fee simple, life estate, estate in remainder);
- the legal description of the land (identified by a Lot on Plan description and including location by County and Parish);
- chronological record of ownership based on time of lodgement of instruments (names and tenancy of registered proprietor/s); and
- chronological record of various transactions affecting the land, based on time of lodgement of instruments (e.g. mortgages and easements).

Further to these details:

- deeds of grant contain details of Crown rights, such as mineral rights; and
- State leases include details of lease conditions.

[0-0340] The Automated Titles System

The Automated Titles System (ATS) is the electronic registries for:

- freehold land;
- State land under the *Land Act 1994*;
- water allocations; and
- powers of attorney.

It also holds records for land that was formerly in registers held by other authorities and includes:

- land leased from the Department of Housing;
- land owned by Queensland Rail;
- land known as National Park, Conservation Park, Forest Reserve and State Forest, Timber Reserve;
- land owned by the Port of Brisbane Authority, Townsville Port Authority, Cairns Port Authority and Ports Corporation of Queensland;
- land identified as industrial land;
- land owned by the Commonwealth;
- land owned by Sunwater; and
- access rights under the *Sugar Industry Act 1999*.

ATS not only creates legal electronic registers, but automates, through computerisation, the registration process, which provides significant benefits for the community and the real property industry.

ATS provides the capability for searching the registers from a client's own office environment and allows registration service times and resource efficiencies superior to a manual environment.

ATS enables all titling functions to be provided from any location using one register for the entire State.

ATS provides a level of security that is not possible in a paper based environment. The registers are fully backed up to electronic media and stored offsite for recovery purposes in the event of a disaster. Data recovery can occur within a short time frame, which would minimise the impact on the business if such an event occurred.

[0-0350] Conversion of Title References in the Automated Titles System[1]

The method of converting an existing Volume and Folio reference to an ATS title identifier is as follows:

1. prefix the four Volume digits with the code digit:
   - 1 for Brisbane;
   - 2 for Townsville; and
   - 3 for Rockhampton;
2. combine (1) with the Folio digits (must be three digits, if not, prefix with 0); i.e.:

code digit + 4 digits VOL + 3 digits FOL = 8 DIGITS

e.g.:

VOL 1234 FOL 56 = 11234056

VOL N1234 FOL 56 = 21234056

VOL C1234 FOL 56 = 31234056

[0-0370] Conveyancing in Queensland[1]

The conveyancing industry prepares and lodges the necessary documentation in the Titles Registry to record real property transactions. When all legislative and practice requirements have been satisfied, the interest is registered. Registration updates the register by including the details of the transactions and guarantees title under the *Land Title Act 1994.*

When a house property or a home site is bought, the purchaser owns everything within the boundaries of the property. However, when a unit is bought the purchaser owns the dwelling area itself, but only shares ownership of the common areas like corridors, stairways, gardens, driveways and car parking areas. The commonly owned property is administered, managed and controlled by the body corporate (a body made up of registered owners). This also applies to group titles, which can include land outside buildings.

Later Developments

[0-0380] Home Units[1]

The post-war growth in demand for accommodation posed a new problem for the real property industry. At that time it was not possible to obtain a separate Certificate of Title for a home unit, and developers of these buildings could only give a purchaser a long term lease. This created difficulties for intending purchasers obtaining finance for purchase.

[0-0390] Building Units[1]

In 1965, Queensland adopted legislation, the *Building Units Titles Act 1965*, which provided for a multi-storied building to be subdivided floor by floor and further subdivided within those floors, and for Certificates of Title to issue for the lots created. The Certificates of Title had exactly the same standing as those for other land, and dealings with them are registered in the same way.

[0-0400] Group Titles[1]

The *Group Titles Act 1973* allowed an area of land to be subdivided and occupied as a group project. That is, all the areas within the boundaries of the subdivision are privately owned including roads, footpaths, parks, playground or other recreation or service areas. Areas used by all owners are referred to as ‘common property’. The owners of individual lots within the group subdivision share both ownership in the common area as tenants in common and the maintenance obligations.

[0-0410] Combination of Building Units and Group Titles Legislation[1]

The *Building Units and Group Titles Act 1980* amalgamated the *Building Units Titles Act 1965* and the Group Titles Act 1973 into one piece of legislation. Interests in building units titles and group titles follow the Torrens System of registration and may be dealt with in the same manner as 'traditional' land (that is, they may be transferred, leased or mortgaged).

[0-0411] *Body Corporate and Community Management Act 1997*[1]

The *Body Corporate and Community Management Act 1997* supersedes the *Building Units and Group Titles Act 1980* and provides flexible and contemporary arrangements for community title schemes over freehold land. The Act provides for the creation of a community titles scheme and incorporates a comprehensive management and dispute resolution structure.

[0-0500] The Water Allocation Registry

[0-0500] Establishment of the Water Allocation Register

The *Water Act 2000* among things, provided for the creation of a new right called a 'water allocation' and for their administration through the establishment of the Water Allocation Register (WAR). The WAR is maintained in the Automated Title System (ATS) and allows central recording of ownership, and interests and dealings in, water allocations. It is modelled on, but maintained separately from the Land Registry. A Registrar of Water Allocations is appointed to administer the WAR.

[0-0510] What is a Water Allocation?

The *Water Act 2000* provides the legislative framework for a comprehensive planning process which better defines the availability and security of water. As part of this process, an existing entitlement may continue or be converted to a water allocation.

Water allocations are an entitlement created under the *Water Act 2000*. Water allocations once created and recorded in WAR are assets that are owned separately to land. They may be owned by non-landholders and traded. This is in contrast to both water licences and interim water allocations that generally attach to land and are not recorded in WAR.

It is important to note that the water allocation title is not indefeasible. It is also of particular relevance to legal practitioners that a water allocation is personal property, not real property, thus affecting the formulation of a Last Will & Testament, and subsequently the preparation of a Transmission by Death.

[0-0520] Comparison of the Land Registry and the Water Allocation Registry

The *Water Act 2000*, with the exception of those dealings and interests referred to in s. 150(1)(e) of the Water Act, allows for an interest or dealing that may be registered under the *Land Title Act 1994*, to be registered for a water allocation. As such, interests in water allocations may be dealt with in the same manner as 'traditional' land (that is, they may be transferred, leased or mortgaged etc).

Most dealings to be registered under the Water Act are dealt with similarly to instruments under the Land Title Act, in that they are lodged, attract similar fees, and are registered in ATS.

All dealings under the Water Act require a title reference at lodgement.

Water allocations are dealt with by any individual or entity that can deal with land

(see [0-0070]).

Tenancies used to describe ownership of land apply to water allocations (see [0-0080]).

Some dealings (other than mortgages and related dealings) with water allocations require the deposit of a 'Dealing Certificate' or a 'Notice to the Registrar' to signify compliance with requirements relating to the 'resource related elements' of the water allocation.

A subdivision of a water allocation does not involve a Survey Plan, rather it is a request to create two or more smaller water allocations, the sum of which equals the total of the previous water allocation. Dealings affecting the new water allocations cannot be lodged before the subdivision has registered.

For further information see part 49 – Water Allocations.

[0-0530] How is a Water Allocation identified?

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 have been captured in ATS as the relevant administrative plan.

To facilitate the management of the 'resource related elements' of the water allocation by the administering Department, water allocations also bear additional identifiers (where applicable) of:

- the 'zone' where the water is actually drawn from,
- the name of the 'scheme area', and
- an identifier of the Resource Operations area and/or Licensee.

[0-0540] Allocation Types

There are two types of water allocation, which differ in the way the Department manages the 'resource related elements':

- Resource Operations Licence or ROL (including Private ROL or Water Agreement)
- Non Resource Operations Licence or NRL.

[0-0550] Resource Operations Licence or ROL (including Private ROL or Water Agreement)

A water catchment or water supply area that has been the subject of a Water Management Plan (WAMP) becomes an area that is the subject of a Resource Operations Licence.

The Licence holder is responsible for managing the day-to-day supply, or taking, of water to or by holders of water allocations. The ability to manage supply is assured by the requirement for transfers of a water allocation (and some other dealings) to be accompanied by a Notice to the Registrar of the Existence of a Water Supply Contract (Form W2F152).

[0-0560] Non Resource Operations Licence or NRL

A water allocation in these schemes is not subject to the same control by a Resource Operations Licence holder, and so has additional requirements relating to the circumstances under which water may be taken.

An example of these additional requirements is a condition specified in the water allocation that water is not taken unless the river is flowing at a specified rate, at the time and place where the water is to be taken.

There may also be a requirement for equipment used to take such water to have a sealed meter installed, which could be subject to inspection by authorised officers of the relevant area of the administering Department.

Transfers of these water allocations (and some other dealings) are to be accompanied by a Dealing Certificate issued by Water Management and Use area.

[0-0570] How is the Water Register administered?

The management of 'resource related elements' and issue of either Dealing Certificates or Notices to the Registrar are dealt with by the relevant area of the administering Department. All matters relating to lodgement and registration of instruments under the Water Act 2000 are dealt with by authorised Titles Registry staff.

[0-0800] deleted

[0-8000] Legislation

The Acts or parts of Acts administered in the titling function are:

- the *Land Title Act 1994*
- the *Land Act 1994*
- the *Building Units and Group Titles Act 1980*
- the *Body Corporate and Community Management Act 1997*
- the *Foreign Ownership of Land Register Act 1988*
- the *Aboriginal Land Act 1991*
- the *Torres Strait Islander Land Act 1991.*

Registration of all dealings with freehold and State tenure titles is in accordance with these Acts and other legislation which impacts.

Some of the other Acts which impact on the titling function are as follows:

- the *Trusts Act 1973*
- the *Property Law Act 2023*
- the *Surveyors Act 2003*
- the *Public Trustee Act 1978*
- the *Coastal Protection and Management Act 1995*
- the *Survey and Mapping Infrastructure Act 2003*
- the *Planning Act 2016*
- the *Water Act 2000.*

[0-8100] Reference to the registrar of titles in the *Land Title Act 1994*

The functions of the registrar of titles under the Land Title Act relating to the keeping of registers are carried out by the titles registry operator under delegation pursuant to s. 9(1)(b) of that Act.

[0-8200] Reference to the registrar of titles in the *Land Act 1994*

The functions of the registrar of titles under the Land Act relating to the keeping of registers are carried out by the titles registry operator under delegation pursuant to s. 393AA(1)(b) of that Act.

[0-8300] Reference to the registrar of water allocations in the *Water Act 2000*

The functions of the registrar of water allocations under the Water Act related to the keeping of the water allocations register are carried out by the titles registry operator under delegation pursuant to s. 169A(1)(b) of that Act.

[0-9000] Cross References and Further Reading

Nil.

[0-9050] Notes in text

Note [1] – This numbered section is not applicable to water allocations or the Water Allocations Register.

Titles QUEENSLAND

Part 1 – Transfer

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 1 – Transfer

[1-0000] General Law

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.

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[1, 2].

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[2,3]. However, on registration of the transfer there are no provisions for the protection of indefeasibility of title.

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[1,3]. However, on registration of the transfer there are no provisions for the protection of indefeasibility of title.

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[1,3].

[1-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[1-2000] Practice

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

[1-2000] General

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.

[1-2010] Item 1 The Interest being Transferred

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.

[1-2020] Item 2 Lot on Plan Description

Freehold Description[1, 2]

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

Water Allocation Description[2, 3]

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

State Tenure Description[1, 3]

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

[1-2030] Item 3 Transferor

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] solemnly and sincerely declare that:

(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].

[1-2040] Item 4 Consideration

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

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) [1, 2].

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.

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[1, 2].

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**.

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. 7 of the *Property Law Act 2023*). 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'.

[1-2050] Item 5 Transferee

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 the true and correct legal name of a person consists of only one name, e.g. Hercules.

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

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., ¼ and ¾ if the whole of the fee simple is being transferred or ¼ and ¼ if a half interest in the fee simple is being transferred.

Section 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[2].

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. 26 of the *Property Law Act 2023*). 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 tenant 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.

[1-2060] Item 6 Execution

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.

There is no authority for a minor (a person who has not yet reached 18 years of age) to execute a transfer as transferor[2]. 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 in the following ways[2]:

- 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].

[1-2070] Lodgement of Transfer

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:

For a fee simple title[1, 2]:

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

For a water allocation title[2, 3]:

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).

For a State Lease or licence[1, 3]:

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).

[1-2080] Property Information (Transfer)

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.

[1-2090] Foreign Ownership Information

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.

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

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.

[1-2100] Transfer to Mortgagee[2]

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.

[1-2105] deleted

[1-2110] Transfer Pursuant to an Order under the *Family Law Act 1975* (Cth)

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.

Under s. 106A of the Act, if one of the transferors has signed the transfer and the other refuses, the court may appoint an officer of the court such as the Registrar of the Court or other person to sign the transfer on behalf of the other transferor. The execution by the Registrar of the Court is done under seal, with the designation 'Registrar' printed below the signature. Where the execution is by someone other than the Registrar of the Court, a full attestation identifying the signatory and the authority to sign is to be included. A copy of the sealed order is required to be deposited if the signatory is a party other than the Registrar of the Court.

In cases where the surname of the transferee differs from that shown on the title, their execution, as one of the transferors and the transferee (if applicable), must be in their legal name at the date of execution. A statutory declaration setting out the circumstances and evidence to establish their identity must be deposited with the transfer, e.g. a copy of their former marriage certificate if they have adopted their former legal name and/or their current marriage certificate if they have 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.

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].

[1-2115] Transfer Pursuant to Part VIIIA or VIIIAB of the *Family Law Act 1975* (Cth)

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 VIIIAB 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].

[1-2120] Transfer from the Returned & Services League of Australia (Queensland Branch)

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

[1-2140] Transfer to or from Masonic Lodge

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.

[1-2160] Transfer by the Queensland Housing Commission[1, 2]

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.

[1-2170] Transfer by Westpac Banking Corporation (in connection with certain mortgages formerly held by the Defence Service Homes Corporation)[1, 2]

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:

[1-2180] Prior to 28 February 1989

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.

[1-2190] After 28 February 1989

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 Transferor

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

[1-2195] Transfer from the trustee in bankruptcy back to the bankrupt following the bankrupt's automatic discharge under section 149 of the Bankruptcy Act 1966 (Cth)

A bankrupt is automatically discharged from bankruptcy under s. 149 of the Bankruptcy Act at the end of the period of 3 years from the date on which the bankrupt filed his or her statement of affairs (subject to the provisions of the Bankruptcy Act).

The automatic discharge of a bankrupt under s. 149 of the Bankruptcy Act does not vest any interest in a lot formerly held by the bankrupt from the trustee in bankruptcy back to the (discharged) bankrupt.

To transfer an interest in a lot formerly held by the bankrupt back to the (discharged) bankrupt, a Form 1 – Transfer from the trustee in bankruptcy to the (discharged) bankrupt for valid consideration must be lodged.

In addition to the normal practice requirements, please note the following specific practice requirements:

- Item 3 Transferor – the transferor must be the current trustee in bankruptcy and must be recorded on the title as the registered proprietor of the interest (as the trustee in bankruptcy);
- Item 4 Consideration – must show valid consideration or make reference to a contract or agreement;
- Item 6 Transfer/Execution – the execution by the trustee in bankruptcy must be at least 3 years after the date on which the bankrupt filed his or her statement of affairs; and
- Evidence must be shown or deposited to demonstrate that the bankrupt has been discharged (e.g. a current extract from the National Personal Insolvency Index, a letter from the trustee in bankruptcy confirming the bankrupt's

discharge or a notation in Item 4 Consideration confirming that the bankrupt has been discharged pursuant to s. 149 of the *Bankruptcy Act 1966*).

Standard lodgement fees apply and a duty notation is required.

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

[1-2230] Transfer of Part of the Land[1, 2]

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.

[1-2240] Transfer Involving Tenants in Common[2]

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

[1-2270] Transfer of a Share or Part of an Interest in a Lot or State Tenure

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 ¾ and ¼ 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.

[1-2280] Item 1 Interest Being Transferred

For example:

1.	**Interest being transferred**
	'¼ interest in fee simple'

[1-2290] Item 2 Lot on Plan Description

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**	**Title reference**
	Lot 13 in BUP4549	11234067

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

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 ½. Where A, B and C are joint tenants and A severs the joint tenancy with B and C, the share being transferred would be ⅓).

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*.

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[1, 2].

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

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.

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[1, 2].

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.

[1-2310] Transfer by Way of Gift or for a Nominal Consideration

See [1-2040]

[1-2320] Transfer with an Intermediate Purchaser[2]

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).

[1-2330] Example Form 1 – Intermediate Purchaser

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

		A Ham (Director) Common Seal
	23/10/93	*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.

Only the last amount of consideration is taken into account for the purpose of assessing additional fees[1,2].

Duty must be noted for each consideration shown in Item 4. The Queensland Revenue Office 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.

[1-2335] Transfer by Equitable Mortgagee Pursuant to s. 134(5) of the *Property Law Act 2023*

The following are the requirements to give effect to a court order, made under the provisions of s. 134(5) of the *Property Law Act 2023*, 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. 134(5) of the Property Law Act 2023

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

[1-2340] General

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]

[1-2350] Freehold and Water Allocation[2]

The following must be deposited with the transfer:

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. 114 and 231 of the *Property Law Act 2023*; 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 declarant must state the steps taken to serve the notice of demand. The steps taken must be a matter of direct knowledge of the declarant. If they rely on a third person's account that the notice has been served, their declaration must state the source of the information (e.g., 'I am informed by [name and description/role of person who provided the information] and verily believe…'). 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 231(3) of the Property Law Act provides for the court to order that a document be served in a particular way, or for the court to dispense with the requirement to serve a document.

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]'.

[1-2355] State Lease[1,3]

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.)

[1-2360] More than One Mortgagee

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.

[1-2370] Where Mortgagor is Deceased

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 232 of the *Property Law Act 2023* requires the mortgagee to serve the relevant notices under the Act on the personal representative of the deceased. If the deceased's personal representative is not known, the document may be served under an order of the court.

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.

[1-2375] Power of Sale by Defence Service Homes Corporation[1, 2]

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.

[1-2376] Where Land has been Disclaimed

Section 115 of the *Property Law Act 2023* (**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.

[1-2376-1] Notice to Registrar of Disclaimer

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 (s. 133(3) of the *Bankruptcy Act 1966* (Cth) and s. 568A(1)(d) of the *Corporations Act 2001* (Cth)). This notification is recorded on the relevant title/s as an administrative advice under the code ANM. For further information see Part [52-0280].

[1-2376-2] Notice to Registrar of Intention to Exercise Power of Sale for Disclaimed Property

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 1966* (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 - a mortgagee may exercise their power of sale over a disclaimed property, provided a notice in the approved form (PLA Form 4 – Notice of intention to exercise power of sale for disclaimed property) is given to the Registrar of Titles and to each person who appears to have an interest in the disclaimed property (s. 115(3) PLA).

The correct method for giving notice to the Registrar pursuant to s. 115(3) of the PLA is to deposit a Form 14 General Request with a completed PLA Form 4 – Notice of intention to exercise power of sale for disclaimed property (the Notice). For further information see Part [52-0280].

The mortgagee can exercise their power of sale once:

- the Notice of Disclaimer is recorded on title as an ANM;
- the Notice under s. 115(3) of the PLA is recorded on title as an ANM; and
- other requirements under s. 115(3) of the PLA are complied with.

[1-2376-3] Form 1 – Transfer for Exercise of Power of Sale for Disclaimed Property

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).

Instead, Transfers by a Mortgagee exercising power of sale over disclaimed property must be accompanied by a statutory declaration providing confirmation that notice under s. 115(3) 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. The mortgagee must wait 30 days after this date before they can exercise the power of sale (s. 115(3) PLA).

[1-2377] Transfer by Resource Operations Licence Holder Exercising Power of Sale[1,2]

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.

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

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].

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

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.

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

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 Name and Number	(include tenancy if more than one)	
		Mary	SMITH		Deed of trust deposited with 712223335 and deed of retirement and appointment deposited with 721114444
		John	SMITH	as trustee	

Example 2.

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

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.

Where an original Form 20 – Trust Details Form is deposited, copies of the document(s) that created the trust referred to in the Form 20 - Trust Details Form should not be deposited.

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

[1-2400] Recording New Trustees

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).

[1-2420] Appointment of New Trustees

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.

[1-2425] Instrument Required

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).

A duty notation is required.

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

[1-2430] Death of Sole Trustee

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.

[1-2440] Transfer of Life Interest[1, 2]

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.

[1-2450] Transfer by Personal Representative

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.

[1-2460] Transfer in Terms of 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.

Life Estate created by Will

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

- 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 or a certified copy of the stamped document attached; or
  c. a declaration referring to the provisions in the will and attaching evidence.

Reference to a trust, partnership or contract of sale in the will

If the will makes reference to a trust (other than a reference to a life estate), 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.

For further information about the practice for dealing with partnership property and guidance for common scenarios, refer to Part 5 – Transmission Application [5-3000].

Tenancy of beneficiaries

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 the circumstances (see part 5 – Transmission Application [5-2160]).

[1-2461] Form 20 – Declaration by Beneficiary/Transferee

For a transfer from the Personal Representative/s to a beneficiary pursuant to the terms of the will, a Form 20 – Declaration by Beneficiary/Transferee in the form shown below must be deposited with the Transfer.

Form of Declaration and Example Declaration

The form of the declaration by the beneficiary/transferee and an example declaration is shown below.

The Form 20 – Declaration by Beneficiary/Transferee is available on the Titles Queensland Forms Page.

Required form of Form 20 – Declaration by Beneficiary/Transferee

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

DECLARATION BY BENEFICIARY/TRANSFEREE

FORM 20 Version 2
Page __ of __

I, _____
Of _____
in the State of _____
do solemnly and sincerely declare that:

1. I am the devisee / legatee under the last will of the deceased _____.
2. *The land described in clause [ ] of the will is the land described in item 2 on Form 1.
   To be completed where the land in item 2, on Form 1, is specifically identified other than by way of lot on plan description
3. *If deceased died before 1 April 2003*
   *(a) Neither I nor a spouse of mine was a witness to the execution of the will.
   If deceased died on or after 1 April 2003 but before 1 April 2006
   *(b) Neither I nor a spouse of mine as defined by section 5AA of the *Succession Act 1981* was a witness to the execution of the will.
   If deceased died on or after 1 April 2006
   (c) *(i) I was not a witness to the execution of the will.
   *(ii) I was a witness to the execution of the will but documentation is deposited herewith evidencing the application of section 11(3) of the *Succession Act 1981*.
4. *The marriage between the deceased and me had not been dissolved nor had any proceedings for annulment been commenced.
   Required if the beneficiary/transferee is the surviving husband or wife of the deceased and has not been granted a grant of Representation in Queensland.
5. *The marriage between the deceased and me was dissolved/annulled on or after 1 April 2006 however, by the deceased's will the deceased expressed an intention that my entitlement as a beneficiary not be revoked.
6. *The civil partnership between the deceased and me had not been terminated nor found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively.
   Required if the beneficiary/transferee is the surviving civil partner of the deceased and has not been granted a grant of Representation in Queensland.
7. *The civil partnership between the deceased and me was terminated or found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively, however, by the deceased's will the deceased expressed an intention that my entitlement as a beneficiary not be revoked.
8. *If deceased died on or after 5 June 2017*
   *(a) The de facto relationship between the deceased and me had not ended.
   Required if the beneficiary/transferee is the surviving de facto partner of the deceased and has not been granted a grant of Representation in Queensland.
   *(b) The de facto relationship between the deceased and me had ended, however by the deceased's will the deceased expressed an intention that my entitlement as beneficiary not be revoked.

*** rule through if not applicable**

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867* (Qld).**#**

 # The form of wording should comply with the appropriate Oaths/Evidence Act under which the declaration is being made. Note a declaration under the *Oaths Act 1867* (Qld) can only be taken by the persons listed in section 13 of that Act.

.....signature

.....full name

.....qualification / / .....

Witness **Execution Date** **Declarant's Signature**

As authorised under relevant Oaths/Evidence Act

Example Form 20 – Declaration by Beneficiary/Transferee

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

DECLARATION BY BENEFICIARY/TRANSFEREE

FORM 20 Version 2

Title Reference 16561151

I, PATRICIA ALICE BROWN of 24 Buck Street, Carina in the State of Queensland do solemnly and sincerely declare that:

1. I am the devisee / legatee under the last will of the deceased JAMES MICHAEL BROWN.

2. ~~*The land described in clause [ ] of the will is the land described in item 2 on Form 1.~~
   To be completed where the land in item 2, on Form 1, is specifically identified other than by way of lot on plan description

3. *If deceased died before 1 April 2003*
   ~~*(a) Neither I nor a spouse of mine was a witness to the execution of the will.~~

   If deceased died on or after 1 April 2003 but before 1 April 2006
   ~~*(b) Neither I nor a spouse of mine as defined by section 5AA of the *Succession Act 1981* was a witness to the execution of the will.~~

   If deceased died on or after 1 April 2006
   (c) *(i) I was not a witness to the execution of the will.

   ~~*(ii) I was a witness to the execution of the will but documentation is deposited herewith evidencing the application of section 11(3) of the *Succession Act 1981*.~~

4. *The marriage between the deceased and me had not been dissolved nor had any proceedings for annulment been commenced.
   Required if the beneficiary/transferee is the surviving husband or wife of the deceased and has not been granted a grant of Representation in Queensland.

5. ~~*The marriage between the deceased and me was dissolved/annulled on or after 1 April 2006 however, by the deceased's will the deceased expressed an intention that my entitlement as a beneficiary not be revoked.~~

6. ~~*The civil partnership between the deceased and me had not been terminated nor found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively.~~
   Required if the beneficiary/transferee is the surviving civil partner of the deceased and has not been granted a grant of Representation in Queensland.

7. ~~*The civil partnership between the deceased and me was terminated or found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively, however, by the deceased's will the deceased expressed an intention that my entitlement as a beneficiary not be revoked.~~

8. *If deceased died on or after 5 June 2017*
   ~~*(a) The de facto relationship between the deceased and me had not ended.~~
   Required if the beneficiary/transferee is the surviving de facto partner of the deceased and has not been granted a grant of Representation in Queensland.

   ~~*(b) The de facto relationship between the deceased and me had ended, however by the deceased's will the deceased expressed an intention that my entitlement as beneficiary not be revoked.~~

*** rule through if not applicable**

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of *the Oaths Act 1867* (Qld).**#**

 # The form of wording should comply with the appropriate Oaths/Evidence Act under which the declaration is being made. Note a declaration under the *Oaths Act 1867* (Qld) can only be taken by the persons listed in section 13 of that Act.

G H Wilston
..... signature
GREGORY HAROLD WILSTON
..... full name
SOLICITOR
..... Qualification

Witness	**Execution Date**	**Declarant's Signature**
As authorised under relevant Oaths/Evidence Act	20/06/2017	*P A Brown* .....

SAMPLE

Guide to Completion for Form 20 – Declaration by Beneficiary/Transferee

Paragraph 1

Where the devisee/legatee is a corporation, this paragraph should be varied to begin 'The transferee is' (not 'I am'). The declarant should include a statement that he/she is authorised to make the declaration on the corporation's behalf. Further, even in the normal case where the applicant declares that he/she is the devisee/legatee, additional identification or evidence of entitlement may be required (see [5-4290] for more information).

Paragraph 2

As indicated on the form, this paragraph is relevant only where the land in item 2 on the Form 1 is specifically identified other than by way of lot on plan description.

Paragraph 3

As indicated on the declaration the inapplicable clauses must be ruled through.

Note: 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 1981* applies, the Registrar will require evidence of the particular circumstance.

Paragraph 4

When the husband or wife of the deceased:

- is the beneficiary/transferee; and
- has not been appointed as Personal Representative by a grant of representation in Queensland;

then he/she must indicate that the marriage between the deceased and the husband or wife had not been dissolved nor any proceedings for annulment commenced by retaining paragraph 3*.

> *For deaths occurring on or after 1 January 1982 and prior to 1 April 2006 the dissolution or annulment of the testator's marriage revokes any beneficial disposition made by will by the testator in favour of their husband/wife (see s. 76(4) of the *Succession Act 1981*).

Paragraph 5

When the former husband or wife of the deceased:

- is the beneficiary/transferee; and
- the marriage between the deceased and the beneficiary/transferee was dissolved or annulment occurred on or after 1 April 2006; and
- a contrary intention appears in the will that the former husband or wife is entitled as a beneficiary despite the divorce or annulment;

then this must be indicated by retaining paragraph 4*.

> *For divorces/dissolutions or annulments occurring on or after 1 April 2006 the effect of section 15 of the *Succession Act 1981* is that a disposition to a husband/wife will be revoked unless the will contains a contrary intention.

Paragraph 6

When the surviving civil partner of the deceased:

- is the beneficiary/transferee; and
- has not been appointed as Personal Representative by a grant of representation in Queensland;

then he/she must indicate that the civil partnership between the deceased and the civil partner had not been terminated and has not been found to be void under section 18 or 30 of the *Civil Partnerships Act 2011* by retaining paragraph 5.

Paragraph 7

When the former civil partner of the deceased:

- is the beneficiary/transferee; and
- the civil partnership between the deceased and the civil partner had been terminated or has been found to be void under section 18 or 30 of the Civil Partnerships Act 2011; and
- a contrary intention appears in the will that the former civil partner's entitlement as beneficiary not be revoked;

then this must be indicated by retaining paragraph 6*.

> * The effect of section 15A of the *Succession Act 1981 i*s that a disposition to a testator's civil partner will be revoked if the civil partnership is terminated or found to be void unless the will contains a contrary intention.

Paragraph 8

When the surviving de facto partner of the deceased:

- is the beneficiary/transferee; and
- has not been appointed as Personal Representative by a grant of representation in Queensland; and
- the de facto relationship between the deceased and the de facto partner had not ended;

then this must be indicated by retaining paragraph 7(a).

When the former de facto partner of the deceased:

- is the beneficiary/transferee; and
- the de facto relationship between the deceased and the de facto partner had ended; and
- a contrary intention appears in the will that the de facto partner's entitlement as beneficiary would not be revoked despite the ending of the de facto relationship;

then this must be indicated by retaining paragraph 7(b)*.

> * For deaths occurring on or after 5 June 2017 the effect of section 15B of the *Succession Act 1981* is that a disposition to a testator's de facto partner will be revoked unless the will contains a contrary intention.

[1-2465] Transfer Pursuant to the Rules of Intestacy

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.

[1-2470] Transfer to the State[1, 2]

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 Queensland Revenue Office 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].

[1-2480] Transfer of a Lease

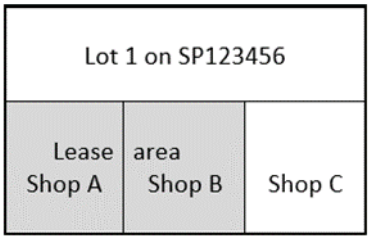
General

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.

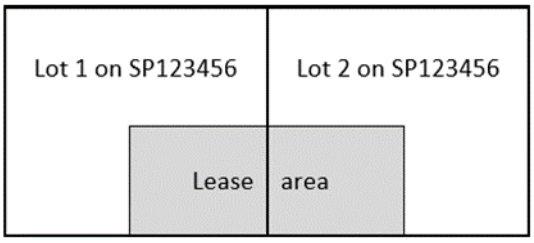
A lessee cannot transfer an interest in only part of the leased area to another. Refer to examples 1 and 2 below for a more detailed explanation.

Example 1



- 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.

If 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[2].

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.

A transfer of lease may be capable of registration even if lodged after the initial term has expired[2]. 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.

Transfer of Lease of Freehold[1, 2]

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.

Transfer of Lease of Water Allocation[2, 3]

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.

Transfer of a Sublease of a State Lease[1, 3]

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.*

The Minister administering the Land Act may also issue a general authority to the lessee of a State Lease pursuant to s. 333 of the Land Act. This general authority may provide for a transfer of a Sublease of a State Lease to be registered without written approval. The general authority should be checked for any additional documentation or requirements.

Transfer of a Trustee Lease[1, 3]

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.

[1-2490] Transfer of Mortgage

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.

[1-2495] Confirmation of Identity of Mortgagor by Mortgage Transferee

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.

[1-2500] Section 132 of the Property Law Act 2023

Another way in which a mortgage may be transferred is in accordance with s. 132 of the *Property Law Act 2023* 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. 132 of the Property Law Act 2023'.

[1-2510] deleted

[1-2520] Transfer by a Local Government under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012[1]

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.

If there is only one indefeasible title for the lot or lots being transferred, no new indefeasible title will be created[2]. 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].

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

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. However, a separate indefeasible title is not created unless it is required as evidenced by payment of the relevant fee by the transferee[2].

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

In 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*) [2].

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.

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))[1,2]. 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.

[1-2540] Priorities

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.

A 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)[2].

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.

[1-2550] Transfer of Crown Reservation[1, 2]

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

[1-2570] Transfer to a Local Government as trustee – s. 116 of the *Trusts Act 1973*[2]

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 (however, the consideration must make no reference to a condition of approval of a plan of subdivision[1]);
- 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]).

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) [1, 2]. 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.

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

A duty notation and lodgement fees are applicable.

[1-2580] Transfer to a Local Government other than as trustee – s. 117 of the *Trusts Act 1973*[1,2]

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.

[1-2590] Transfer of a Lot Outside the Scheme to the Body Corporate for Additional Common Property in a Community Titles Scheme[1, 2]

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, accompanied by a Form 18A executed 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).

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[1-2600] Transfer of the whole of a Lot Within the Scheme to the Body Corporate for Additional Common Property in a Community Titles Scheme[1, 2]

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, accompanied by a Form 18A executed 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).

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[1-2610] Transfer of part of the Common Property in a Subsidiary Scheme to a Higher Scheme in a Layered Arrangement[1, 2]

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, accompanied by a Form 18A executed by the relevant body corporate, 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;

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, accompanied by a Form 18Aexecuted 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.

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[1-2620] Transfer of a Lot Created from Common Property in a Community Titles Scheme[1, 2]

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, accompanied by a Form 18A executed 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;
c. a new CMS for the scheme.

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

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[1-2630] Transfer of a Lot in a Subsidiary Scheme for Common Property of a Higher Scheme in a Layered Arrangement[1, 2]

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, accompanied by a Form 18A executed 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.

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[1-4000] Forms

[1-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY

TRANSFER

FORM 1 Version 5

Land Title Act 1994, Land Act 1994 and Water Act 2000

Duty Imprint

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 Titles Queensland website.

Print one-sided only

1. Interest being transferred (if shares show as a fraction)

Lodger (Name, address, E-mail & phone number)

Lodger Code

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

3. Transferor

4. Consideration

5. Transferee Given names Surname/Company name and number (include tenancy if more than one)

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).

.....

..... / / .....
Witnessing Officer (signature, full name & qualification) **Execution Date** **Transferor's Signature**

.....

..... / / .....
Witnessing Officer (signature, full name & qualification) **Execution Date** **Transferor's Signature**

.....

..... / / .....
Witnessing Officer (signature, full name & qualification) **Execution Date** ***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

[1-4010] Guide to Completion of Form 1

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

[1-5000] eConveyancing

[1-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the *Land Title Act 1994* (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [1-5105 and 62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[1-5100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions currently available through eConveyancing.

[1-5105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the *Land Title Regulation 2022* provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

The Form 1 – Transfer is a required instrument under the Regulation and is therefore required to be lodged through a ELN unless an exemption applies.

Because the Electronic Lodgment Network Operators (ELNOs) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and exemptions is maintained on the Titles Queensland website rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the Titles Queensland website for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[1-5110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the Regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the Titles Queensland website.

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a Form 1 – Transfer) and a list of these exclusions can be found on the Titles Queensland website and are updated from time to time as the functionality of each instrument changes.

[1-5115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For Further information refer to Part [62-6040].

[1-5200] Prescribed Requirements – Form 1 (electronic)

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).

[1-5300] Attachments – Form 1 (electronic)

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*).

[1-5310] Transfer to a Local Government other than as trustee[1, 2]

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.

[1-5320] Transfer to more than 4 Trustees

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.

[1-5400] Execution and Certification

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

[1-5600] Electronic Form

[1-5610] Approved Electronic Form

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 Titles Queensland 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:

[1-5620] Electronic Form Examples

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

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 Titles Queensland 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 | **Title Reference**

LOT 16 ON RP99999 | 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

SAMPLE

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

SAMPLE

Electronic Form Example 2 – Transfer to corporation as trustee (with Form 20 – Trust Details Form (electronic))

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 Titles Queensland 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 **Title Reference**

LOT 16 ON RP99999 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

SAMPLE

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
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

SAMPLE

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]).

[1-5700] Electronic Form Notes for Completion

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

ITEM	NOTES
Item 5	**Transferee name and capacity** 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): **5. Transferee** TERENCE JAMES BROWN MAUREEN BROWN — Joint Tenants *Name data fields* — *Tenancy/Capacity data field* **5. Transferee** BIG CITY DEVELOPER PTY LTD ACN 654 987 123 — As Trustee *Name data fields* — *Tenancy/Capacity data field* Only the name of the Transferee can be inserted in the Name data fields. 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*). 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.
	Transferee recorded as 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**: 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

[1-8000] Fees

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

[1-9000] Cross References and Further Reading

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

[1-9050] Notes in text

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.

Titles QUEENSLAND

Part 2 – Mortgage (National Mortgage Form)

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 2 – Mortgage (National Mortgage Form)

[2-0000] General Law

[2-0000] Mortgage

A lot or an interest may be mortgaged by registering a mortgage for the lot or interest (s. 72(1) of the *Land Title Act 1994*). However, a mortgage is not an interest that can be mortgaged (s. 72(2) of the Land Title Act) [2].

A mortgage under the Land Title Act, *Land Act 1994* and *Water Act 2000* does not operate to transfer the lot or interest to the mortgagee, but rather the mortgagee acquires a charge over the lot or interest which is coupled with certain powers, e.g. the powers of foreclosure and sale on default by the mortgagor.

Section 4 of the Land Title Act defines a mortgage to include 'a charge on a lot or an interest in a lot for securing money or money's worth'[2].

The National Mortgage Form is the appropriate form for registration of a mortgage, however there is a transition period until 2 March 2018 during which mortgages can be executed using the Form 2 – Mortgage.

A notice recorded under s. 73(1)(c) of the Water Act is taken to be a mortgage under the Land Title Act[2, 3]. It is recorded on the water allocation title as a mortgage under s. 73(1)(c) of the Water Act. Form – W2F147 Notice of Consent to Encumber a Water Allocation is the appropriate form for a notice under s. 73(1)(c) of the Water Act (see part 49, esp ¶[49-2060]).

[2-0010] Mortgagor

The mortgagor is the person who executes the mortgage, charging their interest in the lot or State tenure in favour of the mortgagee, and who undertakes to perform certain obligations.

A person cannot mortgage to themselves alone.

[2-0020] Mortgagee

The mortgagee is the person who accepts the mortgage over the mortgagor's lot or interest as security for certain obligations.

Capacity of Mortgagor

[2-0030] Individual

A mortgagor must be a person capable of accepting legal responsibility for the execution of the mortgage. Therefore, generally minors or people who lack legal capacity cannot be mortgagors.

[2-0040] Corporation

A company incorporated under the *Corporations Act 2001* (Cth) (or its predecessors) has the same capacity as a natural person, including the power to borrow money and give mortgages (s. 124(1) of the Corporations Act). This is subject to any specific exclusion of these powers in the company's constitution (see part 50 – Corporations and Companies).

[2-0050] Trustee

If a registered owner or holder of an interest is recorded as trustee on title, the Capacity Field of the *Mortgagor Panel* of the NMF must specify that the mortgagor is holding the interest in a trustee capacity, for example:

Mortgagor	
Name	ABC CORPORATION PTY LTD
ACN	123123123
Capacity	TRUSTEE

However, please note the additional requirements that apply to mortgages that may not come within the scope of the Trustees' powers under the *Trusts Act 1973* such as where a trustee enters into a mortgage as either mortgagor or mortgagee with themselves in a personal capacity (refer to [51-0245]).

[2-0060] Tenant in Common

A tenant in common can execute a mortgage over their undivided part or share in the lot or interest in favour of the other tenant/s in common or any other person.

[2-0070] Joint Tenant

A mortgage by a joint tenant over their interest is registrable without severing the joint tenancy. However, it would appear that upon the death of a mortgagor who is a natural person, such a mortgage is cancelled.

Capacity of Mortgagee

[2-0080] Individual

A minor or a person who lacks legal capacity cannot be a mortgagee.

[2-0090] Corporation

A company incorporated under the *Corporations Act 2001* (Cth) has the same capacity as a natural person, including the power to borrow money and give mortgages (s. 124 of the Corporations Act). This is subject to any specific exclusion of these powers in the company's constitution (see part 50 – Corporations and Companies).

[2-0100] Trustee

Where the mortgagee is a trustee, the Registrar will not make any enquires about the authority of the trustee to enter into the mortgage, as s. 21 of the *Trusts Act 1973* allows a trustee to invest trust funds in any form of investment unless expressly forbidden by the instrument creating the trust.

However, please note the additional requirements that apply to mortgages that may not come within the scope of the Trustees' powers under the *Trusts Act 1973* such as where a trustee enters into a mortgage as either mortgagor or mortgagee with themselves in a personal capacity (refer to [51-0245]).

Under s. 28(1)(b) of the *Land Title Act 1994* or s. 278(a) of the *Land Act 1994* the particulars necessary to identify every interest registered in a register must be recorded in that register.

If a Mortgagee is to be recorded as registered proprietor in a trustee capacity, the Capacity Field of the *Mortgagee Panel* of the NMF must specify that the mortgagee is holding the interest in a trustee capacity.

Example for a single organisation trustee:

Mortgagee	
Name	BRAVO HOLDINGS LIMITED
ACN	321321321
Capacity	TRUSTEE

Example for multiple individual trustees of the same trust:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE
Given Name(s)	MARY
Family Name	CITIZEN
Capacity	TRUSTEE

Where the *Mortgagee Panel* is only completed with trustee mortgagees and the Tenancy (inc. share) Fields are left blank or omitted (as above), the Registrar will record the mortgagees as trustees of the same trust.

If multiple mortgagees are holding their interests on trust for different trusts the words "TENANTS IN COMMON" and the share fraction (as numerator/ denominator) must be added to the Tenancy (inc. share) Field for each mortgagee. The total shares must add to 1.

Example of two organisation mortgagees holding their interests on trust for different trusts as tenants in common:

Mortgagee	
Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2
Name	BRAVO HOLDINGS LIMITED
ACN	321321321
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2

There is no longer a requirement to provide details of the trust instrument when lodging a mortgage to a trustee mortgagee (e.g. by depositing a certified copy of the trust deed or referring to a previous dealing where the trust deed was deposited).

For the specific requirements in relation to the transfer of a mortgage interest to a trustee mortgagee using a Form 1 – Transfer – see Part 1, esp. [1-2390].

Where a mortgagee holds as trustee and wishes to appoint a new trustee, this should be done by using a Form 1 – Transfer (see part 1, esp. [1-2400] to [1-2430]).

[2-0110] Personal Representative

Where a personal representative advances money from a deceased estate and wishes to register a mortgage over the property, the following applies:

- a personal representative who is a mortgagee will only be recorded on title as a trustee;
- The Capacity Field of the *Mortgagee Panel* of the NMF for the relevant mortgagee must be completed as 'TRUSTEE', and NOT as 'PERSONAL REPRESENTATIVE' nor as 'EXECUTOR OF THE WILL OF….'
- the following must be deposited with the mortgage:
  - a declaration by the personal representative stating that all executorial duties have been completed; and
  - either:
    - the original will (it will be returned to the lodger after registration in this case); or
    - a copy of a grant of representation (or a reseal in Queensland).

For information about deposit of supporting documentation see part [60-1030].

[2-0120] Joint Tenants and Tenants in Common

There may be multiple mortgagees who may hold an interest jointly or severally. A corporation and a natural person, two corporations and a natural person, or any such combination may take a mortgage as tenants in common or on joint account (s. 26(2) of the *Property Law Act* 2023).

The tenancy and shares (if tenants in common), in which the mortgagees hold the interests must be set out in the Tenancy (inc. share) Field of the *Mortgagee Panel* of the National Mortgage Form (NMF). For example:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	JOINT TENANTS INTER-SE 3/5
Given Name(s)	JOAN
Family Name	CITIZEN
Name	BIG BANK LIMITED
ACN	986384755
Australian Credit Licence	659726
Tenancy (inc. share)	TENANTS IN COMMON 2/5

An NMF that fails to state a tenancy (where it is required) will be requisitioned, requiring the Tenancy (inc. share) Field of the *Mortgagee Panel* to be completed.

Whilst it is usual for the shares of the money advanced by each mortgagee to be shown, in mortgages where the amount of money advanced may be a fluctuating amount not definable at the time of execution of the mortgage, it is permissible for this item to show 'Not Applicable'. A letter by the mortgagees or their solicitor confirming that the shares are fluctuating and not definable at the time of execution is required to be deposited. It is the responsibility of the remaining mortgagees, on the death (or dissolution, if a corporation) of one of the mortgagees to provide evidence of the share of the deceased or dissolved mortgagee.

Mortgagees who are tenants in common may create a joint tenancy by way of transfer. Similarly, mortgagees who are joint tenants may become tenants in common by way of transfer.

Creation of Subsequent Mortgages

[2-0130] deleted

[2-0140] Consent of Prior Mortgagee

Under s. 125 of the *Property Law Act 2023*, a subsequent mortgage may be created without the consent of a prior mortgagee, notwithstanding any provision in the prior mortgage to the contrary.

However, when a mortgage is registered in favour of the Queensland Housing Commission and was executed prior to the commencement of the *Housing Act 2003* (1 January 2004), consent by the Queensland Housing Commission to a subsequent mortgage is required (cl. 21(1)(a) of the Schedule to the *State Housing Act 1945*). The consent should be in a Form 18 – General Consent.

[2-0150] Equitable Mortgage[2]

Prior to 1 October 2019 the former section 75(1) of the *Land Title Act 1994* provided that an equitable mortgage could be created by depositing the Certificate of Title with the mortgagee[1].

The Land Title Act governs the right of an equitable mortgagee to lodge a lapsing caveat (s. 122(2) of the Land Title Act) (see part 11 – Caveat).

[2-0160] Mortgage of Lease of Freehold Land or Water Allocation[2]

A lessee can mortgage an interest in a lease as security for certain obligations. A mortgage of a registered lease is created in the same manner as a mortgage of another interest (s. 72 of the *Land Title Act 1994*).

The lessor's consent to a mortgage of a lease is not required for registration.

Section 142(3) of the *Property Law Act 2023* provides that the lessor's consent cannot be unreasonably withheld.

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

[2-0170] Mortgage of a State Lease[1, 3]

Under the provisions of s. 340 of the *Land Act 1994*, a State lease or sublease may be mortgaged by registering a mortgage.

[2-0180] Mortgage of a Trustee Lease of a Reserve[1, 3]

The written approval of the chief executive by way of a Form 18 – General Consent must be deposited (s. 58(1) of the *Land Act 1994*). The approval of the chief executive is not required if the trustee has a written authority under s. 64 of the Land Act or the lease is a trustee lease granted by the State or Statutory body (s. 58(2) of the Land Act).

[2-0190] Mortgage of a Deed of Grant in Trust[1, 3]

A deed of grant in trust, issued before the commencement of the *Land Act 1994*, may be mortgaged by the trustee. A deed of grant in trust issued after the commencement of this Act may be mortgaged by the trustee if the deed of grant in trust was issued because of a surrender under s. 358 of the Land Act, and the deed being surrendered was issued under s. 493 of the Land Act. The written approval (by way of letter or a Form 18 – General Consent) of the Minister is required to be deposited with the mortgage.

[2-0200] Tenures under the Land Act 1994 that must not be Mortgaged[1, 3]

A mortgage must not be registered over the following tenures:

a. a road licence or an occupational licence (no provision under the Land Act);

b. a reserve, by the trustee (prohibited by s. 67(1) of the Land Act); or

c. a permit to occupy (prohibited by s. 177(6) of the Land Act).

[2-0210] Conversion of State Land to Freehold Land[1]

A lessee of a State lease may, depending on the type of lease, apply to have the land freeholded. If approved, a deed of grant issues and an indefeasible title is created. If there is a mortgage over the State lease, the mortgage continues to apply to the deed of grant (s. 331(1) of the *Land Act 1994*).

[2-0220] Default

A mortgagee will usually have certain rights under its mortgage in the event of default by the mortgagor[2]. In addition to the other powers exercisable by the mortgagee, s. 78(1) of the *Land Title Act 1994* provides that a mortgagee is to have the powers and liabilities of a mortgagee under Part 8 of the *Property Law Act 2023*. Section 78(2) of the Land Title Act provides that the mortgagee also has the following remedies in the event of default by the mortgagor:

- to enter into possession of the property subject to the mortgage;
- to receive the rents and profits from the property (if any); and
- to commence proceedings in a court of competent jurisdiction to obtain possession, an order of foreclosure or an order for the sale of the property.

The mortgagee of a lease is entitled to sell the interest if the lessee defaults under a mortgage, and the mortgagee has entered into possession of the mortgaged interest or is exercising a power of sale under the mortgage (s. 345 of the *Land Act 1994*)[1, 3].

If the trustee of a deed of grant in trust defaults under the mortgage, the mortgagee is entitled to sell the interest if they have complied with s. 68 of the Land Act[1, 3].

[2-0230] Power of Sale

If the mortgagor defaults in the performance of its obligations (e.g. by failing to pay the principal and/or interest), the mortgagee will be entitled to sell the lot or interest to recover its debt. This right is usually set out in the mortgage instrument, but it is also a right implied by s. 113(1)(a) of the *Property Law Act 2023*.

The mortgagee cannot exercise the power of sale until it has first served a notice advising the mortgagor of any default under the mortgage and allowing the mortgagor 30 days to remedy the default (s. 114 of the Property Law Act)[2]. The notice of default may be in Form 3 of the forms approved under s. 234 of the Property Law Act.

The *Land Title Act 1994* ensures that the mortgagee exercising a power of sale is able to sell free from any liability in respect of subsequent mortgages and equitable mortgagee's caveats[2]. Therefore, it is not necessary to obtain releases of subsequent mortgages or equitable mortgagee's caveats (ss. 79 and 124(2)(c) of the Land Title Act).

The *Land Act 1994* ensures that the mortgagee exercising a power of sale is able to sell free from any liability in respect of subsequent mortgages[1, 3]. Therefore, it is not necessary to obtain releases of subsequent mortgages (s. 350 of the Land Act).

[2-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[2-2000] Practice

[2-2000] Requirements of Mortgage

Pursuant to s. 73 of the *Land Title Act 1994*, a mortgage must be validly executed and include a description of the lot or interest to be mortgaged, and the debt or liability secured by the mortgage[2].

Pursuant to s. 288 of the Land Act, a mortgage of a lease or sublease must be signed by[1,3]:

a. the mortgagor; and
b. the mortgagee or by a lawyer authorised by the mortgagee.

[2-2005] Confirmation of Identity of Mortgagor by Mortgagee

Section 11A of the *Land Title Act 1994* and s. 288A of the *Land Act 1994* place an onus on **ALL** mortgagees to adopt appropriate *due diligence* practices prior to lodging any mortgage for registration. The provisions under s. 11A of the Land

Title Act and s. 288A of the Land Act apply to **ALL** mortgages lodged for registration in Queensland, whether or not the mortgagee has any other business relationship with the mortgagor.

A mortgagee intending to take a mortgage over freehold land, a water allocation or an interest in a State tenure as security for a debt or liability, must, prior to lodging a mortgage for registration, take 'reasonable steps' to ensure that the person who executed the mortgage as mortgagor is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged.

Under s. 11A(3) of the Land Title Act and s. 288A(3) of the Land Act, a mortgagee takes 'reasonable steps' if they comply with the practices included in this Manual.

One way in which a mortgagee will take 'reasonable steps' is if they identify the person who is the mortgagor under the instrument (**Person Being Identified**) using the Verification of Identity Standard outlined in Part 61 [61-2700] and ensure the Person Being Identified is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged.

Accordingly for the purposes of complying with s. 11A(2) of the Land Title Act and s. 288A(2) of the Land Act a mortgagee can either:

a. identify the person who is the mortgagor under the instrument (**Person Being Identified)** using the Verification of Identity Standard outlined in Part 61 [61-2700] and ensure the Person Being Identified is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged.

b. ensure that the person who is the mortgagor under the instrument is identical with the person who is, or who is about to become, the registered owner of the lot or holder of the interest being mortgaged, in some other way that constitutes the taking of reasonable steps.

Prudent lending practice – further checks

It is considered that in most cases, compliance with the Verification of Identity Standard would satisfy the 'reasonable steps' requirement under s. 11A(2) of the *Land Title Act 1994* or s. 288A(2) of the *Land Act 1994* provided that, from the steps taken, a prudent lender would be satisfied that the person who is the mortgagor under the instrument is, or is about to become, the registered owner or holder of the interest to be mortgaged.

However, it is important to note that mere mechanical compliance with the Verification of Identity Standard, without attention to detail, is not sufficient. Accordingly, paragraph 9 of the Verification of Identity standard requires a mortgagee to undertake further steps to verify the identity of the Person Being Identified where they ought reasonably know that:

a. any identity Document produced by the Person Being Identified is not genuine; or

b. any photograph on an identity Document produced by the Person Being Identified is not a reasonable likeness of the Person Being Identified; or

c. the Person Being Identified does not appear to be the Person to which the identity Document(s) relate;

or it would otherwise be reasonable to do so.

Specific circumstances where it may otherwise be considered reasonable to undertake further steps, may include the following–

- the Person Being Identified, has in any document or record relied on to identify that person, a name that is not exactly the same as the name of the current registered owner or holder of the interest, or transferee on a transfer to be lodged prior to the mortgage; or
- the Person Being Identified 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 mortgagee; or
- the Person Being Identified 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 mortgagee;
- the mortgage is executed under a power of attorney. Where the mortgage is executed under a power of attorney the mortgagee should take reasonable steps to ensure the power of attorney is genuine.

Record keeping

Under s. 11A(4) of the *Land Title Act 1994* and s. 288A(4) of the *Land Act 1994* a mortgagee must keep the following for 7 years after the instrument is registered:

a. a written record of the steps taken under s. 11A(2) of the Land Title Act or s. 288A(2) of the Land Act; or

b. originals or copies of the documents and other evidence provided to or otherwise obtained by the mortgagee in complying with s. 11A(2) of the Land Title Act and s. 288A(2) of the Land Act.

A written record properly identifies the mortgage transaction and clearly details the steps taken by the mortgagee under s. 11A of the Land Title Act or s. 288A of the Land Act. The record does not form part of, and must not accompany, an instrument or document lodged for registration.

Section 11A(6) of the Land Title Act and s. 288A(6) of the Land Act authorises the production of the records, which may contain personal information, only when such a request is made by the Registrar. It is anticipated that production of records would be required in, but not limited to, circumstances where the Registrar is investigating a particular allegation or other matter.

[2-2010] Interest being Mortgaged

A registered owner or holder of different interests may mortgage all those interests in the one mortgage provided the interests are all of a primary nature or all of a secondary nature. See ¶[59-2020] for further information. A natural person or a corporation who are also a trustee may not enter into the same mortgage in both capacities.

[2-2020] Description of Debt or Liability

A description of the debt or liability secured by a mortgage must be detailed in the *Operative words and Terms and Conditions of this Mortgage Panel* under the heading *Terms and Conditions of this Mortgage* using one of the three methods detailed in [2-4080].

The description of the debt or liability may include the following:

[2-2030] Consideration

That is, the amount of money advanced by the mortgagee to the mortgagor. Any amount of money must be shown in Australian currency. The amount of the advance may not be fixed and therefore the consideration may be simply all money that may be provided or secured by the mortgage.

[2-2040] Rate of Interest

The mortgage usually secures payment to the mortgagee of interest payable on money secured by the mortgage. The applicable rate of interest can be shown.

[2-2050] Repayment of Debt

The term of the time frame for repayment of the debt can be shown.

[2-2060] Covenants

These are the terms and conditions of the mortgage.

The mortgage may include terms and conditions using a Standard Terms Document in full (without amendment) or in part (with specific clauses deleted and/or substituted by new clauses). Refer to [2-4080] in the guide to completion for instructions.

Some statutes imply certain covenants and obligations into a mortgage transaction. For example, in the *Property Law Act 2023*:

- Section 128 implies an obligation on the mortgagor to repay the principal and interest and keep the buildings (if any) in repair.
- Section 113(1)(b) confers a number of powers on the mortgagee, e.g. the power to insure against loss and damage, in which case the premiums paid are a charge on the mortgaged property in addition to the mortgage money at the same rate as for interest.
- Section 129 gives the mortgagor the right to inspect any documents relating to the mortgaged property.
- Section 132 gives the mortgagor the right to have the mortgage transferred to another person in certain circumstances.

Other powers upon default are also implied (see [2-0220]). These implied powers may be negatived or varied in any mortgage (s. 62(2) of the Property Law Act).

[2-2070] Amendment of Mortgage and Priority

Section 76 of the *Land Title Act 1994* and s. 343 of the *Land Act 1994* regulate the registration of amendments of mortgage.

Section 77 of the Land Title Act and s. 344 of the Land Act enable the amendment of the priority of registered mortgages by way of a Form 30 – Mortgage Priority.

See part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a Prendre, Building Management Statement or Carbon Abatement Interest or part 30 – Mortgage Priority.

[2-2080] Collateral Mortgages[2]

A collateral mortgage is one which is in addition to the original mortgage and is to better secure the debt which the original mortgage secures. This enables the mortgagee to fully exercise its rights under the original mortgage.

The Registrar requires a collateral mortgage to be lodged when a plan of survey joins two or more lots together into one lot, and where one or more of the original lots is not covered by an existing mortgage. The collateral mortgage must cover all of the land in the new lot created by the plan. Failure to lodge a collateral mortgage would result in the mortgagee only having a security over part of the new lot thus preventing it from exercising its rights should the mortgagor default.

In the case of an amalgamation of water allocations it is not possible to lodge a collateral mortgage at the same time as an amalgamation request, as the lot number and title reference will not be known until the amalgamation request is registered[3].

In view of this, mortgagees have two options:

a. ensure that all lots that are to be amalgamated are mortgaged to the same mortgagee prior to the lodgement of the amalgamation request; or
b. provide written advice to the Registrar stating that:
   – the mortgagee is aware that the whole of the new lot will not be subject to a mortgage; and
   – there is a need to register a collateral mortgage over the whole of the new lot; and
   – the mortgagee intends to lodge a collateral mortgage upon the registration of the amalgamation.

Collateral mortgages are **not** required when the same mortgagee holds separate mortgages over several lots to be amalgamated.

[2-2090] Power of Sale

See Part 1 – Transfer, [1-2340] to [1-2375].

[2-2100] Foreclosure[2]

This is the right of the mortgagee on default by the mortgagor to take the land in satisfaction of the debt. For further information see part 14, [14-2310].

[2-2110] Power of Sale by Defence Service Homes Corporation[1, 2]

See Part 1 – Transfer, [1-2375].

[2-2120] Lease by Mortgagee in Possession

See part 7 – Lease, [7-2070].

(For receivers and managers see part 50 – Corporations and Companies.)

[2-2130] Receiver Appointed by a Mortgagee

For information about a receiver of property of a mortgagor appointed under the terms of a registered mortgage see [1-2379], [50-2030] and [61-3070].

[2-2140] Merger of Mortgage[2]

Unless the mortgagee asks the Registrar not to, if a mortgagee of a lot becomes the registered owner of that lot, the Registrar must register the mortgagee as registered owner free of the mortgage (ss. 63(2) and (3) of the L*and Title Act 1994*).

The request of a mortgagee in these circumstances may be included in Item 5 of the Form 1 – Transfer by the insertion of the words 'do not cancel Mortgage No [number]'.

[2-2150] Mortgage Duty

A mortgage signed before 1 July 2008 must have a duty notation.

[2-2160] The *Bank Integration Act 1991* (Cth)

This Act has the general effect of amalgamating savings banks with their parent banks.

The Act provides for the vesting of the assets from the savings bank in the parent bank ('the Bank'). The day on which the property vests is the 'succession day'. The Registrar is notified of the succession day by virtue of the certificate issued by an authorised person (ss. 23 and 24 of the Bank Integration Act).

Dealings which are currently registered do not require amendment. However, where the Bank wishes to have the new name entered onto the Register, a Form 14 – Request to Change Name (see part 14, esp [14-2000] and [14-2020]) must be lodged.

Where an amendment of mortgage is lodged, a Form 14 – Request to Change Name must be lodged prior to the amendment. The succession day will vary for each Bank. A certificate issued under s. 23 of the Bank Integration Act must be provided to the Registrar, by stating the earlier dealing number where the certificate was deposited and may be referred to in subsequent dealings.

Mortgages executed on or after succession day must be under the Bank's new name and executed accordingly.

Dealings associated with the vesting of savings bank assets in the parent bank are exempt from fees.

Where a dealing is to be registered which will involve the mortgagee going off the title, the name of the mortgagee is to include its former name, e.g. 'Big City Bank Limited formerly Big City Savings Bank Limited'.

[2-4010] Forms

Electronic Conveyancing Documents [2-4000] moved to [2-5010] and renamed Electronic Conveyancing and Electronic Conveyancing Document

[2-4010] General Guide to Completion of Forms

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

Webform

The National Mortgage Form webform can be completed online and printed or downloaded as a completed form in portable document format (pdf). The webform cannot be downloaded for local use. However, the data entered via the National Mortgage webform can be saved and re-loaded at a later time for completion and printing.

The webform and user guide can be accessed at: http://lrforms.arnecc.gov.au/lrforms/

The panels of the NMF will expand to include any additional Fields and data required. The use of a *Form 20 – Enlarged Panel* or *Form 20 - Schedule* to include Fields or data that can be inserted into the panels of the NMF is only permitted for:

- the *Operative words and Terms and Conditions of this Mortgage Panel* (using a Form 20 – Schedule); and
- the *Mortgagor Execution Panel* and *Mortgagee Execution Panel* when a marksman clause (see [61-3040]) is required (using a *Form 20 – Enlarged Panel*).

Microsoft Word Template Form

A Microsoft Word Template National Mortgage Form is also available for download from the Titles Queensland Forms web page.

However, please note that the completion of the NMF in the correct format may require an intermediate knowledge of the use of Microsoft Word. The Titles Registry recommends the use of the Webform as the easiest method of completing the NMF.

A basic guide to completion which includes instructions on how to unprotect the form to make any necessary changes is also available on the Titles Registry forms web page. Further information in relation to the completion of the NMF is also provided below.

The panels of the NMF will expand to include any additional Fields and data required. The use of a F*orm 20 – Enlarged Panel* or *Form 20 - Schedule* to include Fields or data that can be inserted into the panels of the NMF is only permitted for:

- the *Operative words and Terms and Conditions of this Mortgage Panel* (using a Form 20 – Schedule); and
- the *Mortgagor Execution Panel* and *Mortgagee Execution Panel* when a marksman clause (see ¶[61-3040]) is required (using a *Form 20 – Enlarged Panel*).

Lodger Details

Lodger Code	
Name	BIG CITY SOLICITORS
Address	123 QUEEN ST BRISBANE
Lodger Box	123
Phone	(07) 3222 3333
Email	mail@bigcitysolicitors.com.au
Reference	SMITH:ABC

For Office Use Only

THE BACK OF THIS FORM MUST NOT BE USED

MORTGAGE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference	Part Land Affected?	Land Description
12348019		LOT 1 ON RP 118983

Mortgagor

Given Name(s)	ROBERT JOHN
Family Name	SMITH
Given Name(s)	MARY ANNE
Family Name	SMITH

Mortgagee

Name	ABC BANK LIMITED
ACN	123456789

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference	709123465
(b) Additional terms and conditions	NIL

SAMPLE

Mortgagor Execution

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

Full Name of Witness: ALFRED HENRY PATTERSON

Witness Signature: *A Patterson*

Witness Qualifications: SOLICITOR

Executed on behalf of ROBERT JOHN SMITH

Signer Name: ROBERT JOHN SMITH

Signature: *R J Smith*

Execution Date: 21 / 07 / 2017

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

Full Name of Witness: ALFRED HENRY PATTERSON

Witness Signature: *A Patterson*

Witness Qualifications: SOLICITOR

Executed on behalf of MARY ANNE SMITH

Signer Name: MARY ANNE SMITH

Signature: *M A Smith*

Execution Date: 21 / 07 / 2017

Mortgagee Execution

Executed on behalf of ABC BANK LIMITED
under power of attorney number 712345612

Signer Name: EMILY JANE JONES

Signer Organisation: ABC BANK LIMITED

Signer Role: TIER 2 ATTORNEY

Signature: *E J Jones*

Execution Date: 28 / 07 / 2017

SAMPLE

Guide to Completion of National Mortgage Form

[2-4020] Lodger Details Panel

The standard Fields of the *Lodger Details Panel* are as follows:

Lodger Details
Lodger Code
Name
Address
Lodger Box
Phone
Email
Reference

None of the Fields are individually mandatory, however the combination of details must contain the minimum information necessary for positive identification and contact by mail, electronic mail and telephone.

If the Lodger Code Field is completed, there is no need to complete the Name Field, Address Field, Lodger Box Field, Phone Field or Email Field because this information can be obtained from Titles Registry records using the lodger code.

If the Lodger Code Field is not completed, the following Fields should be completed:

1. The Name Field with the name of the lodger;
2. The Address Field with the postal address of the lodger;
3. The Lodger Box Field with the lodger box reference (if applicable);
4. The Phone Field with the telephone number of the lodger;
5. The Email Field with the email address of the lodger.

The Reference Field can be completed with the lodger's internal reference for the matter. This data is not required or used by the Titles Registry. Any internal reference completed by a lodger must comply with the requirements set out in part [59-2030].

[2-4030] Jurisdiction Panel

The Jurisdiction Field *in the Jurisdiction Panel must state* QUEENSLAND.

Example:

Jurisdiction	QUEENSLAND

[2-4040] Estate and/or interest being mortgaged Panel

Insert FEE SIMPLE, WATER ALLOCATION, LEASE, or type of State tenure e.g. (STATE LEASE), whichever is applicable. If the mortgage only relates to the interest of one Tenant in Common Registered Owner, that Registered Owner's share fraction share (as numerator/ denominator) should be included.

Example: mortgage of an interest in a lease:

Estate and/or interest being mortgaged
LEASE NO. 703303243

Example: mortgage of the fee simple interest of a Tenant in Common who owns a half share:

Estate and/or interest being mortgaged
1/2 FEE SIMPLE

[2-4050] Land Title Reference/Part Land Affected? /Land Description Panel

The standard Fields of the *Land Title Reference/Part Land Affected? /Land Description Panel* are as follows:

Land Title Reference	Part Land Affected?	Land Description

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Freehold Land Description[1, 2]

Land Title Reference Field: complete with the 8 digit Land Title Reference for the lot.

Part Land Affected? Field: insert "Y" if the mortgage relates to only one or some of the lots on an indefeasible title (Land Title Reference) which has multiple lots, otherwise leave blank.

Land Description Field: The description 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.

Example of a mortgage of 2 titles, each with 2 lots:

Land Title Reference	Part Land Affected?	Land Description
51564528		LOT 51 ON RP 300124
51564528		LOT 54 ON RP 300124
52387245		LOT 3 ON SP 222599
52387245		LOT 4 ON SP 222599

Example of a mortgage of one lot on an indefeasible title which has more than one lot (Part Land Affected):

Land Title Reference	Part Land Affected?	Land Description
51564528	Y	LOT 51 ON RP 300124

Water Allocation Description[2, 3]

Land Title Reference Field: complete with the 8 digit Land Title Reference for the Water Allocation.

Part Land Affected? Field: This Field is not applicable to Water Allocations and must be left blank.

Land Description Field: 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.

Example:

Land Title Reference	Part Land Affected?	Land Description
46012345		WA 27 ON AP7900

State Tenure Description[1, 3]

Land Title Reference Field: complete with the 8 digit Land Title Reference for the State tenure.

Part Land Affected? Field: insert "Y" if the mortgage relates to only one or some of the lots on an indefeasible title (Land Title Reference) which has multiple lots, otherwise leave blank.

Land Description Field: 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).

Example:

Land Title Reference	Part Land Affected?	Land Description
40567123		LOT 27 ON CP LIV1234

[2-4060] Mortgagor Panel

The standard Fields of the *Mortgagor Panel* are as follows:

Mortgagor	
Given Name(s)	*[For an individual]*
Family Name	
Capacity	
Name	*[For an organisation e.g. a company]*
ACN	
ARBN	
Capacity	

Individual Mortgagor

For each mortgagor that is an individual, the following Fields are applicable:

Given Name(s): When combined with the Family Name Field, this must correspond with the name of the registered owner or holder of the interest as shown on a current title search.

Family Name: When combined with the Given Name(s) Field, this must correspond with the name of the registered owner or holder of an interest as shown on a current title search.

Capacity: This Field is used to supply the capacity in which the mortgagor holds the land (e.g. TRUSTEE – see [2-0050]). If there is no capacity for the mortgagor, this Field can be left blank or omitted.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for 2 individual mortgagors:

Mortgagor	
Given Name(s)	JOHN
Family Name	CITIZEN
Given Name(s)	JOAN
Family Name	CITIZEN

Example for 2 individual mortgagors holding the property as trustees:

Mortgagor	
Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE
Given Name(s)	JOAN
Family Name	CITIZEN
Capacity	TRUSTEE

Organisation Mortgagor

For each mortgagor that is an organisation (e.g. a company), the following Fields are applicable:

Name: this Field should contain the full legal name of the organisation and must correspond with the name of the registered owner or holder of the interest as shown on a current title search.

ACN: If the Mortgagor has an ACN, the 9 digit ACN must be entered. If there is no ACN this Field can be left blank or omitted.

ARBN: If the Mortgagor has an ARBN, the 9 digit ARBN must be entered. If there is no ARBN this Field can be left blank or omitted.

Capacity: This Field is used to supply the capacity in which the mortgagor holds the land (e.g. TRUSTEE – see [2-0050]). If there is no capacity for the mortgagor, this Field can be left blank or omitted.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for a corporate mortgagor:

Mortgagor	
Name	DEF COMPANY LTD
ARBN	987651265

Example for a corporate mortgagor holding the property as trustee:

Mortgagor	
Name	ABC COMPANY PTY LTD
ACN	986384755
Capacity	TRUSTEE

[2-4070] Mortgagee Panel

The standard Fields of the *Mortgagee Panel* are as follows:

Mortgagee	
Given Name(s)	*[For an individual]*
Family Name	
Capacity	
Tenancy (inc. share)	
Name	*[For an organisation e.g. a company]*
ACN	
ARBN	
Australian Credit Licence	
Capacity	
Tenancy (inc. share)	

Individual Mortgagee

For each mortgagee that is an individual, the following Fields are applicable:

Given Name(s):	When combined with the Family Name Field, this must correspond with the full legal name of the individual.
Family Name:	When combined with the Given Name(s) Field, this must correspond with the full legal name of the individual.
Capacity:	This Field is used to supply the capacity in which the mortgagee will hold the mortgage on title (e.g. TRUSTEE – see [2-0100]). If there is no capacity to be recorded, this Field can be left blank or omitted.
Tenancy (inc. share):	If there is only one mortgagee this Field can be left blank or omitted. See [2-4075] in relation to completion of this Field where there is more than one mortgagee.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for an individual mortgagee:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN

Example for an individual mortgagee holding as trustee:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE

Organisation Mortgagee

For each mortgagee that is an organisation (e.g. a company), the following Fields are applicable:

Name:	this Field must contain the full legal entity name of the organisation.
ACN:	If the Mortgagee has an ACN, the 9 digit ACN must be entered. If there is no ACN this Field can be left blank or omitted. An ABN is not permitted in this Field.
ARBN:	If the Mortgagee has an ARBN, the 9 digit ARBN must be entered. If there is no ARBN this Field can be left blank or omitted. An ABN is not permitted in this Field.
Australia Credit Licence:	This is an optional Field. If the mortgagee has no Australian Credit Licence this Field can be left blank or omitted.
Capacity:	This Field is used to supply the capacity in which the mortgagee will hold the mortgage on title (e.g. TRUSTEE – see [2-0100]). If there is no capacity to be recorded, this Field can be left blank or omitted.
Tenancy (inc. share)	If there is only one mortgagee this Field can be left blank or omitted. See [2-4075] in relation to completion of this Field where there is more than one mortgagee.

It is not permissible to:

- include an ABN in the ACN Field or ARBN Field; or
- alter the National Mortgage Form in any way to include a Field for the insertion of an ABN for an organisation mortgagee.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted.

Example for an Australian Company Mortgagee:

Mortgagee	
Name	BIG BANK LIMITED
ACN	986384755
Australian Credit Licence	659726

Example for an Australian Company Mortgagee holding as Trustee:

Mortgagee	
Name	BIG INVESTMENT COMPANY LIMITED
ACN	886384755
Capacity	TRUSTEE

[2-4075] Completion of the Tenancy (inc. share) Field for multiple Mortgagees

Declared Trustees

Where multiple trustees of the same trust are to be registered on title as the only mortgagees to the mortgage the Tenancy (inc. share) Field must be left blank or omitted for each mortgagee.

Example for multiple individual mortgagees holding the interest as trustees of the same trust:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Capacity	TRUSTEE
Given Name(s)	MARY
Family Name	CITIZEN
Capacity	TRUSTEE

Where the *Mortgagee Panel* is only completed with trustee mortgagees and the Tenancy (inc. share) Fields are left blank or omitted (as above), the Registrar will record the mortgagees as trustees of the same trust.

If a trustee mortgagee holds their interest as tenant in common with another mortgagee that is not a trustee of the same trust, the words "TENANTS IN COMMON" and the share fraction (as numerator/ denominator) must be added to the Tenancy (inc. share) Field for each mortgagee. The total shares must add to 1.

Example of two organisation mortgagees holding their interests on trust for two different trusts as tenants in common:

Mortgagee	
Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2
Name	BRAVO HOLDINGS LIMITED
ACN	321321321
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2

Example of an organisation mortgagee holding two separate interests on trust for two different trusts:

Mortgagee	
Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2
Name	ALPHA HOLDINGS PTY LTD
ACN	123123123
Capacity	TRUSTEE
Tenancy (inc. share)	TENANTS IN COMMON 1/2

Joint Tenants

If multiple mortgagees hold as joint tenants, the words "Joint Tenants" should be added to the Tenancy (inc. share) Field for the first joint tenant.

Example of two organisation mortgagees holding as joint tenants:

Mortgagee	
Name	ALPHA BANK LIMITED
ACN	123123123
Australian Credit Licence	659800
Tenancy (inc. share)	JOINT TENANTS
Name	BRAVO BANK LIMITED
ACN	321321321

Example of an individual mortgagee and an organisation mortgagee holding as joint tenants:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	JOINT TENANTS
Name	BRAVO BANK LIMITED
ACN	321321321

Tenants in Common

If multiple mortgagees hold as tenants in common, every mortgagee must have the words “Tenants in Common” and the share fraction (as numerator/denominator) added to the Tenancy (inc. share) Field for each mortgagee. The total shares must add to 1.

Example of 2 organisation mortgagees holding as tenants in common:

Mortgagee	
Name	ALPHA BANK LIMITED
ACN	123123123
Tenancy (inc. share)	TENANTS IN COMMON 1/3
Name	BRAVO BANK LIMITED
ACN	321321321
Tenancy (inc. share)	TENANTS IN COMMON 2/3

Example of an individual mortgagee and organisation mortgagee holding as tenants in common:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	TENANTS IN COMMON 2/5
Name	BRAVO HOLDINGS LIMITED
ACN	521321321
Tenancy (inc. share)	TENANTS IN COMMON 3/5

Mixed Tenancies (Joint Tenants inter-se holding as Tenants in Common with other mortgagees)

If some of the mortgagees hold as joint tenants, and they hold as tenants in common with one or more other mortgagees, the words “JOINT TENANTS INTER-SE” and the share fraction (as numerator/ denominator) that group of mortgagees hold is added to the Tenancy (inc. share) Field for the first mortgagee in the group of joint tenants and the words “TENANTS

IN COMMON" and the share fraction (as numerator/ denominator) are added to the Tenancy (inc. share) Field of every other mortgagee. The total shares must add to 1.

Example:

Alpha Bank Limited and Bravo Bank Limited hold half a share as joint tenants inter-se, holding as tenants in common with Charlie Bank Limited, who hold the other half share. This would be shown as:

Mortgagee	
Name	ALPHA BANK LIMITED
ACN	123123123
Tenancy (inc. share)	JOINT TENANTS INTER-SE 1/2
Name	BRAVO BANK LIMITED
ACN	321321321
Name	CHARLIE BANK LIMITED
ACN	987987987
Tenancy (inc. share)	TENANTS IN COMMON 1/2

Example of two individual mortgagees holding as joint tenants inter-se, holding as tenants in common with a corporation:

Mortgagee	
Given Name(s)	JOHN
Family Name	CITIZEN
Tenancy (inc. share)	JOINT TENANTS INTER-SE 3/5
Given Name(s)	JOAN
Family Name	CITIZEN
Name	BIG INVESTMENT COMPANY LIMITED
ACN	887987987
Tenancy (inc. share)	TENANTS IN COMMON 2/5

[2-4080] Operative words and Terms and Conditions of this Mortgage Panel

The standard Fields of the *Operative words and Terms and Conditions of this Mortgage Panel* are as follows:

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference

(b) Additional terms and conditions

A description of the debt or liability secured by the mortgage (see [2-2020]) must be detailed under the heading *Terms and Conditions* of this Mortgage by utilising one of the following three methods:

- using a Standard Terms Document without:
  - amendment (e.g. deleting or substituting clauses); and
  - any other description of the debt or liability being entered; or
- using a Standard Terms Document with:
  - amendments (e.g. deleting or substituting clauses); and/or

- additional terms and conditions or another description of the debt or liability; or
- not using a Standard Terms Document and entering the terms and conditions or other description of the debt or liability.

Instructions on how to complete the NMF using the above three methods are provided under the relevant headings below.

Using a Standard Terms Document

Using a Standard Terms Document without amendment or other description of the debt or liability

If a Standard Terms Document is being used without amendment or any additional terms and conditions or other description of the debt or liability (see [2-2020]):

- the dealing number of the Standard Terms Document should be inserted in (a) *Document Reference*; and
- NIL should be inserted in (b) *Additional terms and conditions.*

Example:

Terms and Conditions of this Mortgage	
(a) Document Reference	71234567
(b) Additional terms and conditions	NIL

Using a Standard Terms Document with amendments or with an additional description of the debt or liability

If a Standard Terms Document is being used with amendments or any additional terms and conditions or other description of the debt or liability (see [2-2020]):

- the dealing number of the Standard Terms Document should be inserted in *(a) Document Reference;* and
- Any changes to the Standard Terms Document (e.g. deleting or substituting clauses) or any additional terms and conditions or other description of the debt or liability should be inserted in (b) *Additional terms and conditions*.

The use of a *Form 20 – Schedule* is permitted to include data for *(b) Additional terms and conditions* (see part 20, esp [20-2010]).

Please note that the data that can be inserted for *(b) Additional terms and conditions* in the Webform is limited to 4000 characters. There is no limit to the data that can be inserted for *(b) Additional terms and conditions* in the Microsoft Word Template Form as the panel will expand to include all required data.

Example:

Terms and Conditions of this Mortgage	
(a) Document Reference	71234567
(b) Additional terms and conditions [*Detail amendments to the Standard Terms Document (e.g. deleting or substituting clauses) and/or any additional terms and conditions or other description of the debt or liability*]	

Example using a *Form 20 – Schedule:*

Terms and Conditions of this Mortgage	
(a) Document Reference	71234567
(b) Additional terms and conditions See attached Schedule.	

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Land Title Act 1994, Land Act 1994
and Water Act 2000

SCHEDULE

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Operative words and Terms and Conditions of this Mortgage Panel

Terms and Conditions of this Mortgage

(b) Additional terms and conditions

[Detail amendments to the Standard terms Document (e.g. deleting or substituting clauses) and/or any additional term/s and conditions or other description of the debt or liability]

Not using a Standard Terms Document

If no Standard Terms Document is being used:

- NIL should be inserted in *(a) Document Reference*; and
- The terms and conditions or other description of the debt or liability (see [2-2020]) should be inserted in *(b) Additional terms and conditions.*

The use of a *Form 20 – Schedule* is permitted to include data for *(b) Additional terms and conditions* (see part 20, esp. [20-2010]).

Please note that the data that can be inserted for *(b) Additional terms and conditions* in the Webform is limited to 4000 characters. There is no limit to the data that can be inserted for *(b) Additional terms and conditions* in the Microsoft Word Template Form as the panel will expand to include all required data.

Example:

Terms and Conditions of this Mortgage

(a) Document Reference NIL

(b) Additional terms and conditions

[*Detail the terms and conditions or other description of the debt or liability]*

Example using a *Form 20 - Schedule*:

Terms and Conditions of this Mortgage

(a) Document Reference NIL

(b) Additional terms and conditions

See attached Schedule.

QUEENSLAND TITLES REGISTRY
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and Water Act 2000

SCHEDULE

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Title Reference [12348019]

Operative words and Terms and Conditions of this Mortgage Panel

Terms and Conditions of this Mortgage

(b) Additional terms and conditions

[Detail the term/s and conditions or other description of the debt or liability]

[2-4090] Mortgagor and Mortgagee executions Panel

For each Mortgagor and Mortgagee the following standard Fields are applicable:

Mortgagor Execution

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

Full Name of Witness _____

Witness Signature _____

Witness Qualifications _____

Executed on behalf of

Signer Name _____

Signer Organisation _____

Signer Role _____

Signature _____

Execution Date _____

Mortgagee Execution

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

Full Name of Witness _____

Witness Signature _____

Witness Qualifications _____

Executed on behalf of

Signer Name _____

Signer Organisation _____

Signer Role _____

Signature _____

Execution Date _____

Complete the applicable Fields for each individual or entity executing the NMF. Any Fields that are not applicable can be left blank or omitted. Some examples have been provided further below.

Please note that the panel will expand to include the necessary Fields and data. The use of a *Form 20 – Enlarged Panel* to include Fields and data for this panel is not permitted except when a marksman clause is required (see [16-2140]).

The NMF requires the completion of a separate witnessing provision for each signature which is required to be witnessed, even if signatures are made in front of the same witness.

For the requirements when executing see Part 61 – Witnessing and Execution of Instruments or Documents.

For a company executing the NMF, the ACN or ARBN does not need to be included in the company name in the relevant Execution Panel if it has been included in the *Mortgagor Panel* or *Mortgagee Panel.*

Where a legal practitioner signs a NMF on behalf of a mortgagee the legal practitioner's full name must be printed underneath the signature along with the words, solicitor, barrister or Australian legal practitioner as appropriate. The legal practitioner's signature need not be witnessed. Refer to the example below.

Execution under a registered Power of Attorney

The following requirements apply for an execution carried out by an attorney under a registered power of attorney:

1. The second line of the Mortgagor Signature Details Field or Mortgagee Signature Details Field must include the statement "under power of attorney [DEALING NUMBER]" stating the dealing number of the registered Power of Attorney (underneath "Executed on behalf of [NAME]"); and
2. For a registered Power of Attorney which specifically names the attorneys:
   i. the Signer Name Field must be the same as the name of the attorney listed in the Power of Attorney; and
   ii. the Signer Role Field should state "ATTORNEY"; and
3. For a registered Power of Attorney which defines attorneys using a position or role in an organisation (e.g. Mortgage Officer or Tier 2 Attorney in a Bank, Partner in a law firm):
   i. The Signer Organisation Field must match the name of the organisation listed in the Power of Attorney; and
   ii. the Signer Role Field must contain the relevant position or role contained in the Power of Attorney.

Example – Execution carried out by a named attorney under a registered power of attorney

Mortgagor Execution

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

Full Name of Witness	ALFRED WITNESS
Witness Signature	*A Witness*
Witness Qualifications	SOLICITOR

Executed on behalf of under power of attorney	JOAN CITIZEN 762873635
Signer Name	ELAINE ATKINS
Signer Role	ATTORNEY
Signature	*E Atkins*
Execution Date	27 / 07 / 2017

Example – Execution carried out by an attorney with a position/role defined in a registered power of attorney

Mortgagee Execution

Executed on behalf of under power of attorney	BIG BANK LTD 762873635
Signer Name	ALAN ATKINS
Signer Organisation	BIG BANK LTD
Signer Role	MORTGAGE OFFICER
Signature	*A Atkins*
Execution Date	27 / 07 / 2017

Example – Execution for an Individual carried out by the Individual

Mortgagor Execution

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

Full Name of Witness	ALFRED WITNESS
Witness Signature	*A Witness*
Witness Qualifications	SOLICITOR

Executed on behalf of	JOHN CITIZEN
Signer Name	JOHN CITIZEN
Signature	*J Citizen*
Execution Date	27 / 07 / 2017

Example – Execution by a legal practitioner on behalf of a mortgagee

Mortgagee Execution

Executed on behalf of	BIG BANK LIMITED
Signer Name	LAURENCE LAIDLEY
Signer Organisation	LARRY'S LAW
Signer Role	AUSTRALIAN LEGAL PRACTITIONER
Signature	*L Laidley*
Execution Date	29 / 01 / 2018

Example – Execution by Organisation (Australian Company) executed (without seal) by a director and secretary in accordance with s. 127 of the *Corporations Act 2001* (Cth)*

Mortgagor Execution

Executed on behalf of	XYZ LIMITED
Signer Name	DANIEL DEAKIN
Signer Organisation	XYZ LIMITED
Signer Role	DIRECTOR
Signature	*D Deakin*
Execution Date	27 / 07 / 2017
Executed on behalf of	XYZ LIMITED
Signer Name	SEAN SEACOMBE
Signer Organisation	XYZ LIMITED
Signer Role	SECRETARY
Signature	*S Seacombe*
Execution Date	27 / 07 / 2017

*Please note that for an execution by a corporation under s. 127 of the *Corporations Act 2001* (Cth) or s. 52 of the *Property Law Act 2023* where there is more than one signatory, if the date the last signer executes the NMF is inserted in the second Execution Date Field, the first Execution Date Field can be left blank or deleted. For example:

Mortgagor Execution

Executed on behalf of	XYZ LIMITED
Signer Name	DANIEL DEAKIN
Signer Organisation	XYZ LIMITED
Signer Role	DIRECTOR
Signature	*D Deakin*
Executed on behalf of	XYZ LIMITED
Signer Name	SEAN SEACOMBE
Signer Organisation	XYZ LIMITED
Signer Role	SECRETARY
Signature	*S Seacombe*
Execution Date	27 / 07 / 2017

[2-5000] eConveyancing

[2-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [2-5105 and 62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[2-5100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions available through eConveyancing.

[2-5105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the *Land Title Regulation 2022* provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

The National Mortgage Form (NMF) is a required instrument under the regulation and is therefore required to be lodged through a ELN unless an exemption applies.

Because the Electronic Lodgement Network Operator's (ELNO) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and exemptions is maintained on the Titles Queensland website rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the Titles Queensland website for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[2-5110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the Titles Queensland website.

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a National Mortgage Form) and a list of these exclusions can be found on the Titles Queensland website and are updated from time to time as the functionality of each instrument changes.

[2-5115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For Further information refer to Part [62-6040].

[2-5200] Prescribed Requirements – Mortgage Form (electronic)

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 the prescribed requirements for a Mortgage Form (electronic):

2 001 For an attachment to include terms and conditions (see [2 5300]):

1. the attachment must be referred to in (b) *Additional terms and conditions* in the *Operative words and Terms and Conditions of this Mortgage Panel;*
2. if reference is made to an attachment in *(b) Additional terms and conditions* in the *Operative words and Terms and Conditions of this Mortgage Panel* a document setting out the terms and conditions must be included as an attachment to the Mortgage Form (electronic); and
3. the attachment must not contain any information other than the terms and conditions being incorporated (any additional information can be removed or redacted).

Example: it is not permissible to include as an attachment a complete scanned copy of a paper National Mortgage Form signed by the mortgagor/s showing all of the panels and the wet signatures of the mortgagor/s unless all information other than the terms and conditions is removed or redacted.

No Prescribed Requirements for 'same terms mortgage'

A 'same terms mortgage' held by a Subscriber under Participation Rule 6.13.1 that is not lodged for registration is not required to meet the requirements in the *Land Title Act 1994* and *Land Act 1994* for instruments that are lodged for registration (including any requirement for an instrument to be in the appropriate form or requirements relating to execution and witnessing). There are no Prescribed Requirements for a 'same terms mortgage'.

[2-5300] Attachments – Mortgage Form (electronic)

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

- it is in the circumstances detailed in this section (e.g. an attachment to include terms and conditions that is referred to in the relevant panel); and
- the attachment only includes the stated material required in those circumstances (e.g. a document that sets out terms and conditions of the mortgage).

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

Terms and Conditions

There is currently provision to include a document that sets out terms and conditions of the mortgage as an attachment.

Queensland Prescribed Requirement 2-001 requires that the attachment:

- must be referred to in (b) *Additional terms and conditions* in the *Operative words and Terms and Conditions of this Mortgage Panel*; and
- must not contain any information other than the terms and conditions being incorporated (any additional information can be removed or redacted).

Example: it is not permissible to include as an attachment a complete scanned copy of a paper National Mortgage Form signed by the mortgagor/s showing all of the panels and the wet signatures of the mortgagor/s unless all information other than the terms and conditions is removed or redacted.

[2-5400] Execution and Certification

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

[2-5600] Electronic Form

[2-5610] Approved Electronic Form

An instrument of mortgage that is an Electronic Conveyancing Document (eConveyancing mortgage) 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 mortgage must be digitally signed by or for the mortgagee 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.

Lodger Details
Lodger Code
Name
Address

Lodger Box
Phone
Email
Reference

MORTGAGE

Jurisdiction QUEENSLAND

Privacy Collection Statement
Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Titles Queensland website.

Estate and/or interest being mortgaged
FEE SIMPLE

Land Title Reference	Part Land Affected?	Land Description

Mortgagor
Given Name(s)
Family Name
Capacity

Name
ACN
ARBN
Capacity

Mortgagee
Given Name(s)
Family Name
Tenancy (inc. share)

Name
ACN
ARBN
Australian Credit Licence
Tenancy (inc. share)

This is a representation of the instrument that was electronically lodged

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference

(b) Additional terms and conditions

Mortgagee Execution

Executed on behalf of
Signer Name
Signer Organisation
Signer Role
Execution Date

This is a representation of the instrument that was electronically lodged

[2-5620] Electronic Form Examples

Lodger Details

Lodger Code	
Name	ABC BANK LIMITED
Address	200 ADELAIDE STREET BRISBANE QLD 4000
Lodger Box	
Phone	
Email	
Reference	987654321

879845213

SY 300

21/02/2021 09:00:05

MORTGAGE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference	Part Land Affected?	Land Description
12348019		LOT 1 ON RP 11898

Mortgagor

Given Name(s)	ROBERT JOHN
Family Name	SMITH
Given Name(s)	MARY ANNE
Family Name	SMITH

Mortgagee

Name	ABC BANK LIMITED
ACN	123 456 789
Australian credit licence	123456

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference 709123465

(b) Additional terms and conditions NIL

Mortgagee Execution

1. The Certifier has retained the evidence supporting this Registry Instrument or Document.
2. The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents,:
   (a) has taken reasonable steps to verify the identity of the mortgagor; and
   (b) holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.
3. 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.

Executed on behalf of ABC BANK LIMITED

Signer Name Peter Smith

Signer Organisation ABC BANK LIMITED

Signer Role AUTHORISED SIGNATORY

Execution Date 21/02/2021

SAMPLE

This is a representation of the instrument that was electronically lodged

Lodger Details

Lodger Code	
Name	BIG CITY SOLICITORS
Address	123 QUEEN ST BRISBANE QLD 4000
Lodger Box	
Phone	
Email	
Reference	SMITH:ABC

879845521

PX 300

21/02/2021 09:00:05

MORTGAGE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Estate and/or interest being mortgaged

FEE SIMPLE

Land Title Reference	Part Land Affected?	Land Description
12348019		LOT 1 ON RP 11898

Mortgagor

Name	GRAND DEVELOPMENT CORP PTY LTD
ACN:	654 512 542

Mortgagee

Name	BIG CITY INVESTMENTS PTY LTD
ACN	123 456 789
Tenancy (inc. share)	As Trustee

The mortgagor mortgages the estate and/or interest in land specified in this mortgage to the mortgagee as security for the debt or liability described in the terms and conditions set out or referred to in this mortgage, and covenants with the mortgagee to comply with those terms and conditions.

Terms and Conditions of this Mortgage

(a) Document Reference	709123465
(b) Additional terms and conditions	NIL

Mortgagee Execution

1. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
2. The Certifier has taken reasonable steps to verify the identity of the mortgagee or his, her or its administrator or attorney.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier, or the Certifier is reasonably satisfied that the mortgagee it represents,:
   (a) has taken reasonable steps to verify the identity of the mortgagor; and
   (b) holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument or Document.
5. 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.

Executed on behalf of BIG CITY INVESTMENTS PTY LTD

Signer Name Peter Smith

Signer Organisation BIG CITY SOLICITORS

Signer Role AUSTRALIAN LEGAL PRACTITIONER

Execution Date 21/02/2021

SAMPLE

This is a representation of the instrument that was electronically lodged

[2-5700] Electronic Form Notes for Completion

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

PANEL	NOTES
Mortgagee	**Mortgagee name and Trustee capacity** **Mortgagee** Name: BIG CITY LENDERS PTY LTD ACN: 123 456 789 Tenancy (inc. share): As Trustee **Mortgagee** Given Name(s): PETER Family Name(s): TEMPLETON Tenancy (inc. share): As Trustee Given Name(s): MARGARET Family Name(s): TEMPLETON The name of a mortgagee in the *Mortgagee Panel* is recorded using the following name data fields: • for each organisation: a Name Field (and if applicable an ACN or ARBN Field); and • for each individual: a Given Name(s) Field and a Family Name(s) Field. Only the name of the Mortgagee can be inserted in the name data fields for the Mortgagee. It is not permissible to include other words or symbols that are not part of the name of the Mortgagee in any of the name data fields in this panel (e.g. the trust capacity of a mortgagee or a reference to previously lodged trust deed/instrument). Where a mortgagee will be recorded as holding an interest as a trustee this must be recorded by selecting the trustee capacity for the mortgagee which will be displayed in the Tenancy (inc. share) Field (as shown in the examples above). **Note**: there is no requirement for the details of a trust to be provided to the Registrar where a mortgagee will be recorded as a trustee so there is no provision for the details of a trust to be provided with a Mortgage Form (electronic). It is **not permissible** to do any of the following: • include the trustee capacity of the mortgagee or the name of the trust in the mortgagee name data fields; or • include a copy of the trust deed/instrument with a Mortgage Form (electronic) or refer to a dealing where the trust deed/instrument has been deposited in the name data fields in the *Mortgagee Panel*; or • include a Form 20 – Trust Details Form (electronic) with a Mortgage Form (electronic).

[2-8000] Fees

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

[2-9000] Cross References

Part 1 – Transfer

Part 3 – Release of Mortgage

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a Prendre Building Management Statement or Carbon Abatement Interest

Part 14 – General Request

Part 18 – General Consent

Part 30 – Mortgage Priority

Part 49 – Water Allocations

Part 62 – eConveyancing

[2-9050] Notes in text

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.

Titles QUEENSLAND

Part 3- Release of Mortgage

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 3- Release of Mortgage

[3-0000] General Law

A mortgage that is registered under the *Land Title Act 1994, Land Act 1994* or *Water Act 2000* over a lot or an interest operates as a charge on the lot or interest for the debt or liability secured by the mortgage (s. 74 of the Land Title Act or s. 341 of the Land Act).

Once the debt or liability secured by the mortgage has been satisfied, the mortgagor is entitled to receive a release of the mortgage from the mortgagee.

A release (Form 3 – Release of Mortgage), executed by the mortgagee, may be registered. On registration of the release, the mortgaged lot or interest ceases to be subject to the charge, to the extent shown in the release (s. 81 of the Land Title Act or s. 342 of the Land Act).

A notice under s. 73(1)(c) of the Water Act, which is taken to be a mortgage under the Land Title Act, may also be released by a Form 3 – Release of Mortgage[2, 3].

[3-0010] Full or partial release

If the mortgagee releases all the property securing the liability under the mortgage from the mortgage, a full release is given. A partial release is given where the release is only in respect of some of the property securing the liability under the mortgage. In such a case, the release will be a total release of that which is specified in Item 2 of the Form 3, but only a partial release of the mortgage as a whole.

The Registrar does not search the register to ensure that a purported full release in fact releases all of the lots or interests secured by the mortgage. The assumption is made that the mortgagee has included all of the lots or interests that are or remain secured by the mortgage. If it is later discovered that further lots or interests remain subject to the mortgage, another release by the mortgagee in respect of those lots or interests remaining must be lodged.

[3-0020] deleted

[3-0030] Release where there is more than one mortgagee

A mortgage of a lot or interest may be given to more than one mortgagee and those mortgagees may hold their respective interests either as joint tenants or as tenants in common.

A mortgage cannot be released by only one of a number of mortgagees as relates to that mortgagee's interest only (s. 81(2) of the *Land Title Act 1994* or s. 342(2) of the *Land Act 1994*).

The survivor/s of joint mortgagees may give a release of the mortgage. In this case a Form 4 – Request to Record Death of the deceased mortgagee/s must be lodged prior to the release.

In the case of the death of the sole or last surviving mortgagee, a Form 5, 5A or 6 – Transmission by Death must precede the release by the personal representative/devisee/legatee (for trustees, see part 51 – Trusts).

If the mortgagees are registered as tenants in common, even if the mortgage itself states that the money is advanced on joint account, it is necessary to transmit the interest in the mortgage to the personal representative of any deceased mortgagee and for the release to be executed by the surviving mortgagees and the personal representative, notwithstanding s. 113(3) of the *Property Law Act 2023*.

[3-0040] Release where there is more than one mortgagor

A mortgage given by mortgagors who hold as tenants in common can be released as relates only to the interest of one of such mortgagors.

A mortgage given by mortgagors who hold as joint tenants may not be released as relates to the interest of only one of such mortgagors. However, if the joint tenancy is first severed by transfer (see part 1, esp [1-2300]), the mortgage may then be released against the severing mortgagor's interest.

[3-0050] Persons entitled to a release

A mortgagor has a right to the release of a mortgage upon the satisfaction of the liability secured by the mortgage, and any assignee of the mortgagor's interest in the lot or other interest is also entitled on the same basis to a release of the mortgage.

Where a mortgagor is deceased, this entitlement vests in the person in whom the deceased mortgagor's property is vested under s. 45 of the *Succession Act 1981*, subject to s. 45(7) of the Succession Act.

Absent or incapable mortgagee

[3-0060] Section 61 of the *Public Trustee Act 1978*

Where a mortgage has been paid out, but a discharge cannot be obtained because the mortgagee is:

- absent from Queensland; or
- dead and their estate is unadministered or, in the opinion of the Public Trustee, no person is currently acting in the administration of their estate; or
- a person not known to be alive or dead or a person unable to be found; or
- a company or corporation which has ceased to exist or, in the opinion of the Public Trustee, has ceased to function; or
- in the opinion of the Public Trustee, for any other reason unable or unavailable to give a discharge of the mortgage,

the Public Trustee is empowered to execute a release of the mortgage by virtue of s. 61 of the Public Trustee Act. The Public Trustee must be satisfied that there is no other person to do so. The Registrar will look for no other authority to register the release.

[3-0070] Section 136 of the *Property Law Act 2023*

Where a person entitled to redeem a mortgage has obtained a certificate of the registrar of the court under section 136 of the Property Law Act, a Form 14 – General Request giving effect to the order is required to be lodged. A copy of the certificate of the court must be deposited as supporting evidence. For further information refer to Part [14-2312].

[3-0080] Section 601AF of the *Corporations Act 2001* (Cth)

If the mortgagee is a corporation that has ceased to function or has been de-registered, the Australian Securities and Investment Commission may execute a release of mortgage if satisfied that all money owing has been repaid (s. 601AF of the Corporations Act).

[3-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[3-2000] Practice

[3-2000] Change of name of mortgagee

If the name of a mortgagee has been changed and the mortgage is being fully released, Item 4 of the Form 3 – Release of Mortgage should include the current name and the former name e.g. 'XYZ CORPORATION LIMITED ACN 001 311 711 FORMERLY EXIT CORPORATION LIMITED ACN 001 311 711'.

In addition, either:

- evidence of the change of name must be deposited with the Form 3 – Release of Mortgage (e.g. a certified copy of the certificate of registration); or
- reference must be made to the dealing number of a previously registered instrument with which the evidence was deposited (the reference may be provided in item 4 e.g. 'Certified copy of the certificate of registration [or other evidence] deposited with dealing number [number]' or in a supplementary letter).

Example – Corporation

4. Mortgagee

XYZ CORPORATION LIMITED ACN 001 311 711 FORMERLY EXIT CORPORATION LIMITED ACN 001 311 711. CERTIFIED COPY OF THE CERTIFICATE OF REGISTRATION DEPOSITED WITH DEALING NUMBER 712345678.

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

[3-2010] Releasing collateral mortgages[2]

Registration of a collateral mortgage is required when additional, unsecured land is added to a mortgaged lot by re-survey (see part 2, esp [2-2080]) or where two or more water allocations have been amalgamated. The collateral mortgage is necessary so that the whole of the new lot is secured by the mortgage.

Collateral mortgages must not be released before the principal mortgage unless the mortgagee has other registered security over the whole of the lot. If a collateral mortgage were to be released prior to the principal mortgage, the mortgagee would no longer be in a position to exercise its rights over the whole of the lot in the event of default.

[3-4000] Forms

[3-4000] General guide to completion of forms

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

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

RELEASE OF MORTGAGE

FORM 3 Version 4

Dealing Number

OFFICE USE ONLY

☐ X If partial release of the mortgage.

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 Titles Queensland website.

1. Dealing number of mortgage being released

700012438

Lodger (Name, address, E-mail & phone number)
LEGAL LODGEMENT SERVICES
125 GEORGE STREET
BRISBANE QLD 4001
mail@lls.com.au
(07) 3327 8004

Lodger Code
BE 325

2. Lot on Plan Description

LOT 23 ON RP67324

Title Reference

15973044

3. Mortgagor

Only complete if not releasing the debt for all mortgagors

4. Mortgagee

SUNPAC BANKING CORPORATION ACN 123 456 789

5. Discharge/Execution by Mortgagee

The Mortgagee releases the mortgage as a charge on the land described in item 2.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

W J Burleigh
.....
WILLIAM JOHN BURLEIGH
JUSTICE OF THE PEACE (C.DEC) #34567
.....
Witnessing Officer (signature, full name & qualification)

15/10/2007
Execution Date

J Bundall
Sunpac Banking Corporation by its duly constituted attorney James Bundall under power of attorney 711132724
.....
Mortgagee's Signature

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

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

/ /
Execution Date

.....
Mortgagee's Signature

SAMPLE

Guide to Completion of Form 3

[3-4010] Item 1

Insert dealing number/s of mortgage/s being released.

[3-4020] Item 2

Freehold Description[1, 2]

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

Water Allocation Description[2, 3]

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

State Tenure Description[1, 3]

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

[3-4030] Item 3

Only complete if not releasing the debt for all the mortgagors, e.g. if there are three mortgagors who hold their interests as tenants in common and only two are being released, insert in Item 3, e.g. 'Interest of John Able Citizen and Mary Constance Citizen only'.

[3-4040] Item 4

Insert full name of mortgagee. If a mortgage has been registered and then transferred to a new mortgagee, the name appearing in Item 4 should be the name of the transferee and not that of the original mortgagee.

[3-4050] Item 5

Execution by mortgagee. The witnessing officer must be qualified pursuant to Schedule 1 of the *Land Title Act 1994* or s. 73 of the Land Regulation 2020. Form 3 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. Execution by an attorney will require a qualified witness. (For further information, see Part 61 – Witnessing and Execution of Instruments or Documents).

[3-4060] deleted

[3-5000] eConveyancing

[3-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to parts [3-5105 and 62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[3-5100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions currently available through eConveyancing.

[3-5105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the Land Title Regulation 2022 provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

The Form 3 – Release of Mortgage is a required instrument under the regulation and is therefore required to be lodged through a ELN unless an exemption applies.

Because the Electronic Lodgement Network Operators (ELNOs) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and exemptions is maintained on the Titles Queensland website rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the Titles Queensland website for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[3-5110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the Titles Queensland website.

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a Form 3 – Release of Mortgage) and a list of these exclusions can be found on the Titles Queensland website and are updated from time to time as the functionality of each instrument changes.

[3-5115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For Further information refer to Part [62-6040].

[3-5200] Prescribed Requirements – Form 3 (electronic)

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 3 (electronic).

[3-5300] Attachments – Form 3 (electronic)

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a Form 3 (electronic).

[3-5400] Execution and Certification

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

[3-5600] Electronic Form

[3-5610] Approved Electronic Form

An instrument of release of mortgage that is an Electronic Conveyancing Document (an eConveyancing release) 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 release must be digitally signed by or for the mortgagee/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.

RELEASE OF MORTGAGE

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 Titles Queensland website.

1. Dealing number of mortgage being released

2. Lot on Plan Description **Title Reference**

3. Mortgagor

4. Mortgagee

5. Discharge/Execution by Mortgagee

The Mortgagee releases the mortgage as a charge on the land described in item 2.

I certify that:

Signed by:

For
On behalf of
Dated:

[3-5620] Electronic Form Example

RELEASE OF MORTGAGE

812345678
SY 100
07/01/2021 09:01:13

Lodger Details:

BIG BANK LAWYERS
125 GEORGE STREET
BRISBANE QLD 4001

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 Titles Queensland website.

1. Dealing number of mortgage being released

700012438

2. Lot on Plan Description	**Title Reference**
LOT 23 ON RP67324	15973044

3. Mortgagor

4. Mortgagee

SUNPAC BANKING CORPORATION ACN 123 456 789

5. Discharge/Execution by Mortgagee

The Mortgagee releases the mortgage as a charge on the land described in item 2.

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 mortgagee or his, her or its administrator or attorney.

Signed by:
Mary Jones
For BIG BANK LAWYERS
On behalf of SUNPAC BANKING CORPORATION ACN 123 456 789
Dated: 07/01/2021

SAMPLE

[3-5700] Electronic Form Notes for Completion

Nil.

[3-6000] deleted

[3-7000] Case Law

[3-7000] *Corozo Pty Ltd v Westpac Banking Corporation (No 2)* [1988] 2 Qd R 481

In this case it was held that an unregistered transferee of land subject to a registered mortgage has a right upon payment of the debt to insist upon a release from the mortgagee.

[3-7010] *Re Australia and New Zealand Banking Group Ltd* [1993] 2 Qd R 477

This case discussed the previous case and held that an unregistered lessee did not have the right to pay the debt and obtain a release from the mortgagee, because the equitable interest of the lessee was not enforceable against the registered interest of the mortgagee.

[3-7020] *Wayne v Kusznierz & Anor* [1973] 2 NSWLR 799

In this case it was held that an equivalent application to one under s. 136 of the *Property Law Act 2023* could not be made *ex parte*, i.e. the mortgagee had to be named as a party in such an application.

[3-7030] *Re Piromalli* [1977] 1 NSWLR 39

However, in this case it was held that the above regarding the 'mortgagee as a party' rule was not of universal application and if no person could reasonably be named as mortgagee, an *ex parte* application could be made.

[3-7040] *Associated Securities Limited v Perry* [1978] Qd R 13

This case held that, although a release has the effect of releasing the property from the charge imposed by the mortgage, it does not release the mortgagor from the personal covenants contained in the mortgage. Therefore, if the mortgagor requires a release of the personal covenants, a separate, additional release may need to be prepared and executed by the mortgagee. In this case, the discharge was executed and registered in the mistaken belief that all the money owing had been paid and it was held that the mortgagor was not released from the liability to pay the balance of the mortgage money.

Section 81(3) of the *Land Title Act 1994* is unlikely to change the result in a case such as this, because the section refers to the mortgage being discharged and is silent as to whether the liability for the debt is discharged.

[3-7050] *Groongal Pastoral Company (In Liq) v Falkiner* (1924) 35 CLR 157

The High Court held that the wording of the discharge in this case **did** simultaneously discharge any personal obligations of the mortgagor. The reasoning of the Court was based on the fact that under the *Real Property Act 1900* (NSW) the instrument of discharge had effect as a deed.

This case, however, was distinguished in *Associated Securities v Perry* (see [3-7040]), even though the form of discharge was in identical terms, on the basis that under the *Real Property Act 1861* (Qld), the form of discharge did not constitute a deed.

[3-8000] Fees

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

[3-9000] Cross References and Further Reading

Part 1 – Transfer

Part 2 – Mortgage (National Mortgage Form)

Part 62 – eConveyancing

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

Duncan and Vann, *Property Law and Practice in Queensland*, Thomson Legal and Regulatory (loose-leaf service)

Duncan, WD and Willmott, L, *Mortgages Law in Australia*, 2nd edn, The Federation Press, 1996

[3-9050] Notes in text

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.

Titles QUEENSLAND

Part 4 – Request to Record Death

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 4 – Request to Record Death

[4-0000] General Law

[4-0000] Joint Tenancy and Tenancy in Common

If, at the time of death, the deceased held a lot or an interest with another or others as 'joint tenants', his/her death effects an immediate vesting of the deceased's lot or interest in the surviving joint tenant/s. This principle is called 'the right of survivorship' and it operates until there is a sole survivor who thereby acquires sole ownership of the asset notwithstanding any provision in any will.

The distinguishing features of joint tenancy are:

- the right of survivorship (as described above);
- the so called 'four unities' namely:
  - unity of possession (all owners are entitled to possession and no owner has a better right than another);
  - unity of interest (all owners have the same interest in the land as to extent, value and duration);
  - unity of title (all owners' interests must be derived from the same source); and
  - unity of time (all owners' interests must vest to them at the same time).

Another method of holding a lot or an interest is that of 'tenancy in common', which means simply the holding of ownership in common. It is possible to hold a tenancy in common in any shares, e.g. ⅓, ⅔ or 1/78, 30/78, 47/78, etc.

The distinguishing features of tenancy in common are:

- No right of survivorship.
- The lot or interest is held in 'undivided shares', which means that each tenant in common has a distinct share in the property which has not yet been divided amongst the co-tenants. However, pending such division, all have a unity of possession (see above).
- Other than unity of possession, no other unity referred to above need exist.

In Queensland:

- companies may hold property as joint tenants (see s. 26 of the *Property Law Act 2023*);
- dispositions of property to more than one person will generally be considered as being distributed to them as tenants in common, subject to specific rules (see s. 28 of the Property Law Act);
- it is possible for one owner (whether a joint tenant or a tenant in common) to apply to the court for the sale or partition of the property (see Part 5, Division 2 of the Property Law Act).

[4-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[4-2000] Practice

[4-2000] Introduction

As vesting occurs on death under the principle of holding property as 'joint tenants', such property is unrelated, in a strict sense, to the administration of the deceased joint tenant's estate. The surviving joint tenant/s, and not the personal representative of the deceased joint tenant, apply to the Registrar to have the lot or interest vested in them on proving the death of the deceased joint tenant.

The application is commonly referred to as a 'Record of Death Application'.

In all instances it is essentially the surviving joint tenant/s declaring that they are registered as the owners or holders of a lot or interest as joint tenants with the deceased, that the deceased has died (as appears from the copy of his/her certificate of death) and that he/she/they now claim entitlement to be registered as owner/s or holder/s of the lot or interest as the surviving joint tenant/s.

The most common form of Record of Death Application is discussed below.

[4-2010] Form of Application and Evidence

Applications in respect of the death of a joint tenant are made to the Registrar by virtue of a person's right to have an interest registered under s. 30 of the *Land Title Act 1994*, s. 295 of the *Land Act 1994* and s. 170 of the *Water Act 2000* and the Registrar's power to record particulars in the Register under s. 29 of the Land Title Act, s. 299 of the Land Act and s. 173 of the Water Act.

A request is made to record the death in Item 7 of the Form 4 – Request to Record Death. Verification of the death must be deposited to support the request. If supporting evidence to verify the death has previously been recorded on the register, the documentation does not have to be deposited again, however the instrument being lodged must refer to the dealing number that contains the documentation that is intended to be relied upon as supporting evidence. Refer to Part [60-1030] for further information and guidance.

If the surviving joint tenant caused or was implicated in causing the death of the deceased, the joint tenancy is not severed. Under the "forfeiture rule", the surviving joint tenant is not entitled to benefit from their wrongful act and holds their interest subject to the imposition of a constructive trust to the extent the interest would be increased by operation of the rule of survivorship (*Re Stone* [1989] 1 Qd R 351). In such cases, a Form 4 – Request to Record Death is still required to be lodged. To resolve the entitlement to the interest held on trust, a further instrument (usually a Form 14 - General Request or a Form 1 - Transfer), supported by an appropriate court order must also be lodged. (Refer to part 60-1030).

[4-2020] Spelling of Deceased's Name

If the spelling of the deceased's name in the copy of the certificate of death differs from the spelling on the title to the lot or interest which is the subject of the application, a statutory declaration stating that they are one and the same person may be required. Minor differences are overlooked, such as 'Margot Alison Brown' in one instance and 'Margot Allison Brown' in the other. However, significant differences, e.g. in the surname, will require explanation.

Documents Deposited with Request

[4-2030] Certificate of Death

A request to record death may be supported by a copy of the official certificate of death certified by the relevant issuing authority in the appropriate jurisdiction (e.g. Registrar of Births, Deaths and Marriages).

Where there are multiple versions of death certificates available from the registry that the death is recorded in e.g. an official version (with the cause of death listed) intended for use with Government departments, and a limited version (where the cause of death or other information is omitted); the Registrar will only accept the official version.

For guidance on depositing a death certificate as supporting evidence refer to part [60-1030].

If the death certificate has not issued in English, a full translation of it is required. Refer to Part [60-1020] for further guidance.

[4-2035] Grant of Representation

A copy of a grant of representation in the deceased's estate (e.g. probate, or letters of administration) may be used as supporting evidence with a request to record death by a surviving joint tenant. This applies whether the surviving joint tenant is, or isn't, the person to whom the grant is made.

As evidence of death is deposited with the Supreme Court to obtain a grant of representation, the grant is acceptable to the Registrar as evidence of death for a Record of Death. For guidance on depositing a grant of representation as supporting evidence refer to part [60-1030].

[4-2036] Notice to registrar of water allocations of existence of supply contract (Form W2F152)[2,3]

A request to record death in relation to the allocation holder of a water allocation or the lessee of a lease of water allocation, where the water allocation is managed under a Resource Operations Licence (ROL), must be accompanied by a Form W2F152 – Notice to registrar of water allocations of existence of supply contract. (See Part 49 – Water Allocations, esp. [49-0070]).

[4-2040] and [4-2050] deleted

[4-2060] Multiple Deaths

Multiple Record of Death Applications in the one form will be acceptable in cases typified by the following examples:

- A, B and C are joint tenants and all are deceased. One Request to record the deaths of A and B, and a Transmission Application (see part 5, 5A, 6 – Transmission Applications) in respect of C's death may be lodged. The Form 4 – Request to Record Death, suitably amended, may be executed by the personal representative of the last surviving registered owner or holder of the interest. Similarly, if A and B only are deceased, one Record of Death Application, lodged by C, will suffice. Copies of the certificates of death of the deceased persons must be provided.

  NOTE: In a case (such as the example above) where all joint tenants are deceased, their deaths are recorded or transmitted chronologically as they died, as shown on the death certificates. Usually this will be obvious from the respective dates of death. However, if the dates of death are the same, evidence will be required to show who survived the longest. In some circumstances, the provisions of s. 65 of the *Succession Act 1981* may apply.

  Consequently, in this example, it will be necessary to show that C was younger than A and B. This will generally be apparent from the death certificates.

- A, B and C are trustees and all are deceased. There may be one Request to record all deaths, providing there is simultaneous lodgement of a Form 14 – Request to Vest by the Public Trustee or a Form 1 – Recording of New Trustees by the personal representative of the last surviving trustee or other person authorised (see part 51 – Trusts and part 1 – Transfer, esp. [1-2400] to [1-2430]).

The Registrar will not record a deceased person in a register, except where:

- the words 'since deceased' are included after the name on the Form 4 – Request to Record Death; and
- the lodged Form 4 – Request to Record Death is followed by either a Transmission Application or another Form 4 – Record of Death, as the case requires.

[4-2070] Death of a Trustee

For the requirements to record the death of a trustee see part 51 – Trusts, esp. [51-2060] to [51-2090].

The requirements to record the appointment of new trustee/s after the death of the sole or last surviving trustee are dealt with by a Form 1 – Recording of New Trustees (see part 1 – Transfer, esp. [1-2400] to [1-2430]).

[4-4000] Forms

[4-4000] General Guide to Completion of Forms

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

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

REQUEST TO RECORD DEATH

FORM 4 Version 5

Dealing Number

OFFICE USE ONLY

Lodger (Name, address, E-mail & phone number)
EILEEN VERONICA WHITE
42 GLENN STREET
ENOGGERA QLD 4051
PH: 3268 4095

Lodger Code

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 Titles Queensland website.

1. Deceased's Name

VERNON THOMAS WHITE

2. Lot on Plan Description | **Title Reference**

LOT 34 ON RP64643 | 14643034

3. Interest held by deceased

FEE SIMPLE

4. Applicant Given Names | Surname

EILEEN VERONICA | WHITE

Address for service of notices to the applicant: 42 GLENN STREET, ENOGGERA QLD 4051
(for rates purposes, etc.)

5. Document(s) deposited

Office copy of Official Death Certificate issued by the Registrar General of Births, Deaths & Marriages (Qld) or equivalent evidence from other jurisdictions

6. Authority of applicant

The applicant is:

* the surviving joint tenant of the land
* ~~the surviving trustee under Instrument No. .....~~
* ~~the attorney (appointed under section 56 of the Trusts Act) of the surviving trustee~~
* ~~the reversioner of the interest held by the deceased pursuant to clause ..... of Lease/Standard Terms Document no. .....~~
* ~~the last surviving joint tenant and this application is made by ..... the personal representative of the applicant as evidenced by the original Will deposited with Transmission by Death no. .....~~

* delete if not applicable

7. Request

In accordance with the particulars disclosed above, it is requested that this death be recorded.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

I I Stravinsky
..... signature
IVAN IGOR STRAVINSKY
..... full name
SOLICITOR
..... qualification

Witnessing Officer

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

10/9/2007
Execution Date

E V White
.....
Applicant's or Solicitor's Signature

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

SAMPLE

Guide to Completion of Form 4

[4-4010] Item 1

Insert the name, as recorded, of the deceased joint tenant (registered proprietor, lessee, mortgagee, etc). If the interest is held on a recorded trust or by a personal representative, then this should be identified, e.g. 'as a trustee under Instrument 787654321' or 'as a personal representative'.

[4-4020] Item 2

Freehold Description[1,2]

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

Water Allocation Description[2,3]

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

State Tenure Description[1,3]

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 crown plans).

e.g.	**Lot on Plan Description**	**Title reference**
	Lot 27 on CP LIV1234	46012345

[4-4030] Item 3

Insert the interest of the deceased joint tenant as appropriate, i.e. 'fee simple', 'Lease No. [number]', 'Water Allocation' or the type of State tenure e.g. State lease.

[4-4040] Item 4

Insert the applicant's (one of the surviving joint tenant(s)) full name. In circumstances where the personal representative of the last surviving joint tenant to die is making the application, complete the item by inserting either:

- [name of the last surviving joint tenant] (since deceased); or
- [name of personal representative] personal representative of [name of last surviving joint tenant] (since deceased).

For requirements relating to the authority of the applicant see [4 4060].

Complete the postal address of the surviving joint tenant(s) for service of notice where the request is recording the death of:

- a joint registered owner of a freehold lot; or
- a joint holder of a lease or licence under the *Land Act 1994*; or
- a joint holder of a water allocation.

[4-4050] Item 5

Insert the documentation being deposited. For example:

- a copy of the certificate of death; or
- a copy of the grant of representation.

For further information relating to the deposit of supporting documentation (see [60 1030]).

[4-4060] Item 6

The authority for making the application must be stated. In practice, the applicant will most commonly be the surviving joint tenant. Other options are provided on the Form. However, in all cases the inapplicable statements must be deleted.

[4-4070] Item 7

Execute as required.

If the application is by 'the attorney (appointed under s. 56 of the *Trusts Act 1973*) of the surviving trustee', reference should be made, adjacent to the applicant's signature, to the dealing number of the power of attorney (e.g. 'Power of Attorney No…). There should also be a declaration by the attorney identifying the reason for the attorney to act as defined in s. 56 of the *Trusts Act 1973*.

[4-5000] eConveyancing

[4-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[4-5100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions currently available through eConveyancing.

[4-5200] Prescribed Requirements – Form 4 (electronic)

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 and digitally signing a Form 4 (electronic):

4-001 the Subscriber must retain as supporting evidence (refer to Rule 6.6 of the Participation Rules (Queensland)) a copy of the relevant documentation to verify the death of an individual (see parts [4-2030] and [4-2035]).

[4-5300] Attachments – Form 4 (electronic)

There is no requirement or provision for any document or evidence to be included as an attachment with a Form 4 (electronic) lodged through eConveyancing.

[4-5400] Execution and Certification

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

[4-5600] Electronic Form

[4-5610] Approved Electronic Form

A Request to Record Death that is an Electronic Conveyancing Document must be lodged through an Electronic Lodgment Network in the form approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland).

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.

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

Form 4 (electronic) Version 1
Page of

REQUEST TO RECORD DEATH

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.

1. Deceased's name

Date of death:

2. Lot on Plan Description **Title Reference**

3. Interest held by deceased

Fee Simple

4. Applicant Given names Surname

Address for service of notices to the applicant:
(for rates purposes etc.)

5. Documents Deposited

6. Authority of Applicant

7. Request

In accordance with the particulars disclosed above, it is requested that this death be recorded.

I certify that:

[Certification as per Queensland Participation Rules for Electronic Conveyancing]

Executed on behalf of
Signer Name
Signer Organisation
Signer Role
Execution Date

This is a representation of the instrument that was electronically lodged

[4-5700] Electronic Form Notes for Completion

Refer to the table below for notes for the completion of a Form 4 (electronic).

ITEM	NOTES
Item 5	There is no requirement for a copy of the document evidencing the death of the individual to be provided with the Form 4 (electronic). However, Prescribed Requirement 4-001 requires a Subscriber to retain a copy of supporting documentation to verify the death of the individual (refer to [4-5200]).

[4-6000] deleted

[4-7000] Case Law

[4-7000] *Re Stone* [1989] 1 Qd R 351

Where a joint tenant unlawfully kills a co-joint tenant, the killer acquires that person's interest at law as joint tenant, but holds that interest on trust for the persons entitled under the will of the deceased. That is, the incidence of survivorship inherent in a joint tenancy is not affected, but a constructive trust is imposed on the killer to the extent to which his/her interest is enlarged by the killing.

[4-7010] deleted

[4-8000] Fees

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

[4-9000] Cross References and Further Reading

Part 1 – Transfer

Part 5, 5A, 6 – Transmission Applications

Part 51 – Trusts

De Groot, J, *Wills Probate and Administration Practice (Queensland)*, Nina Psaltis Consulting (loose-leaf service)

Duncan and Vann, *Property Law and Practice in Queensland*, Thomson Legal and Regulatory (loose-leaf service)

[4-9050] Notes in text

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.

Titles QUEENSLAND

Part 5, 5A, 6 – Transmission Applications

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 5, 5A, 6 – Transmission Applications

[5-0000] General Law

One of the first duties of a personal representative is to reduce the estate of the deceased into possession. The manner of attending to this depends on the nature of the assets to which possession must be asserted or acquired. Title to the deceased's assets passes in the first instance to his/her executor (and if to more than one executor to them as joint tenants) or if there is no executor or no executor able and willing to act, to the Public Trustee (s. 45(1) of the *Succession Act 1981*).

Upon the court granting probate of the will or letters of administration of the estate of the deceased, the property vested in his/her executor or in the Public Trustee under the provisions of s. 45(1) of the *Succession Act 1981* devolves to and vests in the person to whom the grant is made (and if to more than one person, to them as joint tenants) (s. 45(2) of the Succession Act).

Where title to assets comprising the estate of the deceased is formally registered, the personal representative must not only assert and acquire possession of the asset, but must also make application to transmit the title into his/her name or as he/she may direct. Such applications are generally referred to as 'Transmissions by Death' or 'Transmission Applications'.

Notwithstanding that a water allocation is a registrable interest and a tradable asset it is part of the deceased's personal property as opposed to their real property[2,3].

Division 6 of Part 6 of the *Land Title Act 1994* deals with, among other things, the transmission of the interest of a deceased person in a lot to that person's personal representative (in accordance with s. 111), or to a devisee of a deceased person (in accordance with s. 112)[2].

Division 9 of Part 4 of Chapter 6 of the *Land Act 1994* deals with, among other things, the transmission of the interest of a deceased person to that person's personal representative (in accordance with s. 377), or to a legatee of a deceased person (in accordance with s. 379)[1, 3].

[5-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[5-2000] Practice

[5-2000] Introduction

Note: The text *Wills Probate and Administration Practice* by John K de Groot (published by Nina Psaltis Consulting) is recommended as a valuable reference source with regard to estate administration.

A Transmission Application (or Transmission by Death) involves the registration of an estate in the name of a new registered owner or holder of an interest after the death of a sole registered owner, sole holder of an interest, or the interest of a tenant in common. Registration of the death of a joint tenant is dealt with by a Form 4 – Request to Record Death.

A lot or interest held by a deceased person may be transmitted to:

- the personal representative of the deceased (via a Form 5 or Form 5A); or
- the devisee or legatee named in the person's last will (via a Form 6).

A personal representative, a devisee or anyone else interested in a lot of a deceased registered proprietor (or a trust involving such a lot) may also apply to the Supreme Court for an order that a named person be registered as proprietor of the lot (s. 114 of the *Land Title Act 1994*). The particulars of an order by the Supreme Court that a person be registered as proprietor of a lot under s. 114 of the Land Title Act can be registered by lodging a Form 14 – General Request to Register Order of the Court (also called a Request to Vest – refer to [14-2332]).

Transmissions involve either:

- a will where a grant of probate or a grant of letters of administration with the will has been made by the court;
- the original last will without a grant;
- an intestacy where a grant of letters of administration has been made by the court; or
- an intestacy where no grant has been made.

[5-2010] and [5-2020] deleted

[5-2030] Merger of Estates

From time to time the situation arises where a person (A) who is registered on the title as 'devisee in trust' or as '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 the executorial duties required, other than having effected the transfer, and 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 will operate to merge the beneficial and legal estates.

Therefore, notwithstanding that A remains registered on the title as trustee, there is no trust in existence and, on A's death, the provisions of s. 16 of the *Trusts Act 1973* do not operate to vest the property in the Public Trustee. The property can be dealt with as an asset in A's estate by A's personal representative (pursuant to s. 45 of the *Succession Act 1981*).

Where A has died the property which is the subject of such a merger should be dealt with in the following manner:

> A Transmission Application should be lodged by the person entitled to apply for a grant of representation in the estate of A, which should indicate that he/she is the person named as executor in A's will as the basis on which an application for grant would succeed.
>
> A declaration by the executor must be deposited with the Transmission Application to the effect that A had completed all executorial duties in the original deceased estate and that A had not effected transfer to himself/herself and had for some time dealt with the property as beneficial owner rather than as trustee.

Where A is alive a Form 14 – General Request to merge the interest of A as trustee with his/her entitlement to the fee simple, water allocation or a State tenure or as sole beneficiary must be lodged (see [14-2400]).

[5-2040] to [5-2050] deleted

[5-2060] Intestate Estate

Letters of administration in an intestate estate issued by a court outside of Queensland and resealed in Queensland can be applied to property in Queensland (s. 111(2)(a) of the *Land Title Act 1994*) and s. 377(2)(a) of the *Land Act 1994*.

Intestate estates, where the gross value of the estate in Queensland at the date of death, other than property held by the deceased as a joint tenant, was valued at no more than $300,000, may be dealt with in a Form 5A without application for a grant of letters of administration, if no letters of administration of the deceased's estate have been granted in Queensland within six months from the date of death (s. 111(2)(b) of the Land Title Act or s. 377(2)(b) of the Land Act).

[5-2070] Public Trustee

The Public Trustee of Queensland has, under relevant Acts, a wide range of powers in relation to deceased estates. The Public Trustee **may** obtain an 'order to administer' from the Supreme Court in many different cases. For example:

- where the Public Trustee is appointed executor of a will;
- where the executor appointed under a will has renounced;
- where the testator leaves no executor;
- where every executor or administrator has died, is absent from the State, is not known or cannot be found; and
- where the deceased dies intestate.

The Public Trustee may also administer estates in the name of the deceased (s. 16 of the *Trusts Act 1973*):

- where assets are the subject of a partnership; and
- which are estates held in trust where the sole or last trustee has died.

This point is expanded in part 51 – Trusts.

An order to administer has the same effect as a grant of probate or letters of administration.

Evidence of the order to administer is given in the form of a 'certificate of authority' issued pursuant to s. 138 of the *Public Trustee Act 1978*. If the order to administer is in relation to an intestate estate, this certificate should refer to an order to administer in intestacy.

If the deceased estate is valued under $150,000, it is not necessary for the Public Trustee to obtain the consent of the court to administer the estate. The Public Trustee may instead file in the court an 'election to administer'. Evidence deposited with a Form 5 – Transmission Application would be in the form of a certificate of authority.

The certificate of authority includes the name and date of death of the deceased, as well as the name/s and address/es of the applicant/s.

[5-2080] Original Will

Care of Original Will

Original wills must be treated with **extreme care**. It is essential that no marks or holes are made in an original will. No pencil notes should be made on an original will, nor should any 'post it' note stickers be attached to an original will, nor should any pins or staples be added to or removed from an original will. An original will should not be stapled to the application.

The reason for this degree of care is that any attachment to a will, or any evidence of an attachment having been made to a will, may raise the presumption that a further testamentary document made by the testator had been attached by or at the direction of the testator, thereby altering the terms of the will.

Prior to depositing an original will with a Transmission by Death application, the applicant/lodger should inspect the original will for any marks on the original will (e.g. staple holes or paper clip indentations) which could infer another testamentary document may have been attached to the original will.

If there is such inference then a statutory declaration of Plight and Condition and Finding (using Form 111 of the Uniform Civil Procedure Rules 1999 as a guide) is required from the person who made the marks in the original will.

If the marks existed at the time the original will was located, the statutory declaration is required from the person who located the original will and must include a statement as to whether there was any other testamentary document.

A clear copy of the true and last original will is to be an exhibit to the statutory declaration and an exhibit certificate is to be endorsed on the copy (Form 47 of the Uniform Civil Procedure Rules). The accompanying statutory declaration must state the exhibit is a copy of the original will.

More than one declarant may exhibit the same copy of the original will provided it is endorsed with an exhibit certificate in respect of each statutory declaration. Alternatively, declarants may exhibit separate copies of the original will to their respective declarations.

Original Will held by Court or Public Official

In some foreign jurisdictions a court or public official (e.g. notary public) will hold an original unproved will permanently, for example for safe keeping, and will not release the original will even after the death of the testator. In these cases the Registrar will accept the following in lieu of the original will.

For a court held original will:

- a court authenticated copy of the original will under seal (where there is a seal); and
- a statement from the court or a letter from a lawyer in the relevant jurisdiction advising for what purpose the will is being held and that it will not be released.

For a public official held original will:

- a copy of the original will authenticated by the public official under seal (where there is a seal); and
- a formal statement from the public official advising for what purpose the will is being held and that it will not be released.

Whether the original unproved will is held by a court or public official the following must also be provided:

- a statement of law from a practising lawyer in the relevant jurisdiction or the public official (e.g. notary public) that the will is a valid will under the law of which it was made; and
- a declaration by a practising lawyer in the relevant jurisdiction that a search was caused to be made in the jurisdiction where the unproved will is held and it was found that no grant of administration of the estate of the deceased has been made, applied for, or caveated against in the jurisdiction.

[5-2085] Wills made under COVID-19 Regulations

For wills and codicils made pursuant to the Justice Legislation (COVID-19 Emergency Response – Documents and Oaths) Regulation 2020, it is strongly recommended that applicants for Transmission Applications first obtain a grant of representation from the court to avoid delays in registration.

[5-2090] Probate

A grant of probate is the approval, or verification, of the Supreme Court that the particular will is actually the last will and testament of the deceased person, and that the person named as executor is authorised to act in that capacity.

It is not essential in every case to obtain a grant of probate. However, many people do so to have confirmation of the validity of the will and for the protection it affords the executor. If a later will is discovered, the executor of the probated will cannot be sued by the executor of the later will for actions taken by the first executor pursuant to the court's authority through the grant of probate. The exception is where the existence of the later will was known and not disclosed by the first executor in the probate application.

Where probate is granted, the original will remains permanently in the Supreme Court. A copy of the will is part of an original probate document which bears the seal of the Supreme Court of Queensland.

Generally, when probate has not been taken out, the original will is lodged with the Transmission Application. Where the Public Trustee is the applicant, a certificate is lodged if an order to administer or an election to administer is relied on.

[5-2100] Grant of Representation from outside Queensland

Queensland recognised grant - Grant of representation under the *British Probates Act 1898* (Qld) – Form 5

A Queensland recognised grant is a grant of *probate* or *letters of administration* (within the meaning of the British Probates Act) from a jurisdiction to which the British Probates Act applies. The relevant Regulation sets out that the British Probates Act currently applies to grants from other Australian states and territories, New Zealand and the United Kingdom of Great Britain and Northern Ireland. A Queensland recognised grant may be resealed by the Supreme Court of Queensland.

If a Queensland recognised grant is resealed, it has the same standing as a Queensland grant and it may be lodged with a Form 5 Transmission Application to transmit the registered interest of the deceased to the personal representative.

If no reseal of a Queensland recognised grant has been obtained, application may be made to the Registrar to register a Form 5 Transmission Application which is supported by the original Queensland recognised grant or an exemplification of

the Queensland recognised grant provided that the person/s to whom the grant was made are the same as the applicant/s for the transmission. Reference should be made to [60-1030] relating to deposit of supporting documentation when preparing an application of this type.

Grant of representation not under the *British Probates Act 1898* (Qld)

Where a grant of representation (however described) is made in a jurisdiction to which the British Probates Act does not apply, in order to transmit the registered interest of the deceased, a grant of representation should be sought from the Supreme Court of Queensland and the Queensland grant may be lodged with a Form 5 Transmission Application.

[5-2110] Intestacy

When a registered owner or holder of an interest dies without leaving a will, the Supreme Court may appoint an administrator to administer the estate in accordance with the rules laid down in the Uniform Civil Procedure Rules 1999. A person who wishes to administer an estate applies to the Court to be appointed as the administrator.

The Supreme Court issues a document known as 'letters of administration', which authorises the person named as administrator to control and administer the estate of the deceased person in accordance with s. 610 of the Uniform Civil Procedure Rules. It is also referred to as a grant of administration. The letters of administration are the authority for a transmission to the administrator as personal representative.

Under the *Land Title Act 1994* and *Land Act 1994*, it is not essential to apply for letters of administration before making a Transmission Application unless the gross value of the estate in Queensland at the date of death, other than property held by the deceased as a joint tenant, was over $300,000.

If letters of administration are not lodged, then the applicant on a Form 5A must explain in the declaration annexure to Form 5A his/her entitlement to administer the estate. The applicant must declare the names and relationships of all those entitled to the estate and details of the existence or non-existence of a de-facto spouse under the Uniform Civil Procedure Rules.

[5-2120] Name Variation

The name of the deceased registered owner or holder of an interest is given in full in Item 1 of the Forms 5, 5A and 6 and minor differences in spelling do not require explanation. If it is considered that the name in the other documents being lodged cannot be safely accepted as being that of the deceased registered owner or holder of the interest (e.g. upon a change in surname), then a supplementary declaration (in Form 20) identifying one with the other, together with any relevant evidence (e.g. a copy of a certificate of marriage) is required.

Where the name of a beneficiary or personal representative is different in the Transmission Application to that shown in the will, a statutory declaration supported by relevant evidence, is required from that person setting out the circumstances of the difference in the name.

[5-2130] Return of Certain Deposited Documents

Registry practice is to return to the lodger, at the time of lodgement, certain original documents that are required to be deposited as evidence. Refer to [60-1030]. The following comments relate to the return of some documents deposited with a Form 5, 5A or 6 – Transmission Application.

An original will once deposited with a Transmission Application in the registry will be dealt with in a similar manner as if it was deposited in the Supreme Court of Queensland Court of Probate. The original will is examined by registry staff to ensure it is in order and retained as a permanent public record.

An original will held by the registry with a registered Transmission Application will only be released to the Supreme Court of Queensland for a grant of representation application. Where the original will is required for such an application, the personal representative or their solicitor must request in writing for the Registrar to forward the original will to the Court. The request must state the authority for them to make the request and details of the probate registry where the application will be made. The Registrar will forward the original will and other relevant documentation (e.g. codicil) to the Court and notify the applicant it has been sent.

An original will held by the registry with an unregistered Transmission Application will only be released in the following circumstances:

- in response to a written request from the lodger to fully withdraw the Transmission Application after the application is withdrawn; or

- where the Transmission Application is rejected under s. 157 of the *Land Title Act 1994* or s. 306 of the *Land Act 1994.*

Where an original will is required for grant of representation in Queensland and the will is held with an unregistered Transmission Application, the dealing must be fully withdrawn from registration prior to its release from the Registry. The lodger must request in writing for the Transmission Application to be fully withdrawn. Registry staff will notify the lodger by letter once the dealing has been fully withdrawn. The original will can then be released with the Transmission Application to the lodger via registered post. It is then the responsibility of the personal representative to arrange for deposit of the original will with the grant of representation application.

Where a grant of representation is to be sought in a jurisdiction other than Queensland, a certified copy of the relevant Transmission Application, including a certified copy of the original will, may be provided on request and payment of the relevant fees.

Forms of Transmission

[5-2140] Form 5 – Transmission Application by Personal Representative (Grant in Queensland or Queensland recognised grant)

This form of Transmission Application is used by a personal representative who has obtained:

- a grant of representation in Queensland; or
- a reseal of a grant of representation in Queensland; or
- a Queensland Recognised Grant* which has not been resealed in Queensland.

* A Queensland Recognised Grant is a grant of *probate* or *letters of administration* (within the meaning of the *British Probates Act 1898*) from a jurisdiction to which the British Probates Act applies. The relevant Regulation sets out that the British Probates Act currently applies to grants of representation from other Australian states and territories, New Zealand and the United Kingdom of Great Britain and Northern Ireland.

On registration, the applicant appears on the title as 'personal representative'.

[5-2150] Form 5A – Transmission Application by Personal Representative (No Grant in Queensland or no Queensland recognised grant)

This form of application is used when:

1	**the deceased registered proprietor died leaving a will**	Where: a. the applicant is or is entitled to be the deceased's personal representative; or b. the registrar considers that the applicant would succeed in an application for a grant of representation (i.e. probate or letters of administration with the will annexed) but has not obtained such a grant.
2	**the deceased registered proprietor died without a will (intestacy)**	Where: a. the Registrar is of the opinion that the person would succeed in an application for a grant of representation; and b. the gross value of the deceased's estate in Queensland at the date of death, other than property held by the deceased as a joint tenant, was not more than $300,000 (or such other amount as may be prescribed by regulation); and c. letters of administration of the deceased's estate have not been granted in Queensland within 6 months after the death of the registered proprietor.

In these situations, the Registrar performs a similar role to a court of probate.

For the first situation where the deceased registered proprietor died leaving a will, the Registrar may require further evidence to be satisfied of the validity of the will and the testamentary capacity of the deceased registered proprietor at the date of the will:

Validity of the will

The Registrar will require a supplementary statutory declaration to establish the validity of the will if considered necessary, e.g. a statutory declaration of due execution where no attestation clause appears in the will or the will is undated. In such cases, a clear and true copy of the last original will must be provided as an exhibit to any supplementary statutory declaration and endorsed with the appropriate exhibit marking and certificate.

The Registrar will also examine the deceased's certificate of death to ensure that the cause of death does not suggest a lack of testamentary capacity at the date of the will. If it does, the Registrar will ask for evidence to clarify the matter.

Where the Executor is identified by their Position rather than by Name

There are instances where the testator appoints an executor who is identified only by their position, and/or employer, rather than by name (e.g. 'an Associate or a Partner at the firm of Atticus & Finch'). Where this has occurred, any person who holds the position (as described in the original will) may accept the nomination as executor.

If a person who holds the appointed position does choose to accept the role of executor, a 'Deed of Nomination and Acceptance' should be prepared and executed which must include the following:

- the full name of the executor who is accepting the nomination;
- the position that executor holds (this position must correspond with the position appointed as executor under the will - if there is any variation in the position held from the description in the will, an explanation of that variation, and why it is appropriate for the executor to accept the nomination despite that variation should be included);
- the executor's acceptance of the nomination under the will;
- a description of the will appointing the executor that is sufficient to identify it (such that there is no ambiguity).

The original Deed of Nomination and Acceptance is required to be deposited with the Form 5A. For further information regarding supporting documentation refer to Part [5-4140].

On registration the applicant appears on the title as 'personal representative'.

[5-2160] Form 6 – Transmission Application for Registration as Devisee/Legatee

This form of application is made by a devisee/legatee of the deceased registered owner or holder of the interest, with the written consent of the personal representative or person entitled to appointment as such.

As indicated, the applicant must be the person beneficially entitled under a will to a lot or an interest of a deceased registered owner or holder of an interest.

Presumption of Tenancy

For wills made or republished prior to 1 December 1975: the common law presumption of joint tenancy applies where there is no clear indication in the will as to the tenancy of the beneficiaries unless the will provides otherwise by express word or by necessary implication from the words used. E.g. a substitutional provision in a will is an indication that the primary beneficiaries are not to take as joint tenants. Where there is a substitutional provision or words of severance expressed in a will, the primary beneficiaries shall be taken to be tenants in common.

For wills made or republished on or after 1 December 1975: where there is no clear indication in the will as to the tenancy of the beneficiaries, s. 35 of the *Property Law Act 1975* provides that a disposition should be construed as made to or for the beneficiaries as tenants in common, and not as joint tenants, unless the disposition provides that the beneficiaries are to take as joint tenants or tenants by entireties.

Beneficiaries Surviving Testator

Section 33B of the *Succession Act 1981* requires a beneficiary under a will to survive the testator for a period of 30 days, unless a contrary intention appears in the will. Accordingly, an application in Form 6 cannot be executed within 30 days of the deceased's death unless such a contrary intention appears in the will.

Interested Witnesses

As a Transmission Application in Form 6 is akin to a transfer from the personal representative to the beneficiary, for deaths prior to 1 April 2006 the terms of the former s. 15 of the *Succession Act 1981* applicable prior to 1 April 2006 and in force at the date of death are relevant. The former s. 15 of the Succession Act renders dispositions other than payments of debts or remuneration to a witness, his/her spouse or persons claiming under the witness or spouse, null and void.

The applicants are to declare that neither they nor a spouse of theirs was a witness to the deceased's will. If this is not declared to, the application will be requisitioned as follows:

> 'The applicant should, by statutory declaration, declare that neither they nor a spouse of theirs was a witness to the will of… deceased'.

Section 11 of the Succession Act that replaces the former s. 15 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 applicant stating that they were not a witness to the will. If the declaration is not produced the application will be requisitioned as follows:

> 'The applicant should declare that they were not a witness to the will of [name of deceased], if such is the case (see s. 11 of the *Succession Act 1981*).'

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. If there are more than two witnesses to the will, the matter will be gauged on its merits.

Validity of the will

The Registrar will require a supplementary statutory declaration to establish the validity of the will if considered necessary, e.g. a statutory declaration of due execution where no attestation clause appears in the will or the will is undated. In such cases, a clear and true copy of the last original will must be provided as an exhibit to any supplementary statutory declaration and endorsed with the appropriate exhibit marking and certificate.

The Registrar will also examine the deceased's certificate of death to ensure that the cause of death does not suggest a lack of testamentary capacity at the date of the will. If it does, the Registrar will ask for evidence to clarify the matter.

For further information regarding supporting documentation refer to [5-4260].

Registration

On registration, the devisee/legatee appears on the title as a registered owner or holder of an interest. The personal representative is obliged to ensure that a distribution of the assets is in order before consenting to these applications.

Upon satisfying the registrar that the beneficiary is entitled to an interest in a lease, sublease or licence under the will and the personal representative has given written approval, the beneficiary may be registered as lessee, sublessee or licensee under s. 379 of the *Land Act 1994*[1, 3].

[5-2163] Life Estate Created by Will[1, 2]

The recording of a beneficial remainder estate is prohibited by s. 30(2) of the *Property Law Act 1974*. That section states that 'an interest in remainder created after the commencement of the Act must not be registered in the freehold land register'. Section 30(2A) provides that 'subsection (2) has effect despite anything in the *Land Title Act 1994*'.

Under a will, only the personal representative (as trustee) can exercise the powers conferred by the *Trusts Act 1973* in respect of trust property, including any life estate. To clarify, where a life estate is created under a will the life estate is not able to be recorded on title. Instead, the interest must be recorded in the name of the personal representative.

Therefore, a Form 6 – Transmission Application (by beneficiary) and a charge relating to a life estate cannot be registered.

A Form 5 or 5A – Transmission Application for transmission to the personal representative are the only acceptable forms in the circumstance. A request to record the life estate is **not** registrable in conjunction with the Form 5 or 5A.

[5-2167] Rights to Reside, Charges and Conditions in Will[1]

Section 5 of the *Trusts Act 1973* includes within the definition of 'trust property' a personal licence to reside for life given by will. However, this is a personal right or licence and, like other conditions and charges contained in the will, it does not constitute an estate or interest in land.

A right to reside, a charge or some other condition contained in a will may **not** be recorded on the title.

If the terms of a will place a condition on the beneficiary which must be complied with before the beneficiary can take the land, then evidence of the condition being complied with must be deposited with the application (e.g. a statutory declaration from the personal representative).

[5-2170] Undisclosed Trust

The Registrar is not required to supervise undisclosed trusts and will register applications which, on their face, are entitled to registration.

[5-2180] Limitations

Most Transmission Applications in Form 5 are straightforward, as the validity of the will or the administration in intestacy has already been established and proved in the court and some form of evidence issued. These applications register the applicant as 'personal representative'.

If the grant of representation is a 'limited' grant to certain actions, e.g. limited to dealings with certain property, 'limited' should be noted in item 6 of the Form 5 after the words 'personal representative'. The titles registry is only concerned where the executor is limited to certain actions and not a limitation on the appointment of the executor.

[5-2190] Other Equities

There may be other equities affecting a lot or an interest, such as trust or partnership equities or the equity of a purchaser under a contract of sale (between the deceased and the purchaser). A lot or an interest which is the subject of a trust, partnership or contract of sale should **not** be dealt with by way of a 'limited transmission', i.e. a recording of the personal representative as 'personal representative – trust', 'personal representative – partnership' or 'personal representative – contract of sale'. The personal representative should simply be recorded (by the transmission application) as 'personal representative'. Once this has occurred, the other equities can be dealt with by way of the appropriate Form 1 – Transfer (e.g. a Form 1 – Transfer to Trustees (see Part 1, esp. [1-2380] and [1-2390])).

[5-2200] Advertising Requirements

The Registrar may require that public notice be given of a transmission application prior to registering the application. However, the Registrar has discretion in regard to this.

For information about advertising see [60-0760] and [60-0830].

[5-2210] to [5-2240] deleted

Partnerships

[5-3000] Partnerships generally

If a partner is the registered proprietor of an interest that is partnership property, then dealings with that interest will be subject to the provisions of the *Partnership Act 1891* and any partnership agreement. Partnership property is not recorded as such in the registers kept by the Registrar of Titles and Registrar of Water Allocations.

[5-3100] Dealing with the interest of a deceased partner

Upon the death of a partner, the legal interest in any land which is an asset of the partnership passes in accordance with the general rules of law applying to succession (see section 23(2) of the *Partnership Act 1891*).

Section 36(1) of the Partnership Act provides that a partnership will dissolve upon the death of a partner, subject to any agreement to the contrary between the partners. If there is no written agreement between the partners, the partnership will dissolve.

Titles Registry practice is therefore that the interest of a deceased partner should be dealt with in the usual way (i.e., by lodgement of a Form 4 – Record of Death for a deceased joint tenant or a Form 5/5A for a deceased sole owner or tenant in common) but following this, the interest should be dealt with in accordance with the terms of the partnership agreement.

Three common scenarios where a deceased partner is the registered proprietor of an interest are detailed below:

- Scenario 1 – the death of a partner who is a sole registered proprietor of a partnership interest:
  - Scenario 1A – where the partnership dissolves
  - Scenario 1B – where the partnership continues
- Scenario 2 – the death of a partner who is a registered proprietor of a partnership interest as a joint tenant with the other partner/s:

  - Scenario 2A – where the partnership dissolves
  - Scenario 2B – where the partnership continues
- Scenario 3 – the death of a partner who is a registered proprietor of a partnership interest as a tenant in common with the other partner/s:
  - Scenario 3A – where the partnership dissolves
  - Scenario 3B – where the partnership continues

Scenario 1 – Death of a partner who is a sole registered proprietor of a partnership interest

For example:

- Where a partner who is the sole registered owner of a lot dies.
- Where a partner who is the sole registered proprietor of a lease dies.

Scenario 1 – Table showing instruments required in order of lodgement

SCENARIO	PARTNERSIP STATUS	INSTRUMENTS REQUIRED IN ORDER OF LODGEMENT
1A	Dissolves	**Form 5/5A – Transmission Application** by the personal representative of the deceased partner. **Form 1 – Transfer** to distribute the interest to the entitled partners (or the beneficiary of the deceased partner) in accordance with the terms of the partnership agreement (and the will of the deceased partner) Completion: • Item 4: the consideration must accurately describe the basis of the transaction. Example wording: In consideration of [A], now deceased, and [B] being entitled to a one-half share each in the interest described in Item 1 by virtue of a distribution of the partnership assets of the [AB PARTNERSHIP] pursuant to the partnership agreement dated [DATE]. Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1): • evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5 3200])*.
1B	Continues	**Form 5/5A – Transmission Application** by the personal representative of the deceased partner. **Form 1 – Transfer** from the deceased partner to the new or continuing partners. Completion • Item 4 : the consideration must accurately describe the basis of the transaction. Example wording: In consideration of [B] and [C], being partners in the [PARTNERSHIP], assuming ownership of the land on behalf of the partnership in accordance with the partnership agreement of the [PARTNERSHIP] dated [DATE]. Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1) • evidence that demonstrates the interest is being dealt with in accordance with the terns of the partnership agreement (e.g. a certified copy of the partnership agreement – refer to [5-3200])*

*__Note__: reference can be made to the dealing number of a previous dealing where evidence was deposited.

Scenario 2 – Death of a partner who is a registered proprietor of a partnership interest as a joint tenant with the other partner/s

For example:

- Where two partners are the registered owners of a lot as joint tenants and one of the partners dies.

- Where two partners are the registered proprietors of a lease as joint tenants and one of the partners dies.

Scenario 2 – Table showing instruments required in order of lodgement

SCENARIO	PARTNERSIP STATUS	INSTRUMENTS REQUIRED IN ORDER OF LODGEMENT
2A	Dissolves	**Form 4 – Record of death** for the deceased partner. No additional evidence is required - only the evidence required for the Form 4 (refer to Part 4). **Form 1 – Transfer** to distribute the interest to the entitled partners in accordance with the terms of the partnership agreement. Completion: • Item 4: the consideration must accurately describe the basis of the transaction. Example wording: In consideration of [A], now deceased, and [B] being entitled to a one-half share each in the interest described in Item 1 by virtue of a distribution of the partnership assets of the [AB PARTNERSHIP] pursuant to the partnership agreement dated [DATE]. • Item 5: insert the names of the entitled partners and the share in accordance with the terms of the partnership agreement. If the deceased partner is entitled to a share the partner's name followed by 'since deceased' must be inserted. Example: [Partner A] since deceased as tenants in common [Partner B] equal shares • Item 6: If the deceased partner is entitled to a share his/her personal representative can sign on his/her behalf. Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1): • evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5 3200])*. **Form 5/5A/6 – Transmission Application** for the share of the deceased partner (if a share has been transferred to the deceased partner).
2B	Continues	**Form 4 – Record of Death** for the deceased partner. No additional evidence is required - only the evidence required for the Form 4 (refer to Part 4).

***Note:** reference can be made to the dealing number of a previous dealing where evidence was deposited.

Scenario 3 – Death of a partner who is a registered proprietor of a partnership interest as a tenant in common

For example:

- Where a partner who holds a 1/3 share in a lot as a tenant in common dies.
- Where a partner who holds a 1/3 share in a lease as a tenant in common dies.

Scenario 3 – Table showing instruments required in order of lodgement

SCENARIO	PARTNERSIP STATUS	INSTRUMENTS REQUIRED IN ORDER OF LODGEMENT
3A	Dissolves	**Form 5/5A – Transmission Application** by the personal representative of the deceased partner for the share of the deceased partner. **Form 1 – Transfer** to distribute the interest to the entitled partners (or the beneficiary of the deceased partner) in accordance with the terms of the partnership agreement (and the will of the deceased partner) Completion: • Item 4: the consideration must accurately describe the basis of the transaction. Example wording: In consideration of [A], now deceased, and [B] being entitled to a one-half share each in the interest described in Item 1 by virtue of a distribution of the partnership assets of the [AB PARTNERSHIP] pursuant to the partnership agreement dated [DATE] and in further consideration of [D] being entitled to the interest of [A], deceased, pursuant to the terms of his/her will dated [DATE]. Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1): • evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5 3200])*.
3B	Continues	**Form 5/5A – Transmission Application** by the personal representative of the deceased partner for the share of the deceased partner. **Form 1 – Transfer** of the deceased partner's share from the deceased partner to the new or continuing partners. Completion: • Item 4: the consideration must accurately describe the basis of the transaction. Example wording: In consideration of [B] and [C], being partners in the [PARTNERSHIP], assuming ownership of the land on behalf of the partnership in accordance with the partnership agreement of the [PARTNERSHIP] dated [DATE]. Evidence to be deposited in addition to any evidence required for the Form 1 (refer to Part 1): • evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement (e.g. a certified copy of the partnership agreement - refer to [5-3200])*.

*__Note__: reference can be made to the dealing number of a previous dealing where evidence was deposited.

[5-3200] Evidence that a partnership interest is being dealt with in accordance with the terms of the partnership agreement

When a Form 1 – Transfer is lodged that changes the registered proprietor of an interest that is a partnership asset (as per the scenarios set out in [5-3100]), it must be accompanied by evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership in the form of either:

- if a written partnership agreement exists – a certified copy of the partnership agreement or certified copies of other partnership documentation (see [60-1030] regarding the deposit of supporting documentation), or
- if no written partnership agreement exists:
  - a statutory declaration from the personal representative for the deceased partner or a remaining partner declaring to the terms of the partnership and confirming that the interest in the lot being dealt with is an asset of the partnership; or

– a letter from a solicitor acting for the personal representative of the deceased partner or the remaining partner(s), confirming that the interest in the lot is an asset of the partnership and stating that the dealing is in accordance with the terms of the partnership agreement.

Alternatively, if evidence that demonstrates that the interest is being dealt with in accordance with the terms of the partnership agreement has been deposited with a previous dealing, reference can be made to that dealing number.

[5-4000] Forms

[5-4000] General Guide to Completion of Forms

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

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

TRANSMISSION APPLICATION BY PERSONAL REPRESENTATIVE
(Grant in Queensland or Queensland recognised grant**)

FORM 5 Version 7

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 Titles Queensland 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. Deceased's Name

JOHN MICHAEL BROWN

2. Lot on Plan Description | **Title Reference**

LOT 1 ON RP155755 | 16560051

3. Interest held by deceased

FEE SIMPLE

4. Applicant

Given Names	Surname/Company Name and ACN/ARBN
MARY ALICE	BROWN

Address for service of notices to the applicant: 1 DOE STREET, CARINA QLD 4152
(for rates purposes, etc.)

5. Document(s) deposited

* Queensland Grant of Representation or Exemplification of Queensland Grant of Representation
(Probate, Letters of Administration, Order or Election to administer, reseal of grant of representation from outside Queensland)

~~* Queensland recognised grant** or Exemplification of Queensland recognised grant** issued by the relevant authority (note declaration in item 6)~~

*** rule through/delete if not applicable**
** a Queensland recognised grant is a grant of probate or letters of administration (within the meaning of the British Probates Act 1898) from any Australian state or territory, New Zealand or The United Kingdom of Great Britain and Northern Ireland.

6. Request / Declaration

The applicant is the personal representative of the deceased and it is requested that the applicant be registered as proprietor of the above interest in the land as personal representative.

Where the Transmission Application is made pursuant to a Queensland recognised grant or an Exemplification of a Queensland recognised grant – a search has been made that shows no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland.
Date of Queensland Court File Search: / /

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

J Coates
.....signature
JOHN IAN COATES
.....full name
SOLICITOR
.....qualification

Witnessing Officer

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

20/07/2021
Execution Date

M Brown
.....
Applicant's or Solicitor's Signature

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

SAMPLE

TRANSMISSION APPLICATION BY PERSONAL REPRESENTATIVE (No Grant in Queensland or no Queensland recognised grant**)

Dealing Number

OFFICE USE ONLY

Privacy Statement
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Print one-sided only

Lodger (Name, address, E-mail & phone number)
PHELPS & FOX
SOLICITORS
48 CREEK STREET
BRISBANE QLD 4000
mail@phelpsfox.com.au
(07) 3227 4646

Lodger Code (if any)
205

1. Deceased's Name

JAMES MICHAEL BROWN

2. Lot on Plan Description | **Title Reference**

LOT 1 ON RP145344 | 16561151

3. Interest held by deceased
FEE SIMPLE

4. Applicant

Given Names	Surname
HELEN PETRA	BROWN

Postal address of the applicant: 11 HARE STREET, CARINA QLD 4152
(for service of notices, including rates)

5. Document(s) deposited

*Original last will)
*Office copy of Death Certificate issued by the Registry of Births, Deaths & Marriages (Qld) or equivalent evidence from another state or country) of the deceased
)

***rule through/delete if not applicable**

** a Queensland recognised grant is *a grant of probate or letters of administration* (within the meaning of the *British Probates Act 1898*) from any Australian state or territory, New Zealand or The United Kingdom of Great Britain and Northern Ireland.

Transmission applications by a personal representative, with a Grant in Queensland or a Queensland recognised grant, are to be on a Form 5.

6. Request

In accordance with the particulars disclosed in the attached declaration, it is requested that the applicant be registered as proprietor of the above interest in the land as personal representative.

Witnessing officer must be aware of his/her obligations under section 162 of the *Land Title Act 1994*

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

.....signature		
.....full name		*J E Phelps* JOHN ERIC PHELPS
.....qualification **Witnessing Officer**	20/07/2021 **Execution Date**	..... **~~Applicant's or~~ Solicitor's Signature**
.....signature		
.....full name		
.....qualification **Witnessing Officer**	/ / **Execution Date**	..... **Applicant's or Solicitor's Signature**

(Witnessing officer must be in accordance with Schedule 1 of *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 Applicant and no witness is required in this instance

SAMPLE

I, HELEN PETRA BROWN

of 11 Hare Street, Carina, Brisbane
in the State of Queensland
do solemnly and sincerely declare that:

1. The applicant is or is entitled to be the personal representative of the deceased because:
   * the applicant is the executor of the last will of the deceased.
   ~~* (if other, state basis of entitlement)~~

2. I have caused a search to be made and find that no grant of administration of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland.

If a will

3. *(a) The deceased did not marry on or after the date of execution of the will.
   ~~*(b) The deceased married me on or after the date of execution of the will however, our marriage was solemnised on or after 1 April 2006 and I was married to the deceased at the time of his/her death.~~
   *(c) The deceased did not enter into a civil partnership on or after the date of execution of the will.
   ~~*(d) The deceased did enter into a civil partnership with me on or after the date of execution of the will and I was in a civil partnership with the deceased at the time of his/her death.~~

If a will and applicant is surviving husband or wife of the deceased

4. *The marriage between the deceased and me had not been dissolved nor had any proceedings for annulment been commenced.

If a will and marriage between applicant and deceased has been dissolved/annulled

~~5. *The marriage between the deceased and me was dissolved/annulled on or after 1 April 2006 however, by the deceased's will the deceased expressed an intention that my appointment as executor not be revoked.~~

If a will and applicant is the survivor of a civil partnership with the deceased

~~6 *The civil partnership between the deceased and me had not been terminated nor found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively.~~

If a will and a civil partnership between the applicant and deceased has been terminated or is void

~~7. *The civil partnership between the deceased and me was terminated or was found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively, however by the deceased's will the deceased expressed an intention that my appointment as executor would not be revoked.~~

If a will and deceased died on or after 5 June 2017 and applicant is surviving de facto partner

~~8. *The de facto relationship between the deceased and me had not ended.~~

If a will and deceased died on or after 5 June 2017 and de facto relationship between the applicant and deceased had ended

~~9. *The de facto relationship between the deceased and me had ended, however by the deceased's will the deceased expressed an intention that my appointment as executor would not be revoked.~~

If deceased died intestate

~~10. *The deceased died intestate and his/her gross estate in Queensland at the date of death did not exceed $300,000.~~

***rule through if not applicable**

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867* (Qld).**#**

 # The form of wording should comply with the appropriate Oaths/Evidence Act under which the declaration is being made. Note a declaration under the *Oaths Act 1867* (Qld) can only be taken by the persons listed in section 13 of that Act.

J E Phelps
..... signature
JOHN ERIC PHELPS
..... full name
Solicitor
..... Qualification

20/06/2021
Execution Date

H P Brown
.....
Applicant's Signature

Witness
as authorised under the relevant Oaths/Evidence Act

..... signature

..... full name

..... qualification

/ /
Execution Date

.....
Applicant's Signature

Witness
as authorised under the relevant Oaths/Evidence Act

SAMPLE

TRANSMISSION APPLICATION FOR REGISTRATION AS DEVISEE/LEGATEE

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 Titles Queensland website.

Lodger (Name, address, E-mail & phone number)
PHELPS & FOX
SOLICITORS
48 CREEK STREET
BRISBANE QLD 4000
mail@phelpsfox.com.au
(07) 3227 4646

Lodger Code (if any)
205

1. Deceased's Name
JAMES MICHAEL BROWN

2. Lot on Plan Description
LOT 1 ON RP145344

Title Reference
16561151

3. Interest held by deceased
FEE SIMPLE

Note: A Form 24A - Property Information (Transmission Application) must be attached to this Form where interest being transmitted is "fee simple" (Land Title Act 1994), "State leasehold" (Land Act 1994) or "water allocation" (Water Act 2000)

4. Applicant

Given Names	Surname	(include tenancy if more than one)
PATRICIA ALICE	BROWN	

5. Document(s) deposited

~~*Grant of probate)~~
~~*Grant of letters of administration with the will annexed)~~
~~*Reseal of grant of representation)~~
~~*Exemplification of grant of representation)~~

~~issued by the Supreme Court of Queensland in the estate of the deceased~~
~~*Grant of representation) other than from Queensland~~
~~*Exemplification of grant of representation) other than from Queensland~~

*Original last will of the deceased and an office copy of Death Certificate issued by the Registry of Births, Deaths & Marriages (Qld) or equivalent evidence from another state or country

***rule through if not applicable**

6. Request

In accordance with the particulars disclosed in the attached declaration and the consent of the (entitled) personal representative having been given, it is requested that the applicant be registered as proprietor of the above interest in accordance with this claim.

Witnessing officer must be aware of his/her obligations under section 162 of the *Land Title Act 1994*

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

G H Wilston
..... signature
GREGORY HAROLD WILSTON
..... full name
SOLICITOR
..... qualification

20/07/2021

P A Brown

Witnessing Officer | **Execution Date** | **Applicant's or Solicitor's Signature**

..... signature
..... full name
..... qualification

/ /

Witnessing Officer | **Execution Date** | **Applicant's or Solicitor's Signature**

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

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

SAMPLE

I, PATRICIA ALICE BROWN
of 24 Buck Street, Carina
in the State of Queensland
do solemnly and sincerely declare that:

1. The applicant is the devisee / legatee under the last will of the deceased.

2. ~~*The land described in clause of the will is the land described in item 2 on Form 6.~~
To be completed where the land in item 2, on Form 6, is specifically identified other than by way of lot on plan description

3. The information contained on the attached Form 24A is true and correct.

4. *If a will*
*(a) The deceased did not marry on or after the date of execution of the will.
~~*(b) The deceased married me on or after the date of execution of the will however, our marriage was solemnised on or after 1 April 2006 and I was married to the deceased at the date of his/her death.~~
*(c) The deceased did not enter into a civil partnership on or after the date of execution of the will.
~~*(d) The deceased entered into a civil partnership with me on or after the date of execution of the will and I was in a civil partnership with the deceased at the time of his/her death.~~

5. *If deceased died before 1 April 2003*
~~*(a) Neither I nor a spouse of mine was a witness to the execution of the will.~~

If deceased died on or after 1 April 2003 but before 1 April 2006
~~*(b) Neither I nor a spouse of mine as defined by section 5AA of the *Succession Act 1981* was a witness to the execution of the will.~~

If deceased died on or after 1 April 2006
(c) *(i) I was not a witness to the execution of the will.
~~*(ii) I was a witness to the execution of the will but documentation is deposited herewith evidencing the application of section 11(3) of the *Succession Act 1981*.~~

6. *I have caused a search to be made and find that no grant of administration of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland.
Only required if the will is not proved or not resealed in Queensland

7. *The marriage between the deceased and me had not been dissolved nor had any proceedings for annulment been commenced.
Required if the applicant is surviving husband or wife of the deceased and has not been granted a grant of representation in Queensland

8. ~~*The marriage between the deceased and me was dissolved/annulled on or after 1 April 2006 however, by the deceased's will the deceased expressed an intention that my entitlement as a beneficiary not be revoked.~~

9. ~~*The civil partnership between the deceased and me had not been terminated nor found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively.~~
Required if the applicant is survivor of a civil partnership and has not been granted a grant of representation in Queensland

10. ~~*The civil partnership between the deceased and me was terminated or found to be void under the *Civil Partnerships Act 2011* sections 18 or 30 respectively, however, by the deceased's will the deceased expressed an intention that my entitlement as a beneficiary not be revoked.~~

11. *If deceased died on or after 5 June 2017*
~~*(a) The de facto relationship between the deceased and me had not ended.~~
Required if the applicant is surviving de facto partner of the deceased and has not been granted a grant of representation in Queensland
~~*(b) The de facto relationship between the deceased and me had ended, however by the deceased's will the deceased expressed an intention that my entitlement as beneficiary not be revoked.~~

*** rule through if not applicable**

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of *the Oaths Act 1867* (Qld).**#**

 # The form of wording should comply with the appropriate Oaths/Evidence Act under which the declaration is being made. Note a declaration under the *Oaths Act 1867* (Qld) can only be taken by the persons listed in section 13 of that Act.

G H Wilston
..... signature
GREGORY HAROLD WILSTON
..... full name
SOLICITOR *P A Brown*
..... Qualification 20/06/2021 .....
Witness **Execution Date** **Applicant's Signature**
As authorised under relevant Oaths/Evidence Act

SAMPLE

I, PATRICIA ALICE BROWN

of 24 Buck Street, Carina, Queensland

declare that:

~~*I am the person to whom the grant of representation was made.~~
*I am the person named as executor in the original last will.
~~*I am entitled to be the personal representative of the deceased by virtue of _____.~~

***rule through if not applicable**

All just debts and funeral expenses have been paid and testamentary expenses have been adequately provided for. Legacies, if any, have been paid or adequately provided for.

AND I consent to this application.

G H Wilston
.....signature
GREGORY HAROLD WILSTON
.....full name
SOLICITOR
.....qualification

20/06/2021
Execution Date

P A Brown
.....
Personal Representative's Signature

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

/ /
Execution Date

.....
Personal Representative's Signature

Witnessing Officer

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

SAMPLE

Guide to Completion of Form 5

[5-4010] Item 1

Insert the name, as recorded, of the deceased registered owner or holder of the interest.

Where a personal representative of an estate is recorded on title (original personal representative) and a new personal representative is appointed before the estate was fully administered, Item 1 must be expanded in the following manner:

> '[name of the deceased original proprietor or holder] currently registered in the name of [name of the original personal representative] as personal representative.'

[5-4020] Item 2

Insert the details of the lot which is being transmitted or the lot over which the interest being transmitted is registered. For further information see part 1 – Transfer, esp. [1-2020].

More than one lot on plan description may be included in this Item and if the space provided is insufficient, a Form 20 – Enlarged Panel should be used. A separate application is required for the transmission of different interests. For more information see [59-2020].

[5-4030] Item 3

The following must be inserted:

- The interest held by the deceased; and
- Where the interest held by the deceased constitutes only part of a lot or interest – the share as a fraction (e.g. ¼, ½).

For example:

WHOLE OF A LOT OR INTEREST	PART OF A LOT OR INTEREST
'Fee Simple'	'½ interest in Fee Simple'
'Lease No. G123456'	'½ interest in Lease No. G123456'
'Mortgage No. 701543622'	'½ interest in Mortgage No. 701543622'
'State Lease'	'½ interest in State Lease'
'Water Allocation'	'½ interest in Water Allocation'

[5-4040] Item 4

Insert the applicant's full name. This should coincide with the name of the person in whose favour the grant of representation (referred to in Item 5) was made. Where the Form 5 is supported by a Queensland Reseal of Probate, the person claiming the estate in the application must be the person who submitted the documents to the Court for reseal and is named on the face of the reseal.

In the case of a (trustee) company, its Australian Company Number should be provided.

Complete the postal address of the applicant(s) for service of notice if the deceased was:

- a registered owner of a freehold lot; or
- a holder of a lease or licence under the *Land Act 1994*; or
- a holder of a water allocation.

[5-4050] Item 5

The relevant category of document/s deposited in support of the Transmission Application must be identified here. The inapplicable category must be ruled through or deleted.

Refer to [60-1030] for information relating to the deposit of supporting documentation.

[5-4060] Item 6

Execution and dating of the Transmission Application is required as indicated on the Form. As noted on the Form, the Application may be signed by a solicitor on behalf of the applicant and no witness is required in this instance. However, the solicitor **must** print his/her full name immediately below the signature.

Where the Transmission Application is made pursuant to a Queensland recognised grant or an Exemplification of a Queensland recognised grant that has not been resealed by the Supreme Court, the signing party declares that a search has been conducted that shows no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland. The date that the search was conducted must be inserted as the **Date of Queensland Court File Search**. In practice, the search should be conducted immediately prior to the execution of the Application, which should be lodged promptly thereafter.

Where the Application is made pursuant to a Queensland Grant of Representation (including a Queensland recognised grant that has been resealed by the Supreme Court) or Exemplification of Queensland Grant of Representation the declaration does not apply and the **Date of Queensland Court File Search** can be left blank.

[5-4070] deleted

[5-4080] Declaration by Applicant

In the usual case, no additional declaration by the applicant is required and it will be noted that the Form does not incorporate a declaration as an annexure like a Form 5A or Form 6. However, if the deceased's name as recorded in the Register differs from the deceased's name as shown in the deposited grant of representation or reseal, a statutory declaration confirming that they are one and the same person is required.

For example:

> 'The George Brown shown as the registered proprietor of Lot [no.] is one and the same person as the George Howard Brown referred to in the grant of probate deposited with the Form 5 application dated the… day… of 20…'.

If the differences are significant, the Registrar may require the grant to incorporate, as an alias, the name of the deceased as recorded in the register.

[5-4090] Documentation to be Lodged

The following documentation must be lodged to register the transmission:

1. Form 5;
2. One of the following*:

   probate (either original or Supreme Court office copy);

   or

   reseal of probate;

   or

   letters of administration;

   or

   where there is an order to administer or an order to administer in intestacy, certificate of authority and Supreme Court office copy of the will;

   or

   election to administer and certificate of authority;

   or

   a grant of representation or an exemplification of a grant of representation from a jurisdiction to which the *British Probates Act 1898* (Qld) applies (a Queensland recognised grant);
3. declarations and evidence to establish identity, if name changes are involved; and
4. for a water allocation title[2, 3]:
   a. Form W2F152 – Notice to registrar of water allocations of existence of supply contract (for water allocations managed under a Resource Operations Licence) – see Part 49, esp [49-0020]; or

b. Water Allocation Dealing Certificate – (for water allocations not managed under a Resource Operations Licence) – see Part 49, esp [49-0060]; and

c. a Form W2F164 – Acknowledgement notice for water allocation to which a distribution operations licence applies (for water allocations subject to a Distribution Operations Licence) – see Part 49, esp. [49-2080].

*Please note that the documents listed in (2) are not provided to the Titles Registry with a Form 5 (electronic) – Transmission Application by Personal Representative prepared and lodged through Electronic Conveyancing. The Subscriber representing the applicant/s will insert relevant particulars of any grant in the relevant panel in the form, make certifications in accordance with the Participation Rules (Queensland) for electronic conveyancing and retain a copy of the Grant of Representation as Supporting Evidence.

Guide to Completion of Form 5A

[5-4100] Item 1

Insert the name, as recorded, of the deceased registered owner or holder of the interest.

[5-4110] Item 2

Insert the details of the lot which is being transmitted or the lot over which the interest being transmitted is registered. For further information see Part 1 – Transfer, esp [1-2020].

More than one lot on plan description may be included in this Item and if the space provided is insufficient, a Form 20 – Enlarged Panel should be used. A separate application is required for the transmission of different interests. For more information see [59-2020].

[5-4120] Item 3

The following must be inserted:

- The interest held by the deceased; and
- Where the interest held by the deceased constitutes only part of a lot or interest – the share as a fraction (e.g. ¼, ½).

For example:

WHOLE OF A LOT OR INTEREST	PART OF A LOT OR INTEREST
'Fee Simple'	'½ interest in Fee Simple'
'Lease No. G123456'	'½ interest in Lease No. G123456'
'Mortgage No. 701543622'	'½ interest in Mortgage No. 701543622'
'State Lease'	'½ interest in State Lease'
'Water Allocation'	'½ interest in Water Allocation'

[5-4130] Item 4

Insert the applicant's full name. In the case of a company, its Australian Company Number should be provided.

Complete the postal address of the applicant(s) for service of notice if the deceased was:

- a registered owner of a freehold lot; or
- a holder of a lease or licence under the *Land Act 1994*; or
- a holder of a water allocation.

[5-4140] Item 5

The document/s deposited in support of the application must be listed here.

Any inapplicable documents listed on the Form must be ruled through or deleted.

Refer to [60-1030] for information relating to the deposit of supporting documentation.

Original will

If the deceased registered proprietor died leaving a will then "*Original last will" must be included in this item and the original will must be deposited.

If the deceased registered proprietor died without a will (see [5-2150]) then "*Original last will" must be ruled through or deleted.

Death certificate – testamentary capacity at the date of the will

If the deceased registered proprietor died leaving a will and the official certificate of death of the deceased is being deposited, the cause of death should be checked to ensure that it does not suggest a lack of testamentary capacity at the time the will was made. If it does, the Registrar will require evidence to be deposited to satisfy the Registrar that the deceased had testamentary capacity at the date of the will. For example:

- an original letter from a registered medical practitioner who treated the deceased during the period of time in which the will was drafted and executed. The letter is required to detail the deceased's capacity during this time and state that in the practitioner's opinion the deceased had testamentary capacity for the period in which the deceased's will was drafted and executed; or
- a statutory declaration from a solicitor who was a witness to the execution of the will, detailing how they satisfied themselves as to the deceased's testamentary capacity.

[5-4150] Item 6

Execution and dating of the Transmission Application is required as indicated on the Form. As noted on the Form, the Application may be signed by a solicitor on behalf of the applicant and no witness is required in this instance. However, the solicitor **must** print his/her full name immediately below the signature.

[5-4160] Declaration by Applicant

The document/s deposited will be those necessary to establish the entitlement to be the personal representative of the deceased. In the case of an application by the executor of any unproved will, the original will and the certificate of death of the deceased are likely to be the only documents required.

As the Form is used in different circumstances, it is necessary to comment separately on the declarations required for the separate circumstances in which the Form is used. This Form of Transmission Application is used where:

a. the deceased registered owner or holder of an interest left a will and the applicant is or is entitled to be the deceased's personal representative or, in the opinion of the Registrar, would succeed in an application for a grant of representation (i.e. probate or letters of administration with the will annexed); or

b. in the case of an intestacy, the applicant would be entitled, in the opinion of the Registrar, to obtain a grant of letters of administration (but has not obtained such a grant); and:

    i. the gross value of the deceased's estate in Queensland, other than property held by the deceased as a joint tenant, was not over $300,000 (or such other amount as may be prescribed by regulation); and

    ii. six months have elapsed from the date of death of the intestate.

A declaration in the prescribed Form 5A annexure must be completed and lodged with the Transmission Application. The statements required to be included or deleted are indicated on the declaration.

[5-4170] Paragraph 1

This paragraph may require the applicant to state the basis upon which he/she is entitled to be the personal representative. For example, if the instituted executor has died or renounced and the substituted executor is the applicant, this should be made clear and the relevant certificate of death or renunciation must be deposited. Similarly, if the applicant is the surviving executor, this should be made clear and a copy of the certificate of death of the deceased executor should be deposited with the Application. In these circumstances, the statement which should appear in paragraph 1 might be:

a. 'The applicant is the surviving executor appointed under the will referred to above.

b. AB, the other executor so appointed, died on 10 July 1992 as appears by the office copy of certificate of death deposited herewith.'

If the applicant is entitled to appointment as an administrator with the will annexed, the evidentiary statements required to establish this are the same as are required by the Supreme Court of Queensland in an application for a grant of letters of

administration with the will annexed. It may be that the basis of entitlement can be stated, such as 'The executor AB appointed by the will referred to above has died (certificate of death deposited herewith) and I am the sole residuary beneficiary'. In such a case, the space provided on the Form may be sufficient.

Where there is insufficient space on the single page declaration annexed to Form 5A for all declarants to execute on the single page of the declaration, separate declarations must be completed and executed. (Copies of certificates of death, original renunciations and/or consents should be referred to as 'deposited' with the Application).

If the situation is that referred to in paragraph (b) above (intestacy), paragraph 1 will require the applicant to establish his/her entitlement to a grant of letters of administration.

Prior to 1 April 2003, s. 5 of the *Succession Act 1981* included a definition of 'de facto spouse' to provide for a sharing by a de facto spouse of the estate of a person who died intestate.

Section 5AA of the Succession Act now includes the definition of a spouse generally as 'the person's husband or wife; or de-facto partner, as defined in the *Acts Interpretation Act 1954* (the AIA), section 32DA; or civil partner, as defined in the AIA, schedule 1'.

Where a Grant of Letters of Administration in Queensland of an intestate's estate has not been made and the deceased died on or after 1 May 1998, if in an application of this type the applicant is:

a. the deceased spouse, the following is required:

   for a death between 1 May 1998 and 31 March 2003, inclusive –

   – a statement that he/she is the spouse of the deceased and the deceased was not survived by a de facto spouse as defined by s. 5 of the *Succession Act 1981* as in force at the date of death of the deceased.

   for a death on or after 1 April 2003 –

   – a statement that he/she/they is/are the surviving spouse/s of the deceased as defined by s. 5AA of the *Succession Act 1981.*

b. the deceased's de facto spouse, the following is required:

   for a death between 1 May 1998 and 31 March 2003, inclusive –

   – a statement that he/she is the de facto spouse of the deceased as defined by s. 5 of the *Succession Act 1981,* as in force at the date of death of the deceased, and that the deceased was not survived by a spouse.

c. the deceased's child, the following is required:

   for a death between 1 May 1998 and 31 March 2003, inclusive –

   – a statement that he/she is a child of the deceased and that the deceased was not survived by a spouse or a de facto spouse as defined by s. 5 of the *Succession Act 1981* as in force at the date of death of the deceased.

   for a death on or after 1 April 2003 –

   – a statement that he/she is a child of the deceased and the deceased was not survived by a spouse as defined by s. 5AA of the *Succession Act 1981.*

   The applicant child of the deceased must also identify, by name, all the children of the deceased who survived the deceased and their dates of birth.

   However, if the deceased was survived by more than one child, as many as four children may apply as personal representatives.

Section 610 (Priority for letters of administration) of the Uniform Civil Procedure Rules 1999 requires that a person with a higher priority to the applicant must be accounted for (e.g. if a child of the deceased is the applicant and the deceased was survived by a spouse/de facto spouse, the spouse/de facto spouse must renounce his/her right to administer the deceased's estate).

[5-4173] Paragraph 2

The 'search' which this paragraph states as having been caused to be made is the same as the one required in an application for a grant of representation. It is not necessary to lodge any evidence that the search referred to in this paragraph has been made, nor is it necessary to specify the date on which the search was made. In practice, the search should be conducted immediately prior to the execution of the Application, which should be lodged promptly thereafter.

[5-4176] Paragraph 3

As indicated on the form the inapplicable clauses must be ruled through.

[5-4179] Paragraph 4

When the husband or wife of the deceased is the applicant in a Form 5A, and the marriage between the deceased and the spouse has not been dissolved or annulled, then this must be indicated by retaining paragraph 4.

[5-4182] Paragraph 5

When the former husband or wife of the deceased is the applicant in Form 5A, and the divorce or annulment occurred on or after 1 April 2006, and a contrary intention appears in the will that the former husband or wife is entitled despite the divorce or annulment, then this must be indicated by retaining paragraph 5.

[5-4184] Paragraph 6

When the surviving civil partner of the deceased is the applicant in a Form 5A, and the civil partnership between the deceased and the civil partner had not been terminated or has not been found to be void under section 18 or 30 of the *Civil Partnerships Act 2011*, then this must be indicated by retaining paragraph 6.

[5-4188] Paragraph 7

When the former civil partner of the deceased is the applicant in a Form 5A, and the civil partnership between the deceased and the civil partner had been terminated or has been found to be void under section 18 or 30 of the Civil Partnerships Act, and a contrary intention appears in the will that the civil partner's appointment as executor would not be revoked despite the termination or finding, then this must be indicated by retaining paragraph 7.

[5-4189] Paragraph 8

When the surviving de facto partner of the deceased is the applicant in a Form 5A, and the de facto relationship between the deceased and the de facto partner had not ended, then this must be indicated by retaining paragraph 8.

[5-4190] Paragraph 9

When the former de facto partner of the deceased is the applicant in a Form 5A, and the de facto relationship between the deceased and the de facto partner had ended, and a contrary intention appears in the will that the de facto partner's appointment as executor would not be revoked despite the ending of the de facto relationship, then this must be indicated by retaining paragraph 7.

[5-4191] Paragraph 10

Substantiation of the statement that the gross value of the estate in Queensland does not exceed $300,000 is **not** required. The Registrar relies on the applicant's statement in the declaration.

[5-4200] General Comments

Separate executions are required for each declarant. Where there is sufficient space on the single page annexure to Form 5A, it is permissible for more than one declarant to make and execute the declaration on the single page annexure. However, where there is insufficient space for all declarants to execute on the same single page declaration, separate declarations must be completed and executed.

If the applicant is to execute the declaration outside of Queensland, the appropriate form of attestation clause should be used. Refer to [60-0260] regarding the requirements for the form of declarations for other jurisdictions.

Although not required to be disclosed, if the lot or interest is an asset of a partnership or the deceased was the undisclosed sole trustee of it, the Form 5A may be inappropriate as a grant of representation may be necessary to enable the trust to be assumed. Such lot or interest should **not** be dealt with by way of a 'limited transmission', i.e. a recording of the personal representative as 'personal representative – trust' or 'personal representative – partnership'. The personal representative would be recorded (by the transmission application) as 'personal representative'. Once this has occurred, these other equities can be dealt with by way of the appropriate Form 1 – Transfer (e.g. a Form 1 – Transfer to Trustees (see [1-2380] and [1-2390])).

As previously noted, a Transmission Application may be registered in these circumstances only after six months from the date of death, where no letters of administration have been granted in that time and where the gross estate of the intestate in Queensland, other than property held by the deceased as a joint tenant, was not over $300,000 (or as otherwise prescribed by regulation).

[5-4210] Documentation to be Lodged

The following documentation must be lodged to register the transmission:

1. Form 5A;
2. documents referred to as 'deposited' in Item 5 of the Transmission Application;
3. Form 20 and supplementary statutory declaration/s, as appropriate; and
4. for a water allocation title:
    a. Form W2F152 – Notice to registrar of water allocations of existence of supply contract (for water allocations managed under a Resource Operations Licence) – see Part 49, esp. [49-0020]; or
    b. Water Allocation Dealing Certificate (for water allocations not managed under a Resource Operations Licence) – see Part 49, esp. [49-0060]; and
    c. Form W2F164 – Acknowledgement notice for water allocation to which a distribution operations licence applies (for water allocations subject to a Distribution Operations Licence) – see Part 49, esp. [49-2080].

Guide to Completion of Form 6

[5-4220] Item 1

Insert the name, as recorded, of the deceased registered owner or holder of the interest.

[5-4230] Item 2

Insert the details of the lot which is being transmitted or the lot over which the interest being transmitted is registered. For further information see Part 1 – Transfer, esp [1-2020].

More than one lot on plan description may be included in this Item and if the space provided is insufficient, a Form 20 – Enlarged Panel should be used. A separate application is required for the transmission of different interests. For more information see [59-2020].

[5-4240] Item 3

The following must be inserted:

- The interest held by the deceased; and
- Where the interest held by the deceased constitutes only part of a lot or interest – the share as a fraction (e.g. ¼, ½).

For example:

WHOLE OF A LOT OR INTEREST	PART OF A LOT OR INTEREST
'Fee Simple'	'½ interest in Fee Simple'
'Lease No. G123456'	'½ interest in Lease No. G123456'
'Mortgage No. 701543622'	'½ interest in Mortgage No. 701543622'
'State Lease'	'½ interest in State Lease'
'Water Allocation'	'½ interest in Water Allocation'

[5-4250] Item 4

If there is more than one applicant, their entitlement should be shown, e.g. 'as joint tenants' or 'as tenants in common in equal shares' or 'as tenants in common in the shares of one-third and two-thirds respectively', etc as the case may be.

[5-4260] Item 5

The document/s deposited in support of the application must be listed here.

Any inapplicable documents listed on the Form must be ruled through or deleted.

Refer to [60-1030] for information relating to the deposit of supporting documentation.

Death certificate – testamentary capacity at the date of the will

If the deceased registered proprietor died leaving a will and the official certificate of death of the deceased is being deposited, the cause of death should be checked to ensure that it does not suggest a lack of testamentary capacity at the time the will was made. If it does, the Registrar will require evidence to be deposited to satisfy the Registrar that the deceased had testamentary capacity at the date of the will. For example:

- an original letter from a registered medical practitioner who treated the deceased during the period of time in which the will was drafted and executed. The letter is required to detail the deceased's capacity during this time and state that in the practitioner's opinion the deceased had testamentary capacity for the period in which the deceased's will was drafted and executed; or
- a statutory declaration from a solicitor who was a witness to the execution of the will, detailing how they satisfied themselves as to the deceased's testamentary capacity.

[5-4270] Item 6

Execution and dating of the Transmission Application is required as indicated on the Form. As noted on the Form, the Application may be signed by a solicitor on behalf of the applicant and no witness is required in this instance. However, the solicitor **must** print his/her full name immediately below the signature.

[5-4280] Declaration by Applicant

A declaration in the prescribed Form 6 annexure must be completed and deposited with the Application. The statements required to be included or completed are indicated on the declaration. However, some paragraphs are deserving of comment.

[5-4290] Paragraph 1

Where the devisee/legatee is a corporation, this paragraph should be varied to begin 'The applicant is' (not 'I am'). The declarant should include a statement that he/she is authorised to make the declaration on the corporation's behalf. Further, even in the normal case where the applicant declares that he/she is the devisee/legatee, additional identification or evidence of entitlement may be required, for example, where:

a. the applicant is not named or is named differently in the will and/or is a substituted beneficiary; or

b. the effectiveness of the devise/legacy depends, as a matter of law, on other conditions being fulfilled.

In either of these circumstances, evidence must be provided to establish the entitlement of the applicant to the devise/legacy.

The Registrar does not require evidence of the payment of legacies and debts.

Examples falling within (a) above are as follows:

i. Where the devise/legacy is to a class such as 'to such of my children as shall survive me'. Here, the applicant must give details of the testator's children, including age, and make it clear that, if a child has failed to survive the testator, that child died without issue. Otherwise, the implications of s. 33N of the *Succession Act 1981* must be considered (i.e. the entitlement of the deceased child's issue to take the deceased child's share). An appropriate statement in this Item might be:

> 'The deceased left as his only children surviving him, us, your declarants.'
>
> 'No child of the deceased predeceased him.'
>
> 'AB, the only other child of the deceased, died on 10 January 1985 as appears by the office copy certificate of death deposited herewith, without issue.'

Note that s. 65 of the *Succession Act 1867* continues to have relevance where the will was executed prior to 1 January 1982 (the commencement date of the *Succession Act 1981*) and the deceased died prior to 1 April 2006.

ii. If the devisee/legatee is named 'Albert Brown' in the will, but his correct name is 'Albert William Brown', then no statement is required to identify them as one and the same. However, a significant difference, e.g. in the surname, will require explanation.

iii. If the applicant received his/her entitlement to claim by virtue of being a substituted or residuary beneficiary, then particulars of the predeceasing of the primary beneficiary should be declared and an office copy certificate of death of the primary beneficiary should be deposited with the Application. The statement required might be:

> 'I am the substituted beneficiary of the land described in Item 2, AB the primary beneficiary having predeceased the deceased as appears by the office copy certificate of death deposited herewith.'

Where the primary beneficiary was 'issue' of the testator, the relevance of s. 33N of the *Succession Act 1981* should be addressed as discussed in example (i) above. Again, the relevance of s. 65 of the *Succession Act 1867* should also be considered.

Examples falling within (b) above are as follows:

i. If the applicant is required by the will to have attained a certain age or met a certain qualifying condition (e.g. to have married), then evidence will be required showing that the age or other condition has been met.

If the provisions of ss. 28, 29 or 30 of the *Succession Act 1981* or the comparable sections that replaced those sections from 1 April 2006 as contained in Division 5 of Part 2 of the *Succession Act 1981* appear to affect the devise or legacy, appropriate evidence would need to be provided to establish entitlement.

[5-4300] Paragraph 2

Please complete as requested in the paragraph on the form.

[5-4303] Paragraph 3

As indicated on the form the information contained in the Form 24 must be true and correct.

[5-4305] Paragraph 4

As indicated on the form the inapplicable clauses must be ruled through.

[5-4307] Paragraph 5

As indicated on the form the inapplicable clauses must be ruled through.

[5-4310] Paragraph 6

As indicated on the form, this paragraph is relevant only where the applicant's claim is pursuant to an unproven will.

[5-4320] Paragraph 7

When the husband or wife of the deceased is the applicant in a Form 6, and the application is not supported by a grant of representation in Queensland, then he/she must indicate that the marriage between the deceased and the husband or wife has not been dissolved or annulled by retaining paragraph 7.

[5-4322] Paragraph 8

When the husband or wife is the applicant in a Form 6, and the marriage between the deceased and the applicant was dissolved or annulment occurred on or after 1 April 2006, and a contrary intention appears in the will that the former husband or wife is entitled despite the divorce or annulment, then this must be indicated by retaining paragraph 8.

[5-4324] Paragraph 9

When the surviving civil partner is the applicant in a Form 6, and the civil partnership between the deceased and the civil partner had not been terminated or has not been found to be void under section 18 or 30 of the *Civil Partnerships Act 2011*, then this must be indicated by retaining paragraph 9.

[5-4326] Paragraph 10

When the former civil partner of the deceased is the applicant in a Form 6, and the civil partnership between the deceased and the civil partner had been terminated or has been found to be void under section 18 or 30 of the Civil Partnerships Act, and a contrary intention appears in the will that the former civil partner's entitlement as beneficiary not be revoked, then this must be indicated by retaining paragraph 10.

[5-4327] Paragraph 11

When the surviving de facto partner of the deceased is the applicant in a Form 6, and the de facto relationship between the deceased and the de facto partner had not ended, then this must be indicated by retaining paragraph 11(a).

When the former de facto partner of the deceased is the applicant in a Form 6, and the de facto relationship between the deceased and the de facto partner had ended, and a contrary intention appears in the will that the de facto partner's entitlement as beneficiary would not be revoked despite the ending of the de facto relationship, then this must be indicated by retaining paragraph 11(b).

[5-4330] General Comments

Separate executions are required for each declarant. Where there is insufficient space on the annexure to Form 6 for declarants to make and execute on the annexure, additional declarations must be completed.

If the applicant is to execute the declaration outside of Queensland, the appropriate form of attestation clause should be used. Refer to [60-0260] regarding the requirements for the form of declarations for other jurisdictions.

[5-4340] Consent of Personal Representative

This part of the Form requires the completion of the name and address of the personal representative or person entitled to appointment as such and requires the deletion of the inapplicable items.

As with a devisee/legatee, if the unproven will showed the executor's name as 'Alice Brown', but her correct name was 'Alice Emily Brown', no evidence is required to identify them as one and the same. However, a significant difference (e.g. in the surname) will require an explanation.

It is necessary to insert in this section of the Form the basis of entitlement to be the personal representative. Where the Form 6 is supported by a Queensland Reseal of Probate, the person entitled to consent to the transmission as personal representative is the person whose name appears on the face of the reseal.

The execution of the consent by the personal representative must be witnessed by a person qualified in accordance with s. 161 of the *Land Title Act 1994* or s. 310 of the *Land Act 1994.*

A personal representative, without a grant of representation in Queensland, who is not the applicant must make a statutory declaration with any relevant paragraphs from the Form 5A Declaration by Applicant annexure (with "applicant" replaced with "personal representative"). For example, if the personal representative was:

- the current or former husband or wife of the deceased – paragraphs 4 and 5 (see [5 4179] and [5 4182]); or
- the current or former civil partner of the deceased – paragraphs 6 and 7 (see [5 4184] and [5 4188]); or
- the current or former de facto partner of the deceased – paragraphs 8 and 9 (see [5 4189] and [5 4190]).

[5-4350] General Comments

The consent of the personal representative is required even if the personal representative and the applicant are one and the same.

Separate executions are required for each personal representative consenting to a Form 6.

It is noted that the consent incorporates statements regarding the payment of or provision for just debts, funeral and testamentary expenses and legacies. The Registrar does not require evidence that these matters have been attended to. It is the personal representative's responsibility. These statements are incorporated to replace the need for a declaration relating to these issues by alerting personal representatives to some basic matters they should consider before consenting to the application.

[5-4355] Appropriation

Where an appropriation has taken place in the course of administering the estate, a Form 6 will be permitted provided that it is accompanied by a declaration from the personal representative stating, if such is the case:

- an appropriation has occurred during the course of administering the deceased's estate;
- the provisions of s. 33(1)(l) of the *Trusts Act 1973* have been complied with; and
- no application has been made to the Court to vary the appropriation.

[5-4360] Documentation to be Lodged

The following documentation must be lodged to register the transmission:

1. Form 6;
2. those referred to as 'deposited' as set out in Item 5 of the Transmission Application;
3. supplementary statutory declaration/s, as appropriate;
4. for fee simple, a State tenure (State lease or licence) and a water allocation title a Form 24A – Property Information (Transmission Application);
5. for fee simple or a State tenure (State lease or licence) a Form 25 – Foreign Ownership Information, if applicable (see [25-0020] and [25-0030]) [1]; and
6. for a water allocation title[2,3]:
    a. Form W2F152 – Notice to registrar of water allocations of existence of supply contract (for water allocations managed under a Resource Operations Licence) – see Part 49, esp. [49-0020]; or
    b. Water Allocation Dealing Certificate – (for water allocations not managed under a Resource Operations Licence) – see Part 49, esp. [49-0060]; and
    c. Form W2F164 – Acknowledgement notice for water allocation to which a distribution operations licence applies (for water allocations subject to a Distribution Operations Licence) - see Part 49, esp. [49-2080].

[5-6000] deleted

[5-5000] eConveyancing

[5-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [5-5105 and 62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[5-5100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions currently available through eConveyancing.

[5-5105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the Land Title Regulation 2022 provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

The Form 5 – Transmission Application is a required instrument under the regulation and is therefore required to be lodged through a ELN unless an exemption applies.

Because the Electronic Lodgement Network Operators (ELNOs) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and exemptions is maintained on the Titles Queensland website rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the Titles Queensland website for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[5-5110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the Titles Queensland website.

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a Form 5 – Transmission Application) and a list of these exclusions can be found on the Titles Queensland website and are updated from time to time as the functionality of each instrument changes.

[5-5115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For Further information refer to Part [62-6040].

[5-5200] Prescribed Requirements – Form 5 (electronic)

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 and digitally signing a Form 5 (electronic):

5-001 the Subscriber must retain as supporting evidence (refer to Rule 6.6 of the Participation Rules (Queensland)) a copy of the Grant of Representation that is the Evidentiary basis for the Transmission Application (e.g. a copy of the Queensland Grant of Probate).

5-002 Where the Evidentiary basis of the Transmission Application (Item 5) is a *Queensland recognised grant** or an Exemplification of a *Queensland recognised grant**:

1. a search must be made that shows that no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland; and
2. the Subscriber must retain evidence of the search (e.g. a copy of the search or a file note) as supporting evidence (refer to Rule 6.6 of the Participation Rules (Queensland)).

* A *Queensland recognised grant* is a grant of *probate* or *letters of administration* (within the meaning of the *British Probates Act 1898* (Qld)) from a jurisdiction to which the British Probates Act applies. The relevant Regulation sets out that the British Probates Act currently applies to grants from other Australian states and territories, New Zealand and the United Kingdom of Great Britain and Northern Ireland.

Note: this requirement does not apply to a *Queensland recognised grant* that has been resealed by the Supreme Court of Queensland because this is a Queensland grant.

[5-5300] Attachments – Form 5 (electronic)

There is no requirement or provision for any document or evidence to be included as an attachment with a Form 5 (electronic) lodged through eConveyancing.

[5-5400] Execution and Certification

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

[5-5600] Electronic Form

[5-5610] Approved Electronic Form

A Transmission Application by Personal Representative that is an Electronic Conveyancing Document must be lodged through an Electronic Lodgment Network in the form approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland).

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.

TRANSMISSION APPLICATION BY PERSONAL REPRESENTATIVE

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 Titles Queensland website.

1. Deceased's Name

Date of death:

2. Lot on Plan Description **Title Reference**

3. Interest held by deceased

4. Applicant

Address for service of notices to the applicant:
(for rates purposes, etc.)

5. Evidentiary basis for the Transmission Application

Jurisdiction:
Reference:
Date of Queensland Court File Search:

6. Request

The applicant is the personal representative of the deceased and it is requested that the applicant be registered as proprietor of the above interest in the land as personal representative.

Where the evidentiary basis of the Transmission Application is a Queensland recognised grant or an Exemplification of a Queensland recognised grant – a search has been made that shows no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland.

I certify that:

Signed by:

For
On behalf of
Dated:

[5-5620] Electronic Form Examples

TRANSMISSION APPLICATION BY PERSONAL REPRESENTATIVE

720015235
SY 202
07/01/2021 09:01:13

Lodger Details:

FRESH LEGAL SOLUTIONS
UNIT 1 25 THE SPIT
MAROOCHYDORE QLD 4558

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 Titles Queensland website.

1. Deceased's Name

JOHN MICHAEL BROWN
Date of death: 01/12/2020

2. Lot on Plan Description | **Title Reference**

LOT 1 ON RP155755 | 16560051

3. Interest held by deceased

Fee Simple

4. Applicant

MARY ALICE BROWN
Address for service of notices to the applicant: 1 Doe Street
(for rates purposes, etc.) Carina QLD 4152

5. Evidentiary basis for the Transmission Application

Queensland Grant of Representation
Reference: S 0001 of 2021

6. Request

The applicant is the personal representative of the deceased and it is requested that the applicant be registered as proprietor of the above interest in the land as personal representative.

Where the evidentiary basis of the Transmission Application is a Queensland recognised grant or an Exemplification of a Queensland recognised grant – a search has been made that shows no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland.

I certify that:

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. 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:
John Ian Coates
For FRESH LEGAL SOLUTIONS
On behalf of
MARY ALICE BROWN
Dated: 07/01/2021

SAMPLE

TRANSMISSION APPLICATION BY PERSONAL REPRESENTATIVE

720015236
PX 202
08/01/2021 09:01:13

Lodger Details:

TODEFF LEGAL SOLUTIONS
UNIT 2 25 THE SPIT
MAROOCHYDORE QLD 4558

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 Titles Queensland website.

1. Deceased's Name

JOHN MICHAEL BROWN
Date of death: 01/12/2020 Approximately

2. Lot on Plan Description | **Title Reference**

LOT 1 ON RP155755 | 16560051

3. Interest held by deceased

Fee Simple

4. Applicant

MARY ALICE BROWN
Address for service of notices to the applicant: 1 Hot Spot Lane
(for rates purposes, etc.) SUMMER BAY NSW 2012

5. Evidentiary basis for the Transmission Application

Queensland recognised grant
Jurisdiction: New South Wales
Reference: 2020/21121
Date of Queensland Court File Search: 07/01/2021

6. Request

The applicant is the personal representative of the deceased and it is requested that the applicant be registered as proprietor of the above interest in the land as personal representative.

Where the evidentiary basis of the Transmission Application is a Queensland recognised grant or an Exemplification of a Queensland recognised grant – a search has been made that shows no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland.

I certify that:

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. 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:
John Ian Coates
For TODEFF LEGAL SOLUTIONS
On behalf of
MARY ALICE BROWN
Dated: 08/01/2021

SAMPLE

TRANSMISSION APPLICATION BY PERSONAL REPRESENTATIVE

720015238
SY 202
09/01/2021 09:01:13

Lodger Details:

JAZZY LEGAL SOLUTIONS
UNIT 3 25 THE SPIT
MAROOCHYDORE QLD 4558

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 Titles Queensland website.

1. Deceased's Name

JOHN MICHAEL BROWN
Date of death: 01/12/2020 – 03/12/2020

2. Lot on Plan Description	**Title Reference**
LOT 1 ON RP155755	16560051

3. Interest held by deceased

Fee Simple

4. Applicant

MARY ALICE BROWN
Address for service of notices to the applicant: 2 Loch Downs Avenue
(for rates purposes, etc.) MELBOURNE VIC 3001

5. Evidentiary basis for the Transmission Application

Exemplification of Queensland recognised grant
Jurisdiction: Victoria
Reference: BS 20001/20
Date of Queensland Court File Search: 08/01/2021

6. Request

The applicant is the personal representative of the deceased and it is requested that the applicant be registered as proprietor of the above interest in the land as personal representative.

Where the evidentiary basis of the Transmission Application is a Queensland recognised grant or an Exemplification of a Queensland recognised grant – a search has been made that shows no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland.

I certify that:

1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. 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:
John Ian Coates
For JAZZY LEGAL SOLUTIONS
On behalf of
MARY ALICE BROWN
Dated: 09/01/2021

SAMPLE

[5-5700] Electronic Form Notes for Completion

Refer to the table below for notes for the completion of a Form 5 (electronic).

ITEM	NOTES
Item 5	There is no requirement for copies of documents showing the evidentiary basis of a transmission to be provided with the Form 5 (electronic). However, Prescribed Requirement 5-001 requires a Subscriber to retain a copy of the Grant of Representation that is the evidentiary basis of the transmission as supporting evidence (refer to [5 5200]).
Item 6	Where the evidentiary basis of the Transmission Application (Item 5) is a *Queensland recognised grant** or an Exemplification of a *Queensland recognised grant** there is a requirement to carry out a search that shows that no Grant of Representation of the estate of the deceased (including a reseal) has been made, applied for, or caveated against in Queensland (refer to Prescribed Requirement 5 002 in [5 5200]). There is no requirement for evidence of the search to be provided with the Form 5 (electronic). However, Prescribed Requirement 5 002 requires a Subscriber to retain evidence of the search (e.g. a copy of the search or a file note) as supporting evidence (refer to [5 5200]).

* A *Queensland recognised grant* is a grant of *probate* or *letters of administration* (within the meaning of the *British Probates Act 1898* (Qld)) from a jurisdiction to which the British Probates Act applies. The relevant Regulation sets out that the British Probates Act currently applies to grants from other Australian states and territories, New Zealand and the United Kingdom of Great Britain and Northern Ireland.

[5-7000] Case Law

Nil.

[5-8000] Fees

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

[5-9000] Cross References and Further Reading

Part 60 — Miscellaneous

Part 62 — eConveyancing

de Groot, *Wills Probate and Administration Practice (Queensland),* Nina Psaltis Consulting (loose-leaf service)

[5-9050] Notes in text

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.

Titles QUEENSLAND

Part 7 – Lease/Sub-lease

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 7 – Lease/Sub-lease

[7-0000] General Law

[7-0000] Preliminary

A lease is a contract between a lessor and a lessee whereby the lessor as registered proprietor grants to the lessee an estate or interest in land for a fixed term in consideration of the lessee paying rent. The lessee holds the leasehold estate during the term of the lease and the lessor holds the reversion, being the lessor's estate in the land subject to the lease. The leasehold estate is an asset of the lessee and may be assigned during the lessee's lifetime or upon his/her death.

The lessee acquires exclusive possession of:

- all or part of a lot as defined in the *Land Title Act 1994*; or
- all of a water allocation as defined in the *Water Act 2000*.

The building or land being leased is known as 'the leased premises' or 'the demised premises'[1].

Section 64 of the Land Title Act authorises registration of a lease or sub-lease over the whole or part of a lot and the Water Act authorises registration of a lease or sub-lease over the whole of a water allocation. A lease may therefore cover:

- the whole of a lot or water allocation;
- part of a lot[1];
- the whole of a building erected on a lot[1];
- part of a building erected on a lot[1];
- the whole of a lot in a building units plan or group titles plan[1];
- part of a lot or the common property in a building units plan or group titles plan[1];
- part of the common property in a community titles scheme[1].

A lease does not require registration to be valid (s. 71 of the Land Title Act).

However, if the initial term of the lease exceeds three years it must be registered to achieve indefeasibility (ss. 184 and 185(1)(b) of the Land Title Act)[1].

The relationship of lessor and lessee is governed by a wide range of statutory controls affecting different aspects of the relationship. These substantially restrict the parties' freedom to negotiate the terms of the lease contract. Statutory controls operate by regulating:

- certain types of tenancies (e.g. *Property Law Act 2023*, *Retail Shop Leases Act 1994*, *Residential Tenancies and Rooming Accommodation Act 2008*);
- aspects of land use, resumption and planning controls;
- the recovery of possession (e.g. Property Law Act); and
- the relationship of the contracting parties (e.g. *Racial Discrimination Act 1975* (Cth)).

The trend is of increasing statutory controls over these aspects of leases.

Capacity to Grant and Accept Lease

[7-0010] Lessor

The lessor must be the registered owner of the fee simple or of a water allocation or a share in the fee simple or a water allocation being leased. If a sub-lease, the sub-lessor must grant the sub-lease from its leasehold estate.

Section 78 of the *Land Title Act 1994* coupled with Part 9 of the *Property Law Act 2023* permits 'a proprietor' to grant a lease. The definition of 'proprietor' in schedule 2 of the Land Title Act includes a mortgagee in possession. Because of the lack of specific legislative authority in Queensland, the mortgage must give the mortgagee express authority to lease the mortgaged property.

A trustee of a bankrupt's estate or an Official Trustee in Bankruptcy, is authorised by s. 134 of the *Bankruptcy Act 1966* (Cth) to lease any property of the bankrupt.

A person, or two or more persons may lease to themselves (s. 11 of the Property Law Act). A person may also grant a lease over their fee simple estate or water allocation to themself jointly with another (s. 11 of the Property Law Act).

If a joint tenant, the lessor may lease to a co-joint tenant or to another, without severing the joint tenancy (*Cowper v Fletcher* (1865) 122 ER 1270; *Frieze v Unger* [1960] VR 230). A joint tenant can sever the joint tenancy by transferring their interest in the joint tenancy to themselves or to a third party (refer to Part [1-2300]).

If the lessor is a trustee or personal representative, there must be no prohibition against executing the lease in the will or trust instrument. If there is no such prohibition, but no specific power to lease, s. 32(1)(e) of the *Trusts Act 1973* gives the trustee authority to lease.

A trustee or personal representative or the registered proprietor may grant a lease over a lot which is the subject of a life estate with the consent of the life tenant. [1]

There is no authority for a minor to execute a lease as lessor. Accordingly, a lease by a minor either as a sole lessor or as one of several lessors is not acceptable unless a Court Order authorises a person to execute the lease on behalf of the minor.

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 lessor 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 leasing to a mutual lessee, separate forms are required for each lot.

[7-0020] Lessee

A lease to a minor (i.e. a person less than 18 years of age) is valid unless repudiated by the minor within a reasonable time after he/she attains majority. There is nothing to prevent a lease to a minor being registered on the indefeasible title, however, the endorsement will include reference to this fact. For more information on the requirements of an execution by a minor refer to Part 61, esp. [61-3090].

If more than one lessee, the lessees will hold either as joint tenants or tenants in common. In a joint tenancy, each tenant's interest devolves to the other/s on death (if a natural person) or on dissolution (if a corporation). As a tenant in common, each lessee holds separate interests in land capable of transmission by will. (For more information on joint tenancy and tenancy in common, see Part 4, esp. [4-0000].)

A lessee may be a corporation. Section 26 of the *Property Law Act 2023* permits a corporation to be a lessee, or a corporation and a natural person to be joint lessees.

A foreign person or foreign corporation may be a lessee.

A lessee may be a trustee or personal representative appointed under a will. A trustee may renew a lease pursuant to s. 39 of the *Trusts Act 1973*.

[7-0030] Term

A lease must be for a definite term so that the commencement and termination dates are capable of being fixed with certainty. A lease may commence on a date in the past or in the future.

The term of a future lease to a different lessee must not be coincident with the term, including further terms under options to renew, of a current lease, unless a concurrency is intended and expressed.

Leases expressed for a duration of short periods, whether the periods are continuous or otherwise, are capable of registration. Examples include leases for:

- certain hours of the day or night;
- specified days over a number of years; or
- the life of the lessor, the lessee or a named third person.

If granted by a trustee, a lease cannot exceed 21 years (s. 32(1)(e) of the *Trusts Act 1973*) unless the trust deed authorises leases for a greater term.

The term of a lease can be extended, either by lodging a new lease or by amending the term prior to the expiration of the term (s. 67 of the *Land Title Act 1994*).

(For the term of retirement village leases refer to [7-2130].)

Note: Only the initial term and first option period of the lease are recorded on the relevant title.

[7-0040] Mortgagee's Consent

If there is a registered mortgage of the lot (as defined in ss. 4 and 38 of the *Land Title Act 1994*), the mortgagee's consent to a subsequent lease or amendment of lease is required for the lease or amendment to be valid against the mortgagee (s. 66 of the Land Title Act). This does not affect the validity of the lease against third parties, but protects the rights of the lessee if the mortgagee takes possession of the lot. However, the consent is not a prerequisite for registration and the lease will be registered on the assumption that the lessee does not intend to seek the consent.

[7-0050] Planning Body Approval[1]

All approvals required under the *Land Title Act 1994* or other Acts must be in accordance with that Act.

Planning body approval is required for:

- a lease of part of land for a term exceeding ten years (inclusive of further term/s pursuant to option/s to renew); or
- a lease of any part of a building which includes **part** of the land outside the building for a term exceeding ten years (inclusive of further term/s pursuant to option/s); or
- a lease of part of a lot in a building unit plan or group title plan or part of the common property (ss. 8 and 22 of the *Building Unit and Group Titles Act 1980*). This applies to only those developments that relate to a specified Act referred to in the *Body Corporate and Community Management Act 1997* which are:
  a. the *Integrated Resort Development Act 1987*: or
  b. the *Mixed Use Development Act 1993*; or
  c. the *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*; or
  d. the *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*; or
  e. the *Sanctuary Cove Resort Act 1985*;

(s. 65(3A) of the Land Title Act and schedules 19 and 26 of the Sustainable Planning Regulation 2009).

However, planning body approval is not required for a lease of part of a lot in a lower plan under the Registration of Plans (H.S.P. (Nominees) Pty Limited) Enabling Act or the Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty Limited) Enabling Act.

An approval is current for six months from the date it was given (s. 50(4) of the Land Title Act).

[7-0060] Duty

Under the provisions of s. 11 of the Revenue Legislation Amendment Act 2005 lease duty was abolished from 1 January 2006. This makes lease duty inapplicable in some circumstances. For an instrument of lease where the term commences on or after 1 January 2006 lease duty does not apply and is not required to be stamped. For a lease where the term commenced prior to 1 January 2006, lease duty will apply and the instrument will need to be stamped.

Under s. 426 of the *Duties Act 2001* the State is not liable to pay duty. However, when a lease to the State commenced before 1 January 2006 it still must be properly stamped. In effect the lease must bear a notation by either the Queensland Revenue Office or an authorised registered self assessor.

[7-0070] Terms, Covenants, and Conditions

Sections 61 and 139 of the *Property Law Act 2023* imply terms in leases, including obligations and rights of lessors and lessees. These will apply unless negatived or varied by express term in the lease or another instrument (ss. 139(2), and 62 of the Property Law Act).

In practice, terms, covenants, and conditions are contained in the lease itself or incorporated in either a Form 20 – Schedule or by reference to a registered 'standard terms document' in terms of ss. 169 and 170 of the *Land Title Act 1994*, or both.

[7-0080] Concurrent Lease

A concurrent lease occurs when there are existing leases over some, or all, of the property recorded on title, and the registered owner/proprietor grants a lease encompassing the existing leased areas to a third party who then becomes the head lessor (they step into the shoes of the lessor). This lease is concurrent or simultaneous with the other leases on title. A concurrent lease should not be confused with a sub-lease. For information on sub-leases refer to [7-0140].

The concurrent lessee (the third party) takes on the responsibility of lessor and does not take exclusive possession of the existing leased areas. The lessees of the existing leases on title would pay rent to and negotiate terms with the concurrent lessee instead of the registered owner/proprietor.

A concurrent lease is valid if unregistered. However such a lease for a period greater than three years should be registered to be indefeasible[2].

If A (registered owner/proprietor) leases to B and then grants a concurrent lease to C, for the duration of the concurrency of the two leases:

- C is B's lessor;
- B's rent is payable to C; and
- C may recover possession of B's lease (not A).

[7-0090] Easement[1]

Where the land being leased has the benefit of an easement, the lessee takes the benefit of such easement, whether or not this entitlement is recited in the lease. If the lessee is granted an easement over another part of the lessor's land in terms of covenants contained in the lease, the lessee can be granted a separate instrument documenting that easement for registration. Ancillary rights contained in lease covenants may refer to the use of lifts, passageways, toilets etc, but these are not capable of being registered as easements.

[7-0100] Merger of Lease

If a lessee acquires the reversion (i.e. the fee simple or water allocation) or if the registered owner acquires an assignment of a lessee's interest, a merger of the lease occurs. Such a merger is not, however, automatic, as a merger by operation of law will only occur if the person acquiring both estates intends the estates to merge (s. 12 of the *Property Law Act 2023*). A merger will not occur in equity unless it is intended by the parties. A sub-lease is not terminated on the merger of the head-lease in the fee simple or water allocation (s. 145 of the Property Law Act). To effect a merger, a Form 14 – Request to Record a Merger on the title is required (refer to Part 14, esp. [14-2070]).

[7-0110] Option to Purchase[1]

An option to acquire the fee simple or other reversionary interest on or after the expiry of a lease (whether or not contained in a 'short lease' as defined in s. 4 of the *Land Title Act 1994*), must be registered to achieve indefeasibility (ss. 184 and 185(2) of the Land Title Act).

[7-0120] Amendment of Lease

A registered lease may be amended by registering an instrument of amendment of lease (s. 67 of the *Land Title Act 1994*) (refer to Part 13, esp. [13-2000]).

[7-0130] Option for Renewal

If a lease contains an option for renewal, the option may be for a period longer than the initial term of the lease. There is no limit to the number of options a lease can contain.

Options to renew contained in[1]:

- a registered lease with an initial term of more than three years; or
- a 'short lease' (as defined in s. 4 of the *Land Title Act 1994*) having an initial term which, together with further term/s pursuant to option/s, exceeds three years,

are indefeasible by registration (ss. 184 and 185(2) of the Land Title Act).

An option contained in an unregistered short lease is not indefeasible (s. 185(1)(b) of the Land Title Act)[1].

A right to exercise an option for renewal is indefeasible by registration of the lease[1]. If extensions of the lease term are unregistered (i.e. they are not made the subject of a new lease), the lessee loses the protection of indefeasibility in respect of any further options for renewal (refer to [7-0120] and [7-2150]).

[7-0140] Sub-Lease

A sub-lease is a lease granted by the lessee from its leasehold estate. The term of the sub-lease must be less than the duration of the head lease. The termination date for the sub-lease must be at least one day before the termination date for the head lease. If the period is equal to or greater than the duration of the head lease, it will constitute an assignment and will not operate as a sub-lease, as there is no reversion to the head lease.

If a head lease is surrendered by operation of law, any sublease remains valid, and the lessor under the new head lease, and any parties to any sublease, have the same rights and obligations as if the surrendered head lease had not been surrendered (s. 147 of the *Property Law Act 2023)*.

A sub-lease is not surrendered if the head lease is surrendered or merged in the fee simple or water allocation (s. 145 of the Property Law Act), but the sub-lease will take the reversion of the surrendered head-lease.

An option for renewal contained in a sub-lease cannot extend the term of the sub-lease beyond the duration of the head lease. In practice, an option contained in a sub-lease is exercised subsequent to and conditional upon the exercise of any option contained in the head lease.

[7-0150] Lease of Common Property under the *Building Units and Group Titles Act 1980* for Specified Acts[1]

The introduction of the *Body Corporate and Community Management Act 1997* limits the application of the *Building Units and Groups Titles Act 1980* to those developments under the provisions of the specified acts referred to in the Body Corporate and Community Management Act. The specified acts are:

a. the *Integrated Resort Development Act 1987*; or
b. the *Mixed Use Development Act 1993*; or
c. the *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*; or
d. the *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*; or
e. the *Sanctuary Cove Resort Act 1985.*

Subject to the approval of the relevant planning body (refer to [7-0050]) and pursuant to a resolution without dissent, the body corporate may:

- grant a lease over part of the common property not leased to it for the purpose of creating additional common property; and
- grant a sub-lease over part of the common property leased to it as additional common property.

There is no provision in the Building Units and Group Titles Act which allows for the grant of a lease over the entire common property in a building units or group titles plan.

[7-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[7-2000] Practice

[7-2000] Lease

To be registered, a lease is prepared on a Form 7 (version 7), together with covenants and conditions contained in a Form 20 – Annexure or a registered standard terms document identified by dealing number, or a combination of these.

Any lease prepared on a Form 7 (version 6 or earlier), can still be registered if current, however it will need to be accompanied by a properly completed and executed Form 20 – Lease Declaration. For more information on the use and completion of the Form 20 – Lease Declaration refer to [7-4500].

A lease is current if it is within the initial term of the lease.

Only one copy of the lease is to be presented for registration.

If there is a prior registered mortgage, the mortgagee's consent will not be a prerequisite to registration.

Lodgement fees are payable.

[7-2010] Execution

The lessor and lessee must execute Item 10 of the Form 7.

For executions refer to Part 50 – Companies and Corporations, esp. [50-0130] [50-0140] and [50-2000] and Part 61 – Witnessing and Execution of Instruments or Documents, esp. [61-3000].

[7-2020] Rental / Consideration

Item 7 of the Form 7 provides for rental / consideration to be stated. If there is insufficient space, Item 7 may show 'See Schedule'. Failure to insert rental details will prevent registration of the lease.

[7-2030] Consent

Consents should be prepared on Form 18. All consents to a lease should be bound into the lease. Consents to a lease or amendment of lease are required by:

- any mortgagee of the fee simple or water allocation if the lease is to be valid against the mortgagee (s. 66 of the *Land Title Act 1994*). However, consents of mortgagees are not a prerequisite to registration.
- a life tenant, if a lease is granted by a trustee, personal representative or registered proprietor and a charge for a life estate is registered[1].

[7-2035] Planning Body Approval[1]

Approval of the relevant planning body is required for leases and some instruments that affect leases of any part of a lot external to a building. Approval is required to a lease of:

- part of a lot;
- part of the common property in a community titles scheme;
- part of a lot or part of the common property, in a building units or group titles plan for those developments that relate to a specified Act referred to in the *Body Corporate and Community Management Act 1997* (refer to [7-0050]);

if the term of the lease (including option/s to renew) is more than ten years.

Approval is required to any amendment of a lease that extends the term (including option/s to renew) beyond ten years if the lease has not been approved.

The instrument of lease or amendment must be lodged within six months of the planning body approval.

Note: Leases of the whole or part of a building, irrespective of the number of the floors, or the term of the lease, do not require planning body approval unless part of the land outside the building is also included.

[7-2036] Lease of Water Allocation – Special Requirements

Water Allocation Managed under a Resource Operations Licence

In addition to other relevant requirements for a lease, a lease of a water allocation managed under a resource operations licence must be accompanied by a Form W2F152 — Notice to registrar of water allocations of existence of water supply contract.

Water Allocation Not Managed under a Resource Operations Licence

In addition to other relevant requirements for a lease, a lease of a water allocation not managed under a resource operations licence must be accompanied by a Water Allocation Dealing Certificate.

[7-2037] Lease by Body Corporate for a Community Titles Scheme[1]

When the body corporate of a community titles scheme executes a lease of all or part of the common property, the execution must be completed in accordance with the relevant regulation module for the scheme. For further information refer to Part [45-2060].

Planning body approval is only required where the term of the lease (including option/s to renew) is more than ten years.

For leases by a body corporate of a lot included in the scheme, refer to Part [45-2020] for further information.

Requirements Specific to Lessee

[7-2040] Co-Lessees

If there is more than one lessee, Item 3 of the Form 7 must show how the lessees intend to hold the lease between them. Where the lease does not show whether the co-lessees are to hold as tenants in common or as joint tenants, the lease will be requisitioned for the item to be completed. If holding as tenants in common, the share each lessee intends to hold must also be shown.

[7-2050] Trustee

If the lessee is to be recorded as a trustee, the words ‘as trustee’ must be inserted after the lessee/s name/s in Item 3 refer to [7-4030].

There is no longer a requirement to provide details of the trust instrument when lodging a lease to a trustee lessee (e.g. by depositing a certified copy of the trust deed or referring to a previous dealing where the trust deed was deposited).

For the specific requirements in relation to the transfer of a lease interest to a trustee lessee using a Form 1 – Transfer, refer to Part 1, esp. [1-2390].

Where a lessee holds as trustee and wishes to appoint a new trustee, this should be done by using a Form 1 – Transfer, refer to Part 1, esp. [1-2400] to [1-2430].

[7-2060] Foreign Person or Foreign Corporation

If a lessee is a company incorporated outside of Australia that is not registered in Australia under the *Corporations Act 2001* (Cth) (with an ARBN), evidence of incorporation from that country must be lodged, together with a translation by an acceptable interpreter if the evidence of incorporation is in a language other than English.

If the term of a freehold lease or sub-lease of State leasehold to a foreign person (foreign individual, foreign corporation or trustee of a foreign trust as defined in the *Duties Act 2001*) exceeds 25 years (inclusive of further term/s available under any option/s), a Form 25 – Foreign Ownership Information must be lodged with the Form 7 for noting on the Foreign Ownership of Land Register (refer to Part 25 and the *Foreign Ownership of Land Register Act 1988*)[1]. Please note that a foreign individual does not include a permanent resident of Australia.

[7-2070] Mortgagee in Possession

A mortgagee in possession may only grant a lease if there is express authority to do so in the mortgage instrument as there is no specific legislative authority in Queensland. Before a mortgagee in possession may lease the mortgaged property, evidence by way of a declaration of the mortgagor's default and of service of a notice of demand must be produced. The mortgagee's lease in Form 7 must be accompanied by a declaration as to the default and service of the notice on the mortgagor (preferably in Form 20), with a copy of the notice attached. Where a mortgagee enters into subsequent leases, evidence of any continuing default by the mortgagor must be produced.

One of the effects of the mortgagee acting in this manner is to encumber the mortgagor's right to redemption. Accordingly, if the mortgage is redeemed, the registered lease (granted by the mortgagee) remains as an encumbrance over the property affected. Similarly, where the property is sold or the mortgagee exercises its power of sale, any registered lease granted by the mortgagee remains as an encumbrance on the title of the purchaser.

Where a mortgagee in possession has granted a lease:

- the mortgagee in possession may deal with, or execute a surrender of, the lease as lessor; or
- a person other than the mortgagee in possession may obtain an order of the court to remove the lease.

Where the mortgage is no longer registered on title, the current lessor may deal with the lease.

[7-2080] deleted

[7-2090] Merger of Lease

Where there is a merger of lease, the lessee may make application in Form 14 – Request to Record Merger to record the merger of lease. This is a purely voluntary application and will not be requested by requisition.

The consent of any mortgagee of the lease must also be deposited. A duty notation is not required. However, lodgement fees are payable.

[7-2100] Concurrent Lease

To register a concurrent lease on the indefeasible title, the Registrar will examine the lease to ensure that the appropriate statement at item 9 of the Form 7 has been completed.

Both the original and concurrent leases will remain on the title.

[7-2110] Prior Registered Lease

The following table determines the requirements for surrender, cancellation or removal of registered leases, in cases where a lease is lodged ('New Lease') and there is a prior registered lease on the indefeasible title or water allocation title ('Existing Lease').

- 'Extensions' refers to any period for which the initial term of the lease has been extended pursuant to a Form 13 – Amendment of Lease;
- 'Option Period' refers to the period of a further term pursuant to an option to renew.

This table only applies when the New Lease is over the same premises or interest (being a lot, a water allocation, or part of a lot) as the Existing Lease. 1It does not apply to a lease of a different part of a lot (e.g. a different shop in a shopping centre, or a different Lease area on a Survey Plan).

Where an Existing Lease is being surrendered by operation of law – a letter from the lessee or the lessee's solicitor should be deposited confirming that written notice of the surrender by operation of law has been given to each registered mortgagee or sub-lessee of the Existing Lease including the date and method by which each notice was given (s. 69(3) of the *Land Title Act 1994* and s. 328(4) of the *Land Act 1994*). If a Form 18 – Consent from a registered mortgagee or registered sub lessee of the Existing Lease is deposited this will be accepted as evidence that the required notice has been given to the consenting party.

For further information regarding prior leases, refer to Part [7-2230].

	REQUIREMENTS FOR LODGEMENT		
New Lease Scenario	**Lodged during initial term (including extensions)**	**Lodged during first option period**	**Lodged when initial term (including extensions) and option period have expired**
New Lease to Same Lessee	New Lease for residual, longer or shorter period than term or term plus Extensions: • A letter from the lessee or the lessee's solicitor confirming that written notice of the surrender by operation of law has been given to each registered mortgagee or registered sub-lessee of the Existing Lease (including the date and method by which each notice was given). • Appropriate statement at Item 9 of Form 7 or on Form 20- Lease Declaration must be completed. (If a Form 18 – Consent from a registered mortgagee or registered sub-lessee is deposited this will be accepted as evidence that the required notice has been given to the consenting party) Existing Lease surrendered by operation of law. **Existing Lease and associated dealings (except sub-leases) removed from title.**	New Lease for residual, longer or shorter period than the Option Period: • A letter from the lessee or the lessee's solicitor confirming that written notice of the surrender by operation of law has been given to each registered mortgagee or registered sub-lessee of the Existing Lease (including the date and method by which each notice was given). • Appropriate statement at Item 9 of the Form 7 or on Form 20 – Lease Declaration must be completed. (If a Form 18 – Consent from a registered mortgagee or registered sub-lessee is deposited this will be accepted as evidence that the required notice has been given to the consenting party) **Existing Lease and associated dealings (except sub-leases where surrendered by operation of law) removed from title.**	Appropriate statement at Item 9 of Form 7 or on Form 20 – Lease Declaration must be completed. Existing Lease expired. **Existing Lease removed from title.**
New Lease to Different Lessee	New Lease for residual, longer or shorter period than term or term plus Extensions: • Concurrent lease if indicated by completion of the appropriate statement at Item 9 of the Form 7 or on Form 20 – Lease Declaration. **Both leases remain on title.** • If not concurrent lease, either – complete the appropriate statement at Item 9 of the form 7 or on Form 20 – Lease Declaration or – surrender (Form 8*) or – determination (Form 14**) of Existing Lease required. **Existing Lease removed from title by surrender or determination.**	New Lease for residual, longer or shorter period than the Option Period: • Concurrent lease if indicated by completion of the appropriate statement at Item 9 of the Form 7 or on Form 20 – Lease Declaration. **Both leases remain on title.** • If not concurrent lease, either: – complete the appropriate statement at item 9 on the Form 7 or on Form 20 – Lease Declaration or – surrender of Existing Lease (Form 8*); or – determination of Existing Lease (Form 14**) required. **Existing Lease removed from title.**	Appropriate statement at Item 9 of Form 7 or on Form 20 – Lease Declaration must be completed. Existing lease expired. **Existing Lease removed from title.**

	REQUIREMENTS FOR LODGEMENT		
No New Lease – Lessor wants Existing Lease Removed from Title	Surrender (Form 8*) or determination (Form 14**) of Existing Lease required. **Existing Lease removed from title by surrender or determination.**	Surrender (Form 8*) or determination (Form 14**) of Existing Lease or Request to Remove Lease from title with declaration by lessor that option not exercised (Form 14**). **Existing Lease removed from title by surrender, determination or Request to Remove Lease.**	Request to Remove Lease from title (Form 14 – no lodgement fee is payable and no duty notation is required). **Existing Lease removed from title.**

* A lodgement fee is payable (see the Titles Fee Calculator available online) and a duty notation is required.

** A lodgement fee is payable (see the Titles Fee Calculator available online) and a duty notation is required if the lease commenced before 1 January 2006.

[7-2120] Amendment of Lease

A registered lease is amended by lodging a Form 13 – Amendment of Lease (refer to Part 13, esp. [13-2000]).

[7-2130] Retirement Village Lease[1]

Retirement village leases are usually granted for a term of years or the life of a lessee (or the surviving joint lessee). The latter leases terminate upon the death of the lessee (or surviving lessee). In leases with this term, the words relating to the termination date in Item 6 of the Form 7 may be deleted and the words 'or on the death of the lessee' as appropriate, inserted together with or in place of the termination date. Item 6 must not state words such as 'refer to clause [number] in the lease'.

Retirement village leases often contain a power of attorney clause, where the lessee grants power to the lessor to surrender the lease if an event occurs that would end the lease. Such powers of attorney cannot be used to execute documents in cases of death or mental incapacity of the lessee unless they are irrevocable in terms of s. 10 of the *Powers of Attorney Act 1998* (see further Part 16 – Request to Register Power of Attorney or Revocation of Power of Attorney).

[7-2140] Death of Lessee

On the death of a joint lessee, a Form 4 – Request to Record Death should be lodged. On the death of a sole lessee or a lessee tenant in common, a Form 5, 5A or 6 – Transmission by Death Application should be lodged. In either case, no copy of the lease will be required to accompany the application.

If a sole or surviving lessee of a lease for the life of a lessee dies during the currency of the lease, the death of the lessee must be recorded, by lodging a Form 4 – Record of Death, to extinguish the lease from the register. This request must be made either by the personal representative or the registered owner if authority to do so is contained in the lease. Such request must be supported by evidence of the death of the lessee and the applicant's authority to act in that capacity (e.g. the original probate).

For more information refer to Part 4, esp. [4-4060] or Part 5.

[7-2150] Option for Renewal

Registering the exercise of an option to renew a lease may be done by registering a new lease for the term specified in the options field in Item 6 of the original lease. Duty must be noted, if applicable (refer to [7-0060]). Lodgement fees are payable.

The Registrar may remove expired leases from the title in certain circumstances.

(For more information on the removal of leases from the register, refer to [7-2110] and [7-2200].)

[7-2160] Option to Purchase

No reference is made to options to purchase in lease endorsements on the indefeasible title, nor is an enquiry made by the Registrar whenever a subsequent transfer is lodged to ensure that the option has not been disregarded.

[7-2170] Sub-Lease

The formalities required for the creation and registration of a sub-lease are similar to those for a lease. Leases may contain covenants prohibiting or restricting sub-letting, but the Registrar will not review the head-lease to ensure that such prohibitions or restrictions are observed. If a sub-lease is presented in registrable form, it will be registered without investigation. The sub-lease must be in Form 7 with the covenants contained in an annexed Form 20 – Schedule or incorporated by reference to a registered 'standard terms document', or a combination of both.

Duty must be noted, if applicable refer to [7-0060]. Lodgement fees are payable.

A Form 18 – General Consent from any mortgagee of the lot may be obtained and lodged but this is not a prerequisite to registration.

It was previous practice, when a lot was subject to a number of leases (e.g. shopping centres), to record all transactions relating to a lease on the original copy of the registered lease held in the register and not on the indefeasible title[1]. To ensure that all recordings for leases registered prior to April 1994 are identified, it is prudent to search both the indefeasible title and the registered original lease.

[7-2175] Lease of trust land under the *Land Act 1994*[1]

A trustee may lease all or part of trust land (a reserve or deed of grant in trust) pursuant to section 57 of the Land Act.

The Minister's written approval to a trustee lease is required under section 57 of the Land Act other than in the following circumstances:

- the trustee lease is a trustee lease (construction), i.e. a lease of trust land to the State for the construction of transport infrastructure and the provision of transport services on the trust land or;
- the trustee is not the State or a statutory body as defined in the Land Act and a copy of a written authority for the lease under section 64 of the Land Act is deposited with the trustee lease or;
- the trustee is the State and a letter signed by the Minister for the relevant State department as trustee, or the Minister's delegate appointed under section 53A of the Land Act, is deposited with the trustee lease. The letter must state:
  a. that the trustee of the trust land is the State; and that
     i. the purpose of the trustee lease is consistent with the purpose for which the trust land was reserved or granted in trust; OR
     ii. the purpose of the trustee lease is inconsistent with the purpose for which the trust land was reserved or granted in trust and the trustee has a management plan for the trust land that satisfies the requirements of section 57(6) of the Land Act, and
  b. in granting the trustee lease, the trustee has complied with the requirements of section 28 of the Land Act.
- the trustee is a statutory body and a letter from the statutory body, signed by a suitably authorised officer, is deposited with the trustee lease. The letter must state:
  a. that the trustee is a statutory body as defined under the Land Act (please see definition below) and that
     i. the purpose of the trustee lease is consistent with the purpose for which the trust land was reserved or granted in trust; OR
     ii. the purpose of the trustee lease is inconsistent with the purpose for which the trust land was reserved or granted in trust and the trustee has a management plan for the trust land that satisfies the requirements of section 57(6) of the Land Act, and
  b. that in granting the trustee lease, the trustee has complied with the requirements of section 28 of the Land Act.

A statutory body under the Land Act is:

- a government entity within the meaning of the *Government Owned Corporations Act 1993* or
- a local government or
- a port authority under the *Transport Infrastructure Act 1994*

The meaning of a government entity under the *Government Owned Corporations Act 1993* is:

a. a government company or part of a government company; or
b. a State instrumentality, agency, authority or entity or a division, branch or other part of State instrumentality, agency, authority or entity; or
c. a department or a division, branch or other part of a department; or

d. a Government Owned Corporations Act entity; or

e. an entity prescribed by regulation

[7-2180] Transfer of Lease

Refer to Part 1 – Transfer, esp. [1-2480].

[7-2190] Dealing with Expired Lease

Where a dealing with a lease is lodged after the initial term and any first unexercised option period, it will be registered if it was executed **in** the initial term.

Where a dealing with a lease is lodged after the initial term and any first unexercised option period, it will not be registered if it was executed **after** the initial term.

Where a dealing with a lease is lodged in the first option period which has not been exercised, the following will apply:

- if the dealing has been executed in the initial term, the dealing may be registered
- if the dealing has been executed in the first option period which has not been exercised the dealing must be preceded by a Form 13 – Amendment to extend the term of the lease.

An amendment of a lease must not be lodged after the lease's term (which includes any first unexercised option period) has ended (s. 67(2)(c) *Land Title Act 1994*).

[7-2200] Cancellation of Expired Lease

The Registrar may remove expired leases from the title in certain circumstances. Additionally, where the appropriate form is lodged, an expired lease will be removed (refer to [7-2110] for details).

Where a new lease over:

- the same lot; or
- same part of a lot[2]

is lodged, the Registrar will remove an existing lease, in which the initial term and options have expired, in conjunction with an examination and registration of the new lease.

Where there is no option to renew or the period equivalent to a further term available under an option to renew has expired and no amendment has been lodged to extend the lease, the registered owner may at any time apply in a Form 14 – General Request to cancel the lease and remove it from the title. No lodgement fee is payable.

Where the lease contains an option for renewal and the period equivalent to a further term available under the option has not expired, the Form 14 – General Request to remove the lease from the title must be accompanied by a Form 20 – Declaration by the lessor confirming that the option was not exercised by the lessee. A solicitor or other authorised agent of the lessor may also make this statutory declaration provided the wording used in the statement reflects that they are authorised to do so. The Request may deal with multiple leases on one title or one lease on multiple titles. Lodgement fees are payable.

It is recommended that instruments that require the creation of an indefeasible title be preceded by a Form 14 – Request to Remove all expired leases[2]. The Request should be made by the registered owner (lessor) and should include all leases:

a. where the initial term, including any extensions registered by a Form 13 – Amendment of Lease, has expired and no option for renewal exists;

b. where the initial term and any period equivalent to a further term available under an option to renew have expired; and

c. with an option to renew that was not exercised by the lessee.

No lodgement fees are payable for leases in (a) or (b). Lodgement fees are payable for leases in (c). A Request relating to leases in (c) must be supported by a declaration by the registered owner (lessor) to the effect that the option was not exercised. No duty notation is required for requests for leases in (a) or (b). A duty notation is required for a request for a lease in (c) if the term of the lease commenced prior to 1 January 2006.

A single Form 14 – Request to Remove expired leases may be used for multiple leases over any number of lots owned by one registered owner.

See Example 4 in Part 14 – General Request for an example of a Request to remove an expired lease from the title.

[7-2205] Survey requirements of a lease over part of a lot[1]

Item 5 of the Form 7 contains a description of the premises being leased. If the premises being leased comprises the whole of a lot, the lease extent and land description fields must be completed.

If part of a lot is leased, a plan of survey identifying the part of the land must be lodged to precede the instrument of lease. If part of a building and part of the lot outside the building is leased, a sketch of the part of the building must be deposited, and a plan of survey identifying the part of the land is required to be lodged to precede the instrument of lease. The plan must be prepared in accordance with Direction 4.8.2 and either Direction 8 or 10 of the Registrar of Titles Directions for the Preparation of Plans (**RTDPP**).

A sketch plan contained in a prior registered lease is not acceptable for identifying a leased area in a new lease of part of a lot.

Leases are to be described on plans of survey by an alpha descriptor, for example – Lease A (etc) in Lot [number] on [Plan type and number] (e.g. Lease A in Lot 1 on SP123456). For the requirements for describing leases on plans refer to Direction 4.8.3 of the RTDPP (see also Part 21 – Plans and Associated Documents, esp. [21-2090]).

[7-2210] Sketch[1]

If part of a building on a lot is leased, the premises must be sufficiently identified, either by means of a description satisfactory to the Registrar or a sketch, which conforms to the standards, required by the Registrar (s. 65 of the *Land Title Act 1994*). An additional fee is payable for the examination of a sketch. For specific information on the requirements for a sketch, refer to Directions 5.2 and 5.3 of the RTDPP.

A lease sketch must boldly outline that area which is the subject of the lease, such that the leased area is clearly and unambiguously identified.

When the roof of a building is leased, it is regarded as being a lease of land. Consequently, the plan must define the roof height and the leased area as a volumetric parcel. The plan must be drawn to conform with the usual standards required for a volumetric plan of part of the land and the normal planning body approval requirements apply. The lease of space for signage on the wall of a building will require similar attention.

[7-2220] to [7-2340] deleted

[7-2211] General Comments[1]

Architectural or building plans are not acceptable.

Sketches must form part of the lease.

Prior to registration, when an original sketch plan in an instrument is deficient and is replaced by a new one, the original sketch plan should be marked ‘cancelled’ and initialled by all parties. The new sketch plan should be signed by all parties. Sketches may also be amended by the surveyor who certified the sketch in accordance with Direction 23 of the RTDPP.

After registration, amendments to the area of a lease are not permitted (s. 67(2) of the *Land Title Act 1994*).

Approval of the relevant planning body on Form 18 is required to some leases (refer to [7 2035]).

Note: Leases of the whole or part of a building, irrespective of the number of the floors, or the term of the lease, do not require planning body approval unless part of the land outside the building is also included.

[7-2355] and [7-2360] deleted

[7-2212] Examples of Sketches[1]

Refer to Direction 5.11 of the RTDPP for examples of sketches.

[7-2220] Description of Premises Being Leased

Every lease must clearly and unambiguously identify the premises being leased. The types of leased premises will vary from very simple to complex. For further information refer to the guide to completion in Part [7-4050].

The description of each leased premises must be unique and cannot conflict with other registered interests at the time of lodgement, unless the conflict is addressed in Item 9 on the Form 7. For further information refer to Part [7-2230] and Directions 4.8.3, 5.2, and 5.3 of the RTDPP.

[7-2230] Previous Leases (Leased Area Conflicts)

When a lease form is completed, the lessor must state whether the lease conflicts with any other lease registered on title, and if so, provide details of that conflict.

Details of how the conflict statements regarding previous leases should be completed are contained in the guide to completion for the Form 7 in Part [7-4090].

When a lease is lodged, the lodger must ensure that the statements relating to conflicts with previous leases are correct at the time of lodgement. If the statement in Item 9 on the Form 7 is incorrect after execution (but before lodgement), this must be corrected prior to lodgement either by:

- dealing with the conflict, refer to Part [7-2110]; or
- altering the statement on the form using the prescribed process, refer to Part [59-2040].

Where a previous version of a Form 7 is lodged (version 6 or earlier), the lodger must ensure the statements regarding previous leases (contained in paragraphs 4-7 of the Form 20 – Lease Declaration) are correct at the time of lodgement. If any statements in the Form 20 – Lease Declaration are not correct, the conflict will need to be dealt with either by:

- dealing with the conflict, refer to Part [7-2110]; or
- altering the statement on the form using the prescribed process, refer to Part [59-2040].

Where a lease is lodged and a conflict in leased premises is not adequately dealt with by the statements contained in the previous leases section of the Form or Lease Declaration, it may be requisitioned, and the conflict will need to be dealt with.

[7-2240] Lease Type (Purpose)

The lessor must select the relevant lease type for the transaction. This is determined by the purpose of the lease rather than the nature of the lessor.

The available lease types are: Residential, Commercial, Residential and Commercial, Government, and Water.

Residential leases under the *Residential Tenancies and Rooming Accommodation Act 2008* are generally not capable of registration. There are some exceptions which can be registered, e.g. where a life tenancy has been granted.

Commercial includes most other lease types that would not be described as Residential or Government and would encompass purposes such as office, retail, industrial, not-for-profit, storage, sporting, and recreation.

Residential and Commercial would apply where a single lease is used for a combination of these two purposes.

Government means any lease for a Government purpose, whether that be to a local government, or to a department or agency of a State or the Commonwealth.

Water applies where the lease is for a water allocation, and it may be combined with another lease type where appropriate.

[7-4000] Forms

[7-4000] General Guide to Completion of Form 7 – Lease/Sublease

For general requirements for completion of forms refer to Part 59 – Forms, esp. [59-2000].

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

LEASE / ~~SUB LEASE~~

FORM 7 Version 7
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Dealing Number

OFFICE USE ONLY

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

1. Lessor
BIG SHOPPING CENTRE LTD A.C.N. 123 456 789

Lodger (Name, postal address, E-mail & phone number)
Name: Busy Law
Postal Address: 1234 Queen St, Brisbane QLD 4000
Email: info@busylaw.com.au
Phone Number: 07 3000 1234

Lodger Code
165C

2. Lot on Plan Description (Use Form 20 - Enlarged Panel if multiple lines required)
LOT 123 **ON** SP**654321**

Title Reference
79876543

3. Lessee

Given name(s)	Surname/Company name and number	Tenancy / Capacity
	SMALL BAKERY PTY LTD A.C.N. 789 654 321	AS TRUSTEE

4. Interest being leased
FEE SIMPLE

Dealing Number (if applicable):

5. Description of premises being leased **(delete statements with a * if not applicable)**

Lease extent: Part of a Building

Land description: Lot 123 on SP654321

*Building premises designation: Shop 306
*Building level: Level 3
*Building identifier: Building A
*Building sketch reference: MPS 1345 v1

6. Term of lease
Commencement date/event: 22/04/2025
Expiry date: 21/05/2028 and/or Event:
Options: 2 x 3 Years

7. Lease Details
Rental/Consideration: $36,000 plus GST per annum
Lease Type: Commercial
Area/Volume: 67 Square Metres

8. Terms and Conditions (delete statements with a * if not applicable)
(a) Document Reference - Nil;
(b) Additional terms and conditions: *the attached schedule

9. Previous Leases (delete statements with a * if not applicable)
The Lessor confirms that:
*the time for the exercise of the option in a registered Lease has ended and the option has not been exercised for Lease no. 712345678

10. Grant/Execution
The Lessor leases to the Lessee, and the Lessee accepts the lease of, the premises described above on the terms and conditions in this lease and the Lessee acknowledges the amount payable or other consideration for the lease.

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

JPreston
..... Signature
John James Preston
..... full name
Solicitor
..... qualification
Witnessing Officer

22 / 04 / 2025
Execution Date

Big Shopping Centre Ltd A.C.N 123 456 789 by its duly appointed attorney Roland McKenzie under power of attorney No. 812345667

Mkenzie
.....
Lessor's Signature

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

..... signature
..... full name
..... qualification
Witnessing Officer

19 / 04 / 2025
Execution Date

Van Nguyen
Sole Director and Secretary
Small Bakery Pty Ltd
A.C.N. 789 654 321

Vnguyen
.....
Lessee's Signature

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

SAMPLE

[7-4010] Item 1 - Lessor

Insert the full name of lessor(s) or, in the case of a sub-lease, the full name of the lessee under the head-lease.

If the lessor is a body corporate under a community titles scheme then insert 'Body Corporate for [name of scheme] community titles scheme [scheme number]' e.g. 'Body Corporate for Seaview community titles scheme 1234'[2].

If the lessor holds on trust or as a personal representative, then this must be stated, e.g. '[name of lessor] as Trustee' or '[name of lessor] as personal representative'.

If there is insufficient space, any lessors not included on the Form can be included on a Form 20 – Enlarged Panel. Refer to Part [20-2020] for more information.

[7-4020] Item 2 – Lot on Plan Description and Title Reference

Freehold Description[1]

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.

The entire panel of Item 2 must be completed.

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

Item 2 must contain the description of the lot or lots and the title reference or references for the land that is affected by the lease, for example:

- for a multi-lot title, include only the descriptions of the lot or lots that the lease area spatially affects;
- where the lease is of part of a building and the building is situated on more than one lot or one title include only the lot or title that the lease area spatially affects.

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.

All information needed to complete Item 2 will appear on a search of the water allocation title.

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

Multiple Titles

Where a lease is over multiple titles, the first title should be completed on the Form 7, and any remaining titles or lines should be completed on a Form 20 – Enlarged Panel. Refer to Part [20-2020] for further information.

[7-4030] Item 3 - Lessee

Insert the lessee(s) full name and tenancy if there is more than one lessee.

If holding as tenants in common, the share each lessee intends to hold must also be shown.

If the lessee is to be recorded as a trustee, the words 'as trustee' must be inserted after the lessee(s) name(s) in Item 3. There is no requirement for a Form 20 - Trust Details Form to be deposited or other details of the trust instrument to be provided. See Part [7-2060].

For example:

3. Lessee

Given name(s)	**Surname/Company name and number**	**Tenancy/Capacity**
JOHN JAMES	PRESTON	AS TRUSTEE

If the lessee is a body corporate under a community titles scheme then insert 'Body Corporate for [name of scheme] community titles scheme [scheme number] e.g. 'Body Corporate for Seaview community titles scheme 1234'[1].

If there is more than one lessee, insert the name of the first lessee in Item 3 and include all remaining lessees on a Form 20 – Enlarged Panel. Refer to Part [20-2020] for further information.

[7-4040] Item 4 – Interest being leased

Insert 'fee simple' or 'water allocation'. If a sub-lease, the dealing number of the head lease must also be completed.

[7-4050] Item 5 – Description of premises being leased

The fields which need to be completed in Item 5, will depend upon the type of premises that is being leased e.g. 'whole of the land' or 'part of a building'.

This section is comprised of various sub-headings which correspond with the available fields in Item 5.

Example of Item 5, showing the fields that can be completed:

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent:
Land description:
*Part of land area description:
*Building premises designation:
*Building level:
*Building identifier:
*Building sketch reference:

The first step in completing Item 5, is to identify which of the fields need to be completed. Statements in Item 5 of the Form 7 that are marked with an '*' and are not applicable to the type of premises being leased must be either deleted or ruled through.

Where only one premises is being leased, complete the relevant fields to provide the description of the premises.

Where there are multiple premises being leased, a separate description (Item 5) for each leased premises must be provided. A Form 20 – Enlarged Panel should be used in these instances. Refer to Part [20-2020] for further information.

[7-4051] Which Fields in Item 5 need to be completed?

The Lease Extent and Land Description fields must be completed for all leases; the table below shows which other fields in Item 5 may be required for each type of leased premises:

		ITEM 5 FIELDS					
Example Number	**Type of Leased Premises**	**Lease Extent**	**Part of Land Area Description**	**Building Premises Designation**	**Building Level**	**Building Identifier**	**Building Sketch Reference**
1	Whole of the land	✓					
2	Part of the land	✓	✓				
3	Whole of a building • only building on title	✓		◎		✓	◎
4	Whole of a building: • more than one building on title	✓		✓		✓	✓
5	Part of the building: • only building on title • whole level being leased	✓		◎	✓	✓	◎
6	Part of the building: • only building on title • part of level being leased	✓		✓	✓	✓	✓
7	Part of the building: • multiple buildings on title • whole level being leased	✓		✓	✓	✓	✓
8	Part of the building: • multiple buildings on title • part of level being leased	✓		✓	✓	✓	✓

✓ Must Complete

◎ Complete if a sketch is deposited which includes this information.

Examples

The examples of the various lease types which have been included below show the fields which should be completed for each premises type. In these examples, the inapplicable statements have been deleted entirely.

[7-4051-1] Example 1 - Whole of the Land:

Where the lease is for the **Whole of the Land** (a lease of the whole of one or more lots) the following fields must be completed:

---

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Whole of the land

Land description: Lot 1 on SP789101

[7-4051-2] Example 2 - Part of the Land

Where the lease is for **Part of the Land** (a lease of part of one or more lots), the following fields must be completed:

---

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Part of the land
*Part of land area description: Lease A on SP123456

Land description: Lot 1 on SP789101

[7-4051-3] Example 3 – Whole of a Building – Only building on the Title

Where the lease is for the **Whole of a Building**, if the lease is the only building on the relevant title the following fields will need to be completed:

---

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Whole of a Building
*Building identifier: the only building

Land description: Lot 1 on SP789101

[7-4051-4] Example 4 – Whole of a Building - More than one building on the Title

Where the lease is for the **Whole of a Building**, if the lease is not the only building on the relevant title the following fields will need to be completed:

---

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Whole of a Building
*Building premises designation: Building 3
*Building identifier: Building 3
*Building sketch reference: MPS 1345 v1

Land description: Lot 1 on SP789101

[7-4051-5] Example 5 – Part of a Building – Only Building on Title – Whole level being leased

Where the lease is for **Part of a Building** of the **Only building on the title** for a **Lease of whole level** the following fields will need to be completed:

---

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Part of a Building
*Building level: Ground Floor
*Building identifier: the only building

Land description: Lot 1 on SP789101

[7-4051-6] Example 6 – Part of a Building – Only Building on Title – Part of Level being leased

Where the lease is for **Part of a Building** of the **Only building on the title** for a **Lease of part of the level** the following fields[1] will need to be completed:

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Part of a Building
*Building premises designation: Shop 5
*Building level: Ground Floor
*Building identifier:[1] the only building
*Building sketch reference: MPS 1345 v1

Land description: Lot 1 on SP789101

[1] Insert a specific Building identifier if one is completed on the sketch (e.g. Building A)

[7-4051-7] Example 7 – Part of a Building – Multiple Buildings on Title – Whole level being leased

Where the lease is for the **Part of a Building** where there are **Multiple buildings on the title** for a **Lease of the whole level** the following fields will need to be completed:

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Part of a Building
*Building level: Ground Floor
*Building identifier: Building A
*Building sketch reference: MPS 1345 v1

Land description: Lot 1 on SP789101

[7-4051-8] Example 8 – Part of a Building – Multiple Buildings on Title – Part of a Level being leased

Where the lease is for the **Part of a Building** where there are **Multiple buildings on the title** of a **Lease of part of the level** the following fields will need to be completed:

5. Description of premises being leased (delete statements with a * if not applicable)

Lease extent: Part of a Building
*Building Premises Designation: Shop 5
*Building level: Ground Floor
*Building Identifier: Building A
*Building sketch reference: MPS 1345 v1

Land description: Lot 1 on SP123465

[7-4052] Land Description

Complete the Land Description for the parcel of land in which the premises being leased is located.

The 'Land Description' must only include the 'Lot on Plan Description' for the land containing the premises being leased. Although the 'Lot on Plan Description' may be identical to that inserted in Item 2, it is not permissible to insert the words 'See item 2'.

LEASE EXTENT EXAMPLE	LAND DESCRIPTION EXAMPLE	FORM TO BE COMPLETED
Whole of the Land	Lot 1 on SP789101	Only on Form 7
Whole of a Building	Lots 1-2 on SP789101	Only on Form 7
Multiple premises on one lot		
• Part of the Land, and	Lot 1 on SP12345	Form 7
• Part of the Building.	Lot 1 on SP12345	Form 20 – Enlarged Panel
Multiple premises over multiple lots		
• Part of the Land, and	Lot 1 on SP12345	Form 7
• Part of the Building.	Lot 2 on SP12345	Form 20 – Enlarged Panel

Where there are multiple premises (e.g. part of the land and part of a building), the whole of Item 5 must be repeated for each of the premises being leased using a Form 20 – Enlarged Panel, refer to Part [20-2020]

[7-4053] Lease Extent

Where the whole of every lot or the whole of every water allocation in the title(s) described in Item 2 is being leased, insert 'Whole of the land', or 'Whole of the lot(s)' or 'Whole of the water allocation(s)'.

Where only part of the land is being leased, insert 'Part of the land'.

If the whole of a building is being leased, insert 'Whole of a building'.

If only part of a building is being leased, insert 'Part of a building'.

[7-4054] Part of Land Area Description

Use only for leases of part of the land (and not leases of part of a building).

If only part of the land described in Item 2 is being leased, insert in Item 5 'Lease [identifier] on SP [number] (must be a survey plan that has been registered or lodged)'.

[7-4055] Building Premises Designation

Use only for leases of buildings (and not for leases of land).

Describes the part of the building being leased – e.g. 'Shop 5'.

Optional for leases of the whole of a level unless there is a building premises designation specified in the lease sketch.

When completing the field insert the description of the leased premises as shown in the description on the lease sketch (e.g. 'Shop 5').

The 'Building premises designation' in Item 5 and that identified in the lease sketch must be identical.

[7-4056] Building Level

Use only for leases of part buildings (and not for leases of land or of whole buildings).

Describes the level of a building being leased e.g. 'Level 3'. The Building level in Item 5 and that identified in the lease sketch must be identical.

[7-4057] Building Identifier

Use only for leases of buildings (and not for leases of land).

Describes the building being leased – e.g. 'Building A'.

Complete with 'the only building' for leases of the only building on a lot, unless a building identifier is included in the lease sketch.

Where there are multiple separate buildings on the land and each building has been given an identifier, insert the identifier that corresponds to the premises being described.

In either case, the 'Building identifier' in Item 5 must be consistent with the lease sketch.

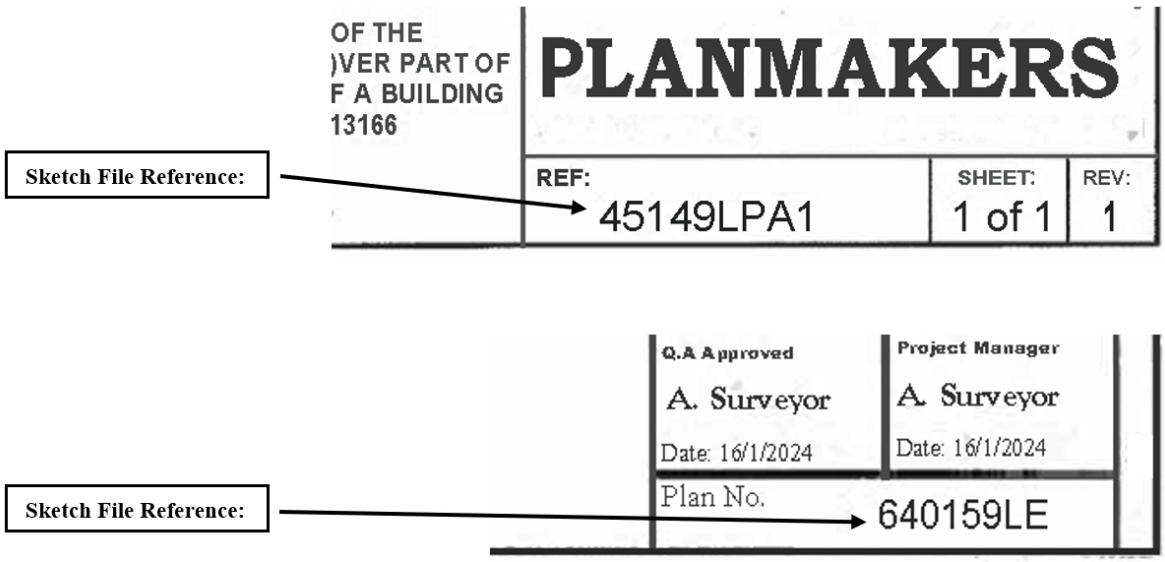
[7-4058] Building Sketch Reference

Use only for leases of buildings (and not for leases of land) where a lease sketch is attached.

This refers to the Building sketch reference allocated to the lease sketch e.g. 'MPS 1345 v1'

The Building sketch reference must be identical to that allocated to the lease sketch.

The sketch file reference is usually found on the bottom right-hand corner of the sketch and may be identified as a drawing number, plan number or similar. The building sketch reference shown in Item 5 of the Form 7 and that used on the sketch plan must be identical and easily identifiable. Some examples of references have been provided below:



[7-4060] Item 6 – Term of Lease

Complete the commencement and expiry dates in full e.g. 16/10/2024 and/or include details of the event(s) on which the lease commences and/or expires.

For the expiry details, do not insert the expiry date into the event field. If the lease expires upon an event, the event must be in writing e.g. 'death of tenant.' It is not acceptable to insert 'refer to schedule' for an event. If there is insufficient space to describe the event, a Form 20 – Enlarged Panel should be used, refer to Part [20-2020] for further information.

The details of the option/s must be completed. Where the lease does not contain an option/s, insert Nil.

Example

6. Term of lease
Commencement date/event: 22/10/2024
Expiry date: 21/10/2029 and/or Event:
Options: Nil

[7-4070] Item 7 – Lease Details

The fields that can be completed in Item 7 have been addressed separately in Parts [7-4070-1] to [7-4070-3].

[7-4070-1] Rental / Consideration

Provide information about the rent or other consideration in the space provided. The details may also be set out in a Form 20 – Schedule attached to the Form 7, or a supplementary document that is deposited with the lease. In this case, the words 'See Schedule' should be inserted.

[7-4070-2] Lease Type

Insert the Lease Type in the space provided. For more information on the available lease types, refer to Part [7-2240].

[7-4070-3] Area / Volume

Include the Area/Volume in numerals of the total area being leased in the space provided.

The available Area options are – Square Metres and Hectares. Only one of these options is to be used for the area.

The available Volume options are Cubic Metres and Megalitres (for leases of Water Allocations). If the lease combines different options, show each option (e.g. for a lease of land and a water allocation include 450 hectares and 500 megalitres).

If the lease is a combination of area and volume measurements, repeat Item 7 on the Form 20 – Enlarged Panel.

[7-4080] Item 8 – Terms and Conditions

Complete the relevant statement in part (a) or (b), or both; and provide a dealing number of the relevant Standard Terms Document and/or an attached Form 20 Schedule setting out the terms and conditions of the lease. Statements that are not applicable should be deleted.

Example:

---

8. Terms and Conditions (delete statements with a * if not applicable)

(a) Document Reference - Nil;

(b) Additional terms and conditions: *the attached schedule

[7-4090] Item 9 – Previous Leases

Item 9 must be completed for all leases. The purpose of Item 9 is to confirm that there is no conflict in the leased area in the lease being registered and any lease that is currently registered on title (including unregistered dealings). For more information, refer to Part [7-2230].

A title search should be conducted prior to lodgement to determine if a conflict exists with any lease on title (whether registered or an unregistered dealing).

If there is a conflict between an existing leased area and the leased area in the lease being lodged, one or more of the first three statements must be completed. In these circumstances complete each of the statements which is relevant.

If there is no conflict in the leased area between the lease being registered and a lease that is currently registered on title, only the final statement in Item 9 will apply, and the first three statements should be deleted.

If the lease is a sublease, there will be no conflict in the leased area with the head lease. Only complete one of the first three statements if there is a conflict of the leased area with another lease or sublease.

[7-4090-1] Example where a conflict exists (single statement):

---

9. Previous Leases (delete statements with a * if not applicable)

The Lessor confirms that:

*the time for the exercise of the option in a registered Lease has ended and the option has not been exercised for Lease no. 712365410

[7-4090-2] Example where a conflict exists (multiple statements):

---

9. Previous Leases (delete statements with a * if not applicable)

The Lessor confirms that:

*the time for the exercise of the option in a registered Lease has ended and the option has not been exercised for Lease no. 712365410

*this lease of the premises described in item 5 will surrender by operation of law registered Lease no. 723219860

[7-4090-3] Example where no conflict exists:

---

9. Previous Leases (delete statements with a * if not applicable)

The Lessor confirms that:

*the premises described in Item 5 are not, either wholly or partly, the subject of any other lease currently lodged or registered.

[7-4100] Item 10 – Grant/Execution

The lessor(s) and lessee(s) are required to execute the lease in the spaces provided. If there is insufficient space, a Form 20 – Enlarged Panel should be used.

For further information on execution and witnessing, refer to Part 61.

Note: all executions must be completed with an original, 'wet signed' signature. For more information, refer to Part [59-2000].

[7-4500] General Guide to Completion of Form 20 – Lease Declaration

For general requirements for completion of forms, refer to Part 59 – Forms, esp. [59-2000], and for the general requirements of a Statutory Declaration, refer to Part [20-2040].

Title Reference [79876543]

Oaths Act 1867

STATUTORY DECLARATION

I, John James Preston, of 1234 Queen St, Brisbane**,** in the **State of Queensland** solemnly and sincerely declare that:

1. I am authorised to make this declaration: on behalf of the Lessor(s) as their Solicitor.

2. The premises being leased is described as follows:
   a) Lease extent: Part of a Building
   *Building premises designation: Shop 306
   *Building level: Level 3
   *Building identifier: Building A
   *Building sketch reference: MPS 1345 v1

   b) Land Description: Lot 123 on SP654321

3. The lease type is Commercial and the area of the premises being leased is 67 Square Metres.

4. The time for the exercise of the option in a registered Lease has ended and the option has not been exercised for Lease no. 712345678

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1867.

The contents of this statutory declaration are true, except where they are stated on the basis of information and belief, in which case they are true to the best of my knowledge. I understand that a person who makes a declaration that the person knows is false in a material particular commits an offence.

I state that:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

Mkenzie ..... **Signature**

23 / 04 / 2025 **Execution Date**

JPreston ..... **Declarant's Signature**

Louisa Jane Scott ..... **Full Name**

Solicitor ..... **Type of Witness**

Busy Law ..... **Name of Law Practice / Witness's Place of Employment**

SAMPLE

[7-4510] Paragraph 1 – Details of the Declarant

The declarant must provide their authority for making the declaration, either as the lessor or on behalf of the lessor. If the declarant is making the declaration on behalf of the lessor, they must state in what capacity they are making the declaration (e.g. legal practitioner, attorney under registered power of attorney). For further information on making a Statutory Declaration, refer to Part [20-2040].

[7-4520] Paragraph 2 – Description of premises being leased

The 'Description of premises being leased' in Paragraph 2 of the form is identical to Item 5 on the Form 7. Accordingly, refer to the guidance contained in Parts [7-4050] to [7-4058] to complete this paragraph.

Multiple Premises

If there are multiple premises being leased, Paragraph 2 should be repeated in the declaration for each leased premises.

[7-4530] Paragraph 3 – Lease Type and Area / Volume

The 'Lease Type' and 'Area/Volume' fields in Paragraph 3 of the form are identical to Item 7 on the Form 7. Accordingly, refer to the guidance contained in Part [7-4070] to complete this paragraph.

[7-4540] Paragraphs 4-7 – Previous Lease Statements (Leased Area Conflicts)

Paragraph 4-7 of the form are identical to the statements contained in Item 9 on the Form 7. When completing the Declaration, the paragraphs that apply must be completed, and any paragraphs that do not apply must be deleted. Guidance is contained in Parts [7-2230] and [7-4090] on preparing or deleting these paragraphs.

[7-4550] Execution of the Declaration

The requirements for the execution of the declaration are the same as for any other declaration, refer to Part [20-2040] for more information.

Note: If there is more than one lessor, only one lessor (or their representative) is required to give a declaration on the Form 20 – Lease Declaration.

[7-6000] deleted

[7-7000] Case Law

[7-7000] *Broons & Lennox Hatfield Nominees Pty Ltd v Registrar of Titles* (unreported, OS No 285 of 1989)

A lease by a registered owner to himself/herself cannot contain enforceable covenants.

[7-7010] *Cowper v Fletcher* (1865) 122 ER 1270

A joint tenant may lease his/her interest to another without severing the joint tenancy.

[7-7020] *Sinclair v Connell* [1968] 1 NZLR 118

The term of a lease can be granted for the life of a lessor, a lessee or a named third person. This was followed in *Borambil Pty Ltd v O'Carrol* [1972] 2 NSWLR 302.

[7-7030] deleted

[7-7040] *Daniher v Fitzgerald* (1919) 19 SR (NSW) 260

Consent of a mortgagee does not affect the validity of a lease against third parties, but protects the lessee if the mortgagee takes possession of the fee simple.

[7-7050] *Mercantile Credits Ltd v Shell Co Aust Ltd* (1976) 136 CLR 326

An option to renew contained in a registered lease is protected by registration of that lease.

[7-7060] *Friedman v Barrett, Ex p Friedman* [1962] Qd R 498

Option/s to renew a short lease beyond three years from the commencement of the original term must be registered to achieve indefeasibility.

[7-7070] *Medical Benefits Fund of Australia Ltd v Fisher* [1984] 1 Qd R 606

The registered owner of a new indefeasible title holds its interest free from all interests not notified on the new indefeasible title.

[7-7080] *Re Eastdoro Pty Ltd* [1990] 1 Qd R 424

Where a registered lease contains options for renewal, the options are indefeasible interests. Therefore the due exercise of each of the options for renewal is enforceable against a proprietor who becomes registered after registration of the lease.

[7-7090] *Massart v Blight* (1951) 82 CLR 423

The lack of lessor's consent will not prevent the valid passing of a leasehold estate.

[7-8000] Fees

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available on the Titles Queensland website or refer to [60 8000].

[7-9000] Cross References and Further Reading

Part 8 – Surrender of Lease

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre, Building Management Statement or Carbon Abatement Interest

Part 20 - Schedule, Enlarged Panel, Additional Page, Declaration, Standard Terms Document

Part 59 – Forms

[7-9050] Notes in text

Note[1] – This numbered section is not applicable to water allocations or the Water Allocations Register.

Note[2] – This paragraph or statement is not applicable to freehold land.

Titles QUEENSLAND

Part 8 – Surrender of Lease

LAND TITLE PRACTICE MANUAL

Updated:1 August 2025

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Part 8 – Surrender of Lease

[8-0000] General Law

[8-0000] Preliminary

In this part unless otherwise stated:

- a lease means a lease of freehold land or a water allocation, or a sublease of a State lease under the *Land Act 1994*; and
- a sublease means a sublease of freehold land or a water allocation, or a sub-sublease of a State lease under the Land Act.

A registered lease may be –

- wholly; or
- partly[1];

surrendered by operation of law or by registering a surrender of the lease executed by the lessor and the lessee (s. 69(1) of the *Land Title Act 1994* or s. 328(1) of the Land Act).

Destruction of the leased premises may suspend the lessee's obligations under the lease until reinstatement (Schedule 1, section 4 of the *Property Law Act 2023*) [1]. This will not, however, operate as a surrender of the lease.

[8-0010] deleted

[8-0020] Surrender by Operation of Law

A surrender by operation of law occurs when the lessee under an existing registered lease ("Existing Lease") is granted a new lease from the lessor (over the same premises or interest) to commence during the currency of the Existing Lease. The new lease may be for a period which is identical to, longer or shorter than the residue of the Existing Lease.

Sub-leases of the Existing Lease do not need to be surrendered (s. 147 of the *Property Law Act 2023*).

For details of the requirements where a lease is surrendered by operation of law refer to 7 2110.

For details of the requirements where a new lease is granted to a lessee that is different to the lessee under an Existing Lease refer to 7-2110.

[8-0030] Surrender by Lessee

A registered lease may be surrendered by registering a surrender with the consent of every mortgagee and sub-lessee of the lessee (s. 69(2) of the *Land Title Act 1994* or s. 328(3) of the *Land Act 1994*). Further, if the lease being surrendered is also the burdened interest of a registered easement, the consent of the grantee of the easement and all registered mortgagees and lessees who receive the benefit of the easement must be deposited. This is required as under s. 90A of the Land Title Act, a registered easement that burdens a registered lease ends when the lease ends.

Due to the effect of s. 69(4) of the Land Title Act or s. 328(5) of the Land Act, the date the lease is surrendered (inserted at Item 5 of the Form 8 – Surrender of Lease) cannot be after the date of lodgement of the Form 8 – Surrender of Lease).

If the head-lease is surrendered, any sub-lease will continue in existence and take the reversion on the head-lease (ss. 145 and 147 of the *Property Law Act 2023*) [2].

[8-0040] Merger of Lease[2]

In instances where the registered owner of a lot acquires the interest in a lease over:

- that lot; or
- a water allocation; or
- part of the lot[1];

there is **not** an automatic merger of the interest in the fee simple or water allocation. A request must be made by the registered owner to merge the interests.

[8-0050] Disclaimer of Lease

A lease may be disclaimed on the bankruptcy of a lessee (s. 70 of the *Land Title Act 1994* or s. 382 of the *Land Act 1994*).

[8-0060] Surrender by Lessor under Power of Attorney

If a lessee cannot be located to execute the surrender or is otherwise in default under the terms of the lease, the lessor may execute a surrender if there is an enabling power of attorney clause contained in the lease.

Retirement village leases may contain a power of attorney where the lessee grants the power in favour of the lessor to surrender the lease where an event occurs that would terminate the lease, usually the death of the surviving lessee[1].

Unless the power is irrevocable in terms of s. 10 of the *Powers of Attorney Act 1998*, a power of attorney cannot be used to execute any document if the power is revoked upon the death or incapacity of the donor lessee.

[8-0070] Re-Entry by Lessor – Determination of Lease

If the lessor under a registered lease of:

- a lot[2]; or
- part of a lot[1, 2]; or
- a registered sublessor of a sublease under the *Land Act 1994*[1,3].

re-enters and takes possession under the lease or pursuant to powers implied by s. 157 of the *Property Law Act 2023*, the lessor may lodge a request for the Registrar to register the re-entry (s. 68(1) of the *Land Title Act 1994* or s. 339(1) of the Land Act).

[8-0075] Re-Entry by Lessor – for Repudiation

A lease may be determined for repudiation relying upon a common law right to terminate a contract for breach.

Repudiation can occur where a lessee indicates either by words or conduct that they do not intend to be or do not regard themselves as being bound by any of their obligations under the lease and the lessor accepts the lessee's breach of his or her obligations as a repudiation of the lease. The most common example of repudiation is abandonment of the premises (in the case of land) or the water allocation by the lessee without the express or implied consent of the lessor.

[8-0080] Lease to a Deregistered Company

Where a company was dissolved prior to the commencement of the *Companies Act 1961*, all property and rights whatsoever vested in the Crown (s. 300 of the *Companies Act 1931*)[1,2]. Therefore, if the lessee is a company that was deregistered prior to 1 July 1962, the lease may be surrendered and must be dealt with by the State of Queensland (represented by the Department of Justice and Attorney General). See [8-2040] and part 14 – General Request, esp. [14-2300].

Under the Australian Securities and Investments Commission (ASIC), where the lessee is a company no longer in existence, the lessor may re-enter and take possession, as notice of default may be served on the ASIC. If circumstances do not permit the use of this procedure, then as the lease is vested in the ASIC pursuant to s. 601AD of the *Corporations Act 2001* (Cth), the ASIC has the power to execute a surrender pursuant to s. 601AE of that Act.

[8-0085] Surrender of a Trustee Lease[1, 3]

All or part of a registered trustee lease may be surrendered by registering a surrender with the consent of every registered mortgagee and sublessee in Form 18 – General Consent (s. 58(5) of the *Land Act 1994*).

[8-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[8-2000] Practice

[8-2000] Form of Surrender

A surrender of lease or sub-lease is executed by the lessee and lessor and lodged in a Form 8 – Surrender of Lease. The Form 8 provides for a:

- full; or
- partial[1];

surrender of the lease.

For a partial surrender, the area surrendered must be capable of precise definition. If the surrendered area is the whole of a lot, a plan of survey to identify the surrendered area is not required[1]. Similarly, if the surrendered area is the whole of a building or the whole floor of a building, a sketch plan of the surrendered area is not required. If the surrendered area is not capable of precise definition the following applies:

- If the surrendered area is over part of a lot, the area to be surrendered, or the area to remain in the lease, must be defined by a plan of survey or explanatory format plan lodged to precede the surrender. The plan must be drawn in accordance with direction 8 or 10 of the Registrar of Titles Directions for the Preparation of Plans.
- If the surrendered area is part of a floor of a building a sketch plan of the area to be surrendered, or the area to remain, should be bound into the surrender document. For the minimum requirements for a sketch plan see Direction 5 of the Registrar of Titles Directions for the Preparation of Plans.

There is no requirement to deposit copies of the surrendered lease.

Lodgement fees are payable and a duty notation is required.

The consent of every mortgagee and sub-lessee of the lessee are also required in Form 18 – General Consent.

If the lease being surrendered is also the burdened interest of a registered easement, the consent of the grantee of the easement and all registered mortgagees and lessees who receives the benefit of the easement must be deposited.

[8-2010] Disclaimer of Lease

A lessor may, after a trustee for a bankrupt lessee has disclaimed a lease that is unsaleable or not readily saleable, request to register the disclaimer to give effect to s. 133(2) of the *Bankruptcy Act 1966* (Cth).

For further information see part 14 – General Request, esp [14-2260].

[8-2020] Surrender by Lessor under Power of Attorney

A power of attorney contained in a lease must be registered prior to the lessor executing the surrender.

Lodgement fees are payable.

For further information see part 16 – Power of Attorney, esp. [16-2050].

[8-2030] Re-Entry by Lessor – Determination of Lease

A request to record the re-entry by the lessor is made in Form 14 – General Request. For further information see part 14 – General Request, esp. [14-2350].

[8-2035] Re-Entry by Lessor – for Repudiation

A request to record the re-entry by the lessor for repudiation is made in Form 14 – General Request. For further information see part 14 – General Request, esp. [14-2350].

[8-2040] Lease to Deregistered Company

Company Deregistered Prior to the *Companies Act 1961*[1, 2]

Pursuant to s. 300 of the *Companies Act 1931*, 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 a lease where the lessee is a company that was deregistered prior to 1 July 1962, a surrender of lease should be produced. The surrender of such lease (Form 8) must be executed by a person who is authorised to sign on behalf of the State of Queensland (represented by the Department of Justice and Attorney General) and lodged together with the evidence that the company is deregistered, without the necessity of recording the vesting to the State of Queensland on the title.

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

A surrender (Form 8) of a lease to a company that has been deregistered may be executed by ASIC, and lodged together with the evidence that the company is deregistered, without the necessity of recording the vesting to ASIC on the title.

[8-2050] Merger of Lease[2]

See Part 14 – General Request, esp. [14-2070].

[8-2055] Surrender of a Trustee Lease[1,3]

All or part of a registered trustee lease may be surrendered by registering a surrender with the consent of every registered mortgagee and sublessee in Form 18 – General Consent (s. 58(5) of the *Land Act 1994*).

The approval of the Minster is not required to be deposited with the surrender.

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

[8-4000] Forms

[8-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY **SURRENDER OF FREEHOLD LEASE OR SUBLEASE** **FORM 8** Version 4

Land Title Act 1994, Land Act 1994 and Water Act 2000 *Duty Imprint* Page 1 of 1

Dealing Number

OFFICE USE ONLY

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1. Dealing number of instrument being surrendered	Lodger (Name, address, E-mail & phone number)	Lodger Code
700145672	BENTON & WEBB 148 WICKHAM STREET FORTITUDE VALLEY QLD 4006 info@bentonwebb.com (07) 3252 0774	501

2. Lot on Plan Description	Title Reference
LOT 42 ON RP99332	13431166

3. Lessor

SUBURBAN SHOPPING CO PTY LTD ACN 685 742 321

4. Lessee

PARKER JAMES SCRIVNER and AQUILLA NEIL SCRIVNER

5. Surrender/Execution

a) Surrender of Freehold Lease/Sublease

***Full Surrender** The lease/sublease in item 1 is surrendered from 30/11/2007.

~~***Partial Surrender** The lease/sublease in item 1 is surrendered from / / .~~

~~*so far as relates to the land in item 2.~~

~~*so far as relates to the part of the leased area.~~

OR

~~**b) Surrender of Land Act Sublease**~~

~~*I surrender all my right title and interest in the sublease in item 1 as from / / .~~

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

E E Shield

..... signature

EGERTON ELI SHIELD

..... full name

JUSTICE OF THE PEACE (QUALIFIED) #29345

..... qualification

Witnessing Officer

28/11/2007

Execution Date

P J Scrivner

A N Scrivner

.....

Lessee's Signature

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

6. Acceptance

The Lessor accepts this surrender.

(seal)

or Full name of company to be shown

29/11/2007

Execution Date

J Thomas, Director

JOHN PETER THOMAS

P Dean, Secretary

PAUL IAN DEAN

.....

Lessor's Signature

Guide to Completion of Form 8

[8-4010] Item 1

Insert dealing number of lease or sublease being surrendered (e.g. L778961X).

[8-4020] Item 2

Freehold Description[1, 2]

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

Water Allocation Description[2, 3]

A water allocation should be identified as 'Water Allocation', 'Allocation' or 'WA'. A water allocation has no reference to County or Parish, hence these fields are not completed. 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

State Tenure Description[1, 3]

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

[8-4030] Item 3

Insert full name of lessor or sub-lessor.

[8-4040] Item 4

Insert full name of lessee or sub-lessee.

[8-4050] Item 5

Complete where indicated. Delete paragraph, sentence or words that are not applicable and execute as required.

The date the lease is surrendered cannot be after the date of lodgement of the Form 8 – Surrender of Lease).

[8-4060] Item 6

Execute as required.

[8-6000] deleted

[8-7000] Case Law

In the unreported decision of Dowsett J (No 20 of 1994), in the matter of the *Corporations (Queensland) Act 1990* and *Hassell Holdings Pty Ltd*, the court held that a mortgagee exercising power could serve notice of a default by a defunct lessee company on the Australian Securities Commission.

The High Court held in *Progressive Mailing House Pty Ltd v Tabali Pty Ltd* (1985) 157 CLR 17 that a repudiation occurs when a party has an intention, either expressly by words or impliedly by conduct, to no longer be bound by the contract or indicates clearly an inability to perform the obligations under the contract (see also, *Shevill v Builders Licensing Board* (1982) 149 CLR 620, *Buchanan v Byrnes* (1906) 3 CLR 70 and *Marshall v Council of the Shire of Snowy River* [1994] NSW Conv R 55-719).

[8-7010] deleted

[8-8000] Fees

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

[8-9000] Cross References and Further Reading

Part 7 – Lease

Part 14 – General Request

Part 16 – Request to Register Power of Attorney or Revocation of Power of Attorney

Part 18 – General Consent

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

Cassidy and Redfern, *Australian Tenancy Practice and Precedents*, Butterworths (loose-leaf service)

[8-9050] Notes in text

Note [1] – This numbered section, paragraph or statement is not applicable to water allocations.

Note [2] – This numbered section, paragraph or statement is not applicable to State land.

Note [3] – This numbered section, paragraph or statement is not applicable to freehold land.

Titles QUEENSLAND

Part 9 – Easement

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 9 – Easement[1]

[9-0000] General Law

In this part, unless otherwise stated, a reference to a lot means:

- a freehold lot;
- land granted in trust under the *Land Act 1994*; or
- non freehold land (including any lease of non-freehold land or sublease of non-freehold land) other than a road;

and

a reference to a registered owner or owner means:

- a registered owner of a freehold lot or interest; or
- a holder of land granted in trust under the Land Act; or
- a holder of non freehold land (including any lease of non-freehold land or sublease of non-freehold land) other than a road.

[9-0000] The Nature of Easements

An easement is a right annexed to land to utilise other land in a particular manner. It does not involve the taking of any part of natural produce of the land or any part of its soil. It may, however, prevent the owner of the other land from utilising his/her land in a particular manner (*Halsbury's Laws of England* (4th edn, 1975) Volume 14, page 4).

An example of an easement is where one owner (of the 'burdened lot') allows another owner (of the 'benefited lot') to pass over his/her land.

The land advantaged by the easement is called the 'benefited lot' or 'dominant tenement'. The land over which the easement is granted is called the 'burdened lot' or 'servient tenement'. The benefit of an easement runs with the benefited lot, i.e. it passes from one owner to the next, and the burden of the easement runs with the burdened lot. Therefore, all future owners of the burdened lot are bound by the easement, unless it is surrendered or extinguished.

Generally, for an easement to exist there must be a benefited and a burdened lot. The exception to this is the case of an 'easement in gross' (where there is a burdened lot only) to serve the purposes of local government or a government instrumentality.

An easement (other than an easement in gross) must accommodate the benefited lot and contribute to the full enjoyment of the benefited lot.

Re Ellenborough Park [1956] 1 Ch 131 is the landmark case which established the essential characteristics of an easement, which are:

a. There must be a benefited lot and a burdened lot.
b. An easement must 'accommodate' the benefited lot.
c. Benefited and burdened lot owners must be different persons.
d. A right over land cannot amount to an easement unless it is capable of forming the subject matter of a grant.

Note:

i. As previously mentioned, easements in gross are not required to exhibit the characteristics in (a) and (b) above.
ii. Section 86 of the *Land Title Act 1994* and s. 367 of the *Land Act 1994* allow easements to be granted if the benefited and burdened lot are owned by the same person.

It is sometimes a matter of great difficulty to determine whether a particular 'right' is capable of forming the subject matter of a grant. Some examples will demonstrate this:

- an easement over the whole of the land is capable of forming the subject matter of a grant;
- but it cannot rob the owner of the servient tenement of the reasonable use of their land (*Weigall v Toman* [2008] 1 Qd R 192.);
- a right to provide a wind break is capable of forming the subject matter of a grant (*Ford v Heathwood* [1946] QWN 11);
- but a right to privacy is not (*Brown v Flower* [1911] 1 Ch 219).

Many other examples could be given of these difficulties.

A further difficulty arises in attempting to distinguish easements from other rights.

Easements Distinguished from Other Rights

[9-0010] Appurtenant or Natural Rights

These rights arise at common law as an incident of land ownership and include:

- a right to support and bind in its natural state; and
- a right to surface water.

Unlike an easement, these rights will not of themselves be an interest in land.

[9-0020] Profits a prendre

That is, a right to remove soil, produce or animals from the land.

These interests arise by agreement and relate to the right to enter upon land and extract or remove part of its substance, for example, sand, gravel, trees etc (see part 29 – Profits a prendre). They may be granted to any person, not just another property owner.

[9-0030] Licence

An agreement whereby an owner permits another person to act in a way which would otherwise involve trespass or nuisance is a licence. A licence:

- is a personal right and not an interest in land; and
- falls short of a grant of exclusive use.

[9-0040] Some Examples of Easements

The easement right must be for an acceptable purpose which is capable of precise definition. Some easements that are regularly created include easements:

- of right of way for access;
- of support of buildings;
- for party (or shared) walls;
- for drainage or sewerage reticulation;
- for water storage/supply;
- of retention of light or air;
- for electricity transmission;
- for encroachment;
- for eavesdrop.

Examples of frequently encountered purposes which are not acceptable are ‘view’ or ‘environmental’ purposes. An easement may be granted for more than one purpose.

The right granted must not be vague, imprecise or indefinite and must be for a matter which is capable of being the subject of a grant.

Whilst the category of easements is not closed, it has been stated that it will be unlikely that any easements of a new nature will be readily recognised at law, particularly in circumstances where they would be of a character of the owner agreeing not to exercise some of the owner’s rights of ownership (see *Phipps v Pears* [1965] 1 QB 76).

[9-0050] Currency of Easement

Easement Granted for a Term

An easement, unless otherwise stated, is granted in perpetuity. However, easements can be granted for life only, for a term of years or for some other period, such as until the happening of an agreed upon event. For example, if the grantee is a lessee, the easement will expire on the termination of the lease.

Easement to take effect in the future

An easement that is to take effect at some future time, can not be registered. Under the provisions of s. 85B of the *Land Title Act 1994* or s. 366 of the *Land Act 1994*, on registration of an easement, an easement is created and hence the grantee would have a title to this interest in the easement. However, in this case the grantee has no interest in the easement because the easement has not yet come into existence. Further, until the easement comes into effect:

- there is no dominant tenement (benefited lot) nor is there a servient tenement (burdened lot); and
- the dominant tenement is not accommodated nor benefited by the easement.

This means that until the easement operates as an easement, characteristics essential to an easement are not present, and no easement exists.

[9-0060] Restrictive Covenants

Except as provided in Part 6, Division 4A of the *Land Title Act 1994* (Covenants), a restriction on a user of land is not capable of being registered in Queensland (s. 66 of the *Property Law Act 2023*). This prohibits the registration of covenants contained in an easement that restrict registered owners from exercising a right that they would otherwise be entitled to exercise as owner of that land.

However, in some cases the subject matter of the restriction may be capable of sustaining an easement (e.g. a right of support for buildings). In these cases, an appropriately drawn easement could be registered in the Freehold Land Register and would grant an interest in land.

[9-0070] Easement to Self

A person may grant an easement to himself/herself as owner of both the benefited and burdened lots (s. 86 of the *Land Title Act 1994* or s. 367 of the *Land Act 1994*).

[9-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[9-2000] Practice

[9-2000] Creation of Easement

Easements are created:

a. by a grant of easement under the provisions of Part 6 Division 4 of the *Land Title Act 1994* and Part 4 Division 8 of the *Land Act 1994*;
b. by resumption of land, generally under the provisions of the *Acquisition of Land Act 1967*;
c. by a court ordering a statutory right of use under section 180 of the *Property Law Act 2023*; or
d. in the past, by an 'Old System' deed.

[9-2010] Easement Created by Grant

An owner of a lot or lessee of a registered freehold lease may grant an easement over his/her lot or lease either for the benefit of an owner of another lot (the benefited lot) or freehold lease, or to a body such as a local government. The latter is an example of an easement in gross, where there is only a burdened lot and not a benefited lot. Under s. 82 of the *Land Title Act 1994* or s. 362 of the *Land Act 1994,* easements are created upon the registration of an easement. The easement is a Form 9 – Easement.

[9-2020] Definition by Plan

An easement may only be created by registering an easement and the easement must state the nature of the easement and its terms, the land to be benefited and the land to be burdened.

An easement must be defined by a registered survey plan or explanatory format plan before the easement (Form 9 – Easement) can register (s. 83(1)(a) of the *Land Title Act 1994* or s. 363(1)(a) of the *Land Act 1994*). This requirement does not apply to an easement over the whole of a lot.

A possible exception might be an easement to a public utility provider over large areas of undeveloped lands. In these cases, identification by a sketch certified by a licensed surveyor may, at the Registrar's discretion, be sufficient.

However, an easement is not created on the registration of an easement plan. An easement is created only on the registration of the Form 9 – Easement, or a Form 14 – General Request if the easement is created by resumption.

The easement must set out the nature of the easement and its terms and specify the benefited lot and the burdened lot. This latter requirement does not of course apply to an easement in gross.

A plan designating an easement must include the words 'proposed easement' if it is lodged without the easement. When the plan and easement are lodged at the same time, the word 'proposed' should not be shown on the plan. The designation of proposed easement does not create an easement and is not evidence of a present intention to create an easement.

Plans for easement purposes must comply with directions 4.8.2, and either direction 6, 8 or 10 of the Registrar of Titles Directions for the Preparation of Plans (see also part 21 – Plans and Associated Documents, esp. [21-0020] and [21-2080]).

Any easement whether proposed or created by registration of an easement will not be affected by a subsequent plan of subdivision, unless the easement is affected by the boundaries of that survey. The effect of this is that where a subsequent plan has been registered cancelling a lot over which an easement plan has been surveyed, that easement area, whether granted or not, may subsequently be granted or further granted, provided that the boundaries of the easement area have not been altered or amended in any way and are not intersected by a new lot boundary on any further plan of subdivision.

Lodgement fees are payable and a duty notation is required.

[9-2040] Easement Created by Resumption

Many easements in gross are created by way of resumption under the provisions of the *Acquisition of Land Act 1967*. This Act authorises constructing authorities to acquire an easement. A 'constructing authority' is defined in the Act as the State or a local government or any other person authorised by legislation to acquire land. This power enables constructing authorities to acquire an easement without affecting a pre-existing easement.

Under the *Land Act 1994*, the Governor in Council can resume an easement over a holding. Under the Act, the Governor in Council can also resume an easement on behalf of a constructing authority. Under the *Lands Acquisition Act 1989* (Cth), the Commonwealth has the power to resume an easement.

Such easements are created on the registration of a Form 14 – Request to Register a Resumption, which is lodged with a copy of the gazetted proclamation of the resumption, or, where the Brisbane City Council is resuming the land, a copy of the gazetted notification of resumption. An easement plan is lodged prior to the Form 14.

Lodgement fees are payable.

[9-2050] Easement Created by a Court Ordering a Statutory Right of Use

A statutory right of use is defined in s. 180 of the *Property Law Act 2023* as a right of way over land, or a right to access, enter or cross over land, or a right to carry and place a utility on, over or under the land.

The imposition of a statutory right of use occurs when a court, on the application of the registered owner of the proposed benefited lot, orders that the registered owner of the proposed burdened lot provide an easement to the owner of the benefited lot. The conditions under which a statutory right of use can be imposed are set out in s. 180 of the Property Law Act.

The registration of an easement created by a statutory right of use is usually affected in the same manner as an easement created by an express grant. That is, a survey plan of the easement and an easement in Form 9 are lodged. The court order should be deposited as evidence. Any court order contrary to these requirements must be referred to the Registrar for consideration.

The court has the authority, where necessary, to order the registration of the easement (s. 180(11) of the Property Law Act). The obligation to register the interest falls on the Applicant (unless otherwise ordered by the court).

[9-2060] deleted

[9-2070] Restriction as to Height, Depth or Volume

Easement Over the Whole of a Lot

Where an easement is over the whole of a lot and the easement is not defined on a survey plan but is restricted to a specified height above or below a horizontal plane or between horizontal planes, the height restrictions must refer to Reduced Levels on Australian Height Datum (RL on AHD) and be shown in Item 2 of Form 9 – Easement. For example:

2.	**Description of Easement/Lot on Plan**	**Title Reference**
	Servient Tenement (burdened land)	
	LOT 1 ON RP145897 (Restricted to the land between RL1 and RL5 on AHD)	14500101

Where an easement over the whole of a lot is restricted, and the easement is defined on a survey plan, the restriction must be shown on the face of the plan. Item 2 of the Form 9 – Easement must not make reference to the RL on AHD. The following two examples indicate how the restriction may be described in Item 2 of the Form 9 – Easement:

2.	**Description of Easement/Lot on Plan**	**Title Reference**
	Servient Tenement (burdened land)	
	Easement X (Restricted) in Lot 1 on SP111222 on SP123456	14500101

2.	**Description of Easement/Lot on Plan**	**Title Reference**
	Servient Tenement (burdened land)	
	Easement X (Restricted) on SP123456	14500101

Where an easement over the whole of a lot is restricted by an inclined plane or a series of different horizontal planes, a volumetric plan depicting the easement is required.

Easement Over Part of a Lot

Where an easement is over part of a lot and is restricted, a survey plan in either standard or volumetric format is required. If the easement, depicted on a standard format plan is restricted, the restriction must be shown on the face of the plan. Item 2 of the Form 9 – Easement must not make reference to the RL on AHD. The following two examples indicate how the restriction may be described in Item 2 of the Form 9 – Easement:

2.	**Description of Easement/Lot on Plan**	**Title Reference**
	Servient Tenement (burdened land)	
	Easement X (Restricted) in Lot 1 on SP111222 on SP123456	14500101

2.	**Description of Easement/Lot on Plan**	**Title Reference**
	Servient Tenement (burdened land)	
	Easement X (Restricted) on SP123456	14500101

[9-2080] Approval of Planning Body[2]

Easements generally do not require the approval of the planning body. However, easements that give access to a lot from a constructed road require planning body approval.

Depending on the circumstances, this approval may be deposited with the plan of survey depicting the easement, provided the easement document is part of the same lodgement as the survey plan.

For information relating to the required planning body approval of the plan of survey depicting an easement giving access to a lot from a constructed road see part [21-2080].

[9-2082] Consent to Easement by Lessee

In view of the provisions of s. 184(1) of the *Land Title Act 1994* or s. 302(2) of the *Land Act 1994*, a new easement requires the consent of every affected lessee of a lot burdened by the easement. The consent must be given on a Form 18 – General Consent and be deposited with the Form 9 – Easement.

[9-2083] Consent to Easement for State Land[3]

In view of s. 363(1)(c) of the *Land Act 1994*, an easement may be registered only if the chief executive has given written approval to the easement. The approval must be given on a Form 18 – General Consent and be deposited with the Form 9 – Easement.

[9-2085] Easement Executed by the Body Corporate for a Community Titles Scheme

When the body corporate for a community titles scheme executes an easement, the execution must be done in accordance with the relevant regulation module for the scheme. For further information see Part [45-2060].

A copy of the resolution in accordance with the scheme's regulation module is required to be deposited.

[9-2090] Easement Granted by Party to Itself

An easement from a person to themself created by registering an easement under Part 6 Division 4 of the *Land Title Act 1994* or Part 4 Division 8 of the *Land Act 1994* can include covenants, as s. 82(3) of the Land Title Act or s. 362(2) of the Land Act require the easement to specify 'the nature of the easement and its terms'. The covenants would only be enforceable when the benefited and burdened lots were no longer in common ownership. Section 63 of the *Property Law Act 2023* makes covenants enforceable by a person against themself and one or more other persons.

[9-2100] Easement Granted to Lessee

An easement can be given by a lessor to a lessee over land not included in the lease. In this respect, the easement would be cancelled when the lessee surrenders his/her interest in the lease. Once the lease expires, so does the interest in the easement. There is no need for an easement to a lessee of an expired lease to be formally surrendered.

[9-2105] Easement Granted by Lessee of a Freehold Lease

An easement can be granted by a lessee of a freehold lease during the term of a lease.

A registered easement, to the extent it benefits or burdens a registered freehold lease ends when the lease ends (s. 90A(1) of the *Land Title Act 1994*).

The Registrar may remove an easement that has ended from the Freehold Land Register (s. 90A(3) of the Land Title Act).

If a registered freehold lease is surrendered in part, to the extent the registered easement benefits or burdens the part of the lease that was surrendered, the easement ends (s. 90A(2) of the Land Title Act).

An easement that burdens part or the whole of a lease of land (as identified at Item 3 of the Form 9 – Easement) that is over part of the lot, must be defined by a registered survey plan or explanatory format plan before the easement can register. This requirement does not apply to an easement over a lease, which is of the whole of a lot.

An easement that burdens part or the whole of a building in a lease (as identified at item 3 of the Form 9 – Easement) must be defined by a registered survey plan or explanatory format plan before the easement can register.

[9-2110] Easement Dedicated as a Road

For information on easement dedicated as road see part 21 – Plans and Associated Documents, esp. [21-2230].

[9-2120] Resumption of Land

For information on easement affected by resumption see [14-2320].

[9-2130] deleted

[9-2140] Easement Over Non-Freehold Land and Freehold Land

Easements can be registered over non-freehold land.

Where one of the lots in an easement is non-freehold land and the other lot is freehold land, the easement is registered in both the Freehold Land Register and the relevant State Land Register. Only one copy of the easement is required, and normal registration fees are payable.

[9-2150] State Land Easement – Action When Land is Subsequently Made Freehold

Where an easement has been registered and both the benefited and burdened lots are State tenure land, and one of the parcels is subsequently freeholded, the dealing number is carried forward to the deed of grant created in the Freehold Land Register. This number is then carried forward to the indefeasible title created for the lot.

Prior to November 1995, the procedure was for the State land administration office to forward the original easement to the land registry for notation on the original deed of grant. The easement received a land registry dealing number for filing purposes. The original dealing number allocated by the State land administration office was also referred to in the endorsement recorded on the deed of grant.

[9-2155] New Easement Over Land to be Dedicated for Public Use

Where an easement to be registered over land that is to be dedicated for public use on registration of a plan of survey, and the easement is depicted on that plan, the easement may only be lodged:

- after the easement has been consented to by the chief executive;
- the plan has been registered; and
- the title for the reserve or unallocated State land has been created.

On the plan, the easement must be referred to as 'proposed'. The consent must be deposited with the easement when it is lodged.

The easement must be referred to the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development prior to lodgement to request that the chief executive's consent be given.

[9-2160] Easement Endorsement

Benefit easements are endorsed on the benefited lot as, e.g. 'Easement No [number] benefiting the land over easement A on RP 123457'.

Burden easements are endorsed on the burdened lot as, e.g. 'Easement No [number] burdening the land to Lot 1 on RP 145762 over Easement A on RP 123457'.

If the benefited lot is amalgamated with land that does not have the benefit of the easement, the endorsement of the easement on the new indefeasible title created will state that the easement is to only part of the lot.

Care should be taken to ascertain if the endorsement on the benefited lot contains a 'part of' notation, in which case any subsequent survey of that lot will require the allocation of the benefit in whole or part to any new lots created by that survey.

If a burdened lot is the subject of a plan of subdivision, then the easement will only be recorded on the titles for any new lots through which that easement passes.

[9-2170] Merger of an Easement within a Lot

If the Registrar creates a single indefeasible title for a number of lots and those lots comprise both the dominant and servient tenements of an easement, the easement is extinguished by virtue of s. 87(b) of the *Land Title Act 1994*[2].

Similarly, if lots that contain both the dominant and servient tenements of an easement are amalgamated into one lot by survey, on creation of the indefeasible title for the amalgamated lot the easement is extinguished by virtue of s. 87(b) of the Land Title Act[2].

Under the provisions of s. 368(2) of the *Land Act 1994*, if the same person becomes the trustee, lessee or licensee of the land benefited and burdened by an easement, the easement is extinguished only if[3]:

- the trustee, lessee or licensee asks the chief executive to extinguish the easement; or

- the land benefited and the land burdened are amalgamated.

[9-2180] Easement in Gross

An easement in gross is only registered against the burdened lot and is granted to public utility providers under s. 81A of the *Land Title Act 1994* or Schedule 6 of the *Land Act 1994*. Public utility providers are:

a. the State or another entity representing the State;
b. the Commonwealth or another entity representing the Commonwealth;
c. a local government;
d. a person authorised by law to provide a public utility service;
e. a person authorised under an Act to provide a public utility service;
f. an entity approved by the Minister as suitable to provide infrastructure for use by another entity in the provision of a particular public utility service;
g. a person approved by the Minister as suitable to provide a particular public utility service; and
h. a mill owner, but only for the registration of a cane railway easement.

An easement may only be registered in favour of a person mentioned in (g) above if it is for the public utility service mentioned.

Public utility easements may only be created in favour of a public utility provider for:

a. right of way;
b. drainage or sewerage;
c. supply of water, gas, electricity, telecommunication facilities or other public utility service;
d. water storage; or

   Note – The term 'water storage' relates to the inundation of water upstream of a weir or the barrier of a dam outside the storage area at full supply level. The easement instrument must include a 'sketch' that shows the extent of inundation. This is to ensure that the owner of the land or any interested party is able to establish the limits, on the land, of inundation.
e. an infrastructure corridor; or
f. a purpose mentioned in s. 125(1) of the *State Development and Public Works Act 1971*; or

   Note – A public utility easement for the purposes (e) and (f) must be granted to only The Coordinator General.
g. cane railway; or

   Note – A public utility easement for cane railway must be granted to a mill owner and only for a purpose for which a cane railway easement may be granted under the *Sugar Industry Act 1999*, for example, to facilitate harvest of cane and supply of cane to any mill or between any mills.
h. public thoroughfare.

   Note – A public utility easement for 'right of way' for the public must be a public thoroughfare easement created in favour of the State or a local government only, and the use of the easement is limited to pedestrian access, cyclists and vehicles reasonably necessary for the building and maintenance of the easement.

A combination of these purposes is allowable in a single easement. However, public utility easements given to a person approved by the Minister may only be for the service approved by the Minister.

Examples of easements in gross are easements given to local governments for drainage and sewerage purposes or to electricity authorities for the supply of electricity.

As with other easements, there must be an easement plan unless:

a. the easement is over the whole of a lot; or
b. the easement is to an electricity authority over a large area of undeveloped land, in which case, a sketch plan approved by the Registrar may be sufficient; or
c. the easement is for water storage, in which case it must include a 'sketch' that shows the extent of inundation behind the weir. The 'sketch' may be in the form of a sketch, plan or map.

Easements in gross over part of a lot may only be created if a plan of survey designating the easement area and an easement are registered in accordance with s. 82(1) of the Land Title Act or s. 362(1) of the Land Act. The easement must be executed by the owner of the lot being burdened and must specify the nature of the easement and its terms.

A public utility easement for water storage may only be registered over the whole of the land.

In easements taken by resumption, the easement plan is signed by the constructing authority.

An easement in gross may contain multiple servient lots in different ownerships. The grantors should be separately described in Item 1 of the Form 9 – Easement, e.g. 'AB (Parcel 1), CD (Parcel 2), EF (Parcel 3), etc' and the descriptions of the servient tenements in Item 2 should be similarly identified.

As s. 60(1) of the Land Title Act provides that 'A lot or an **interest in a lot** may be transferred…'. An easement in gross may be transferred from one public utility provider to another[2]. However, this does not apply to easements with both dominant and servient tenements as in those cases the benefit and burden pass with the ownership of the land.

A public utility easement under the Land Act may be transferred to another public utility provider[3].

Except for a public thoroughfare easement, s. 85B of the Land Title Act or s. 366 of the Land Act authorises the registered owner of a lot burdened by a public utility easement to recover a reasonable contribution towards the upkeep of the easement from the public utility provider. It also allows for the liability to be amended or excluded by agreement.

Lodgement fees are payable on an easement in gross to a public utility provider and a duty notation is required.

[9-2185] Easement Created Pursuant to s. 437A of the *Petroleum and Gas (Production and Safety) Act 2004*

Section 437A of the *Petroleum and Gas (Production and Safety) Act 2004*, enables the creation of an easement to benefit the holder of a pipeline licence under that Act, by registering an instrument under the *Land Title Act 1994* or a document under the *Land Act 1994* to create the easement.

The Land Title Act, part 6, division 4, or the Land Act, chapter 6, part 4, division 8 applies to the easement as if:

a. it were a public utility easement; and

b. the pipeline licence holder were a public utility provider.

The completion of the Form 9 – Easement is the same as an Easement in Gross except for Item 7 – Purpose of Easement which should include wording similar to the following:

- Gas pipeline purposes pursuant to Pipeline Licence No [insert number] granted under the Petroleum and Gas (Production and Safety) Act.

A copy of the pipeline licence must be deposited with a Form 9 – Easement, or alternatively Item 7 may refer to a dealing number where the evidence was previously deposited.

An easement created under s. 437A of the Petroleum and Gas (Production and Safety) Act may be transferred to another pipeline licence holder. A Form 1 – Transfer of the easement and a copy of the approval by the State authorising the transfer must be deposited. For information about depositing supporting documentation see [60-1030].

An easement in favour of a public utility provider as defined in s. 81A of the Land Title Act or in Schedule 6 of the Land Act may be transferred to a pipeline licence holder under the Petroleum and Gas (Production and Safety) Act. A copy of the pipeline licence and a letter on the relevant firm's letterhead confirming that the pipeline licence relates to the easement shown in Item 1 must be deposited with a Form 1 – Transfer, or alternatively Item 5 may refer to a dealing number where the evidence was previously deposited.

Lodgement fees are payable and a duty notation is required.

Modification or Extinguishment of Easement by Surrender

[9-2190] By Order of the Court

Section 181 of the *Property Law Act 2023* enables the court to modify or wholly or partially extinguish an easement. The court has power to make an order requiring the amendment of a document creating an easement.

If the court orders registration of a document(s), the Registrar's requirements in the following cases are set out below:

a. If the court order alters the easement in any way other than by a reduction or partial extinguishment of the easement, that is, it relocates all or part of the easement, then the following is required:
   i. lodgement of a Form 10 – Surrender of Easement for the existing easement;
   ii. lodgement of a survey plan of the new easement;
   iii. lodgement of a Form 9 – Easement for the new easement; and
   iv. a copy of the court order if any person other than the registered proprietors of the benefited and burdened lots have executed any instrument.

b. If the court order modifies some or any of the covenants of the easement, then a Form 14 – General Request to register the order of the court is lodged, together with a copy of the order.

c. If the order is for partial extinguishment of the easement, a Form 10 – Surrender of Easement to partially extinguish the easement is lodged, together with a plan of survey of the area of the burdened lot being extinguished bound into the Surrender. A copy of the court order is also required.

d. If the court order is for the full surrender of the easement, then a Form 10 – Surrender of Easement is lodged. A copy of the court order is required if any person authorised by the court, other than the registered proprietor of the lots has executed any instrument or document.

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

However, if the court makes a direct order of extinguishment or modification, a Form 14 – Request to Register Court Order is required.

See also part 10 – Surrender of Easement, part 13, esp. [13-0020] and part 14 – General Request, esp. [14-2430].

[9-4000] Forms

[9-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

EASEMENT

Duty Imprint

FORM 9 Version 4
Page 1 of 1

Dealing Number

OFFICE USE ONLY

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1. Grantor
WILLIAM JOHN SMITH and MARY ISABELL SMITH

Lodger (Name, address, E-mail & phone number)
CLINTON & ASSOCIATES
SOLICTORS
391 QUEEN STREET
BRISBANE QLD 4000
info@clintons.com.au
(07) 3228 3349

Lodger Code
94

2. Description of Easement/Lot on Plan — **Title Reference**

Servient Tenement (burdened land)
EASEMENT A ON RP145897 — 14500101

#Dominant Tenement (benefited land)
insert "Not applicable" if easement in gross
LOT 140 ON RP103010 — 13429151

3. Interest being burdened
FEE SIMPLE

#4. Interest being benefited
FEE SIMPLE
insert "Not applicable" if easement in gross

5. Grantee Given names: LAWRENCE ARTHUR; Surname/Company name and number: MORGAN (include tenancy if more than one)

6. Consideration
$1.00

7. Purpose of easement
RIGHT OF WAY

8. Grant/Execution

The Grantor for the above consideration grants to the Grantee the easement over the servient tenement for the purpose stated in item 7 and the Grantor and Grantee covenant with each other in terms of:- *the attached schedule; *the attached schedule and document no. ; *document no.

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

J I Clinton		*W J Smith*
.....signature		
JONATHON IAN CLINTON		*M I Smith*
.....full name		
SOLICITOR		
.....qualification	7/10/2007	.....
Witnessing Officer	**Execution Date**	**Grantor's Signature**

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

V N Stinson		
.....signature		
VALDA NORMA STINSON		
.....full name		
JUSTICE OF THE PEACE (C.DEC) #42345		*L A Morgan*
.....qualification	10/10/2007	.....
Witnessing Officer	**Execution Date**	**Grantee's Signature**

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

Guide to Completion of Form

[9-4010] General

A Form 9 is used when an easement is granted after the registration of a plan under Part 6, Division 4 of the *Land Title Act 1994* or Part 4 Division 8 of the *Land Act 1994*.

An easement may be granted for the same purposes and covenants in one easement by the registered owners of the following lots:

a. one servient lot to one dominant lot;

b. multiple servient lots in different ownership to one dominant lot; and

c. one servient lot to multiple dominant lots in different ownership.

In the case of (b), the grantors should be separately described in Item 1 of the Form 9 as 'AB (Parcel 1), CD (Parcel 2), EF (Parcel 3), etc' and the descriptions of the servient tenements in Item 2 should be identified by parcel numbers.

In the case of (c), the grantees should be separately described in Item 5 of Form 9 as 'AB (Parcel 1), CD (Parcel 2), EF (Parcel 3), etc' and the description of the dominant tenements in Item 2 should be identified by parcel numbers.

[9-4020] Item 1

Insert the full name of the grantor of the easement, i.e. the registered owner of the burdened lot or lessee of the freehold lease. If the grantor is:

a. A trustee or personal representative, this information should appear at Item 1. For example, 'as trustee under Transfer to Trustees No [number]', or 'as personal representative of the estate of [name of deceased] deceased'. A trustee or personal representative can grant an easement by virtue of s. 33(1)(h) of the *Trusts Act 1973*.

b. A body corporate for a community titles scheme, the following words must be inserted 'Body Corporate for [name of scheme] community titles scheme [scheme number]', e.g. 'Body Corporate for Seaview community titles scheme 1234'.

c. A minor (a person who has not yet reached the age of 18 years). A minor cannot be a grantor of an easement. However, this does not affect the court's ability to order a statutory right of user over land where one of or the sole registered owner is a minor (s. 180 of the *Property Law Act 2023*).

d. A mortgagee in possession, the mortgagee may grant an easement for right of way or drainage under s. 113(1)(d) of the Property Law Act or as defined in the mortgage. A declaration as to default and service of a notice of demand would be required to accompany the Form 9.

e. A lessor (registered owner), the lessor may grant in a separate easement, to his/her lessee, an easement over land not covered by the lease.

f. A tenant in common, all tenants in common should join in one easement and not grant easements individually.

g. A lessee of a registered lease, the name of the lessee should appear at Item 1.

A grantor may, by separate easements, grant the same or different easement rights over the burdened lot to any number of different benefited lots. However, each successive grant is subject to the rights of the prior grantees.

[9-4030] Item 2

Servient Tenement (burdened land)

For an easement over part of a lot, or over part of a lease of land, or over part of a lease of a building, insert the description of the easement, e.g. 'Easement A on SP 145897'.

For an easement over the whole of a lot, or over a lease of the whole of the lot, insert only the description of the lot e.g. 'Lot 1 on SP123456'.

For information about completing Item 2 for an easement restricted in height or depth or between certain horizontal planes see [9 2070].

Dominant Tenement (benefited land)

For an easement other than an easement in gross insert description of benefited lot.

For an easement in gross 'Not applicable' must be inserted.

[9-4040] Item 3

Insert the interest being burdened, e.g. ‘Fee Simple’, Lease No [number] or ‘State Tenure No [number]’.

[9-4050] Item 4

Insert the interest being benefited, e.g. ‘Fee Simple’ or ‘State Tenure No [number]’ or ‘Lease No [number]’.

Note: For an easement in gross ‘Not applicable’ must be inserted.

[9-4060] Item 5

Insert the full name and tenancy of the grantees for each benefited title.

The grantee may be any registered owner of land or a lessee of a freehold lease and this includes a minor (see Part [61-3090] for information regarding execution by a minor).

If the grantees are tenants in common, there must be only one grant in their favour. Easements cannot be granted to tenants in common individually.

The statutes are silent on the authority of a trustee to be a grantee under an easement. However, as the benefit accrues to the trust there is nothing to prevent a trustee acting in that capacity.

If a mortgage enables a mortgagee in possession to be the grantee of an easement, a declaration of default and service of notice of demand are required to accompany the Form 9.

[9-4070] Item 6

Insert the monetary or other consideration.

[9-4080] Item 7

Insert a short description of the purpose of the easement, e.g. right of way, drainage, cane railway etc. or, if this is not possible, indicate ‘see schedule for attachment of covenants and description of use’.

[9-4090] Item 8

The parties complete where indicated and execute as required.

See also part 61 – Witnessing and Execution of Instruments or Documents, esp. [61-3000].

[9-6000] deleted

[9-7000] Case Law

[9-7000] *Re Broons* [1989] 1 Qd R 315

This case is authority for the proposition that tenants in common who are both grantors and grantees can grant easements to themselves which contain enforceable covenants.

[9-7010] deleted

[9-7020] *Re Ellenborough Park* [1956] 1 Ch 131

This case is the landmark case which established the essential characteristics of an easement.

[9-8000] Fees

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

[9-9000] Cross References and Further Reading

Part 10 – Surrender of Easement

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement.

Part 61 – Witnessing and Execution of Instruments or Documents

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

[9-9050] Notes in text

Note [1] – This part 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.

Titles QUEENSLAND

Part 10 – Surrender of Easement

LAND TITLE PRACTICE MANUAL

Updated: 28 August 2024

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Part 10 – Surrender of Easement[1]

[10-0000] General Law

In this part, unless otherwise stated, a reference to a lot means:

- a freehold lot;
- land granted in trust under the *Land Act 1994*; or
- non freehold land (including any lease of non-freehold land or sublease of non-freehold land) other than a road;

For surrenders of easement under the provisions of s. 90(5) of the *Land Title Act 1994*, the meaning of owner of a lot or lessee of lease means[2]:

- the registered owner of the lot or registered lessee of the lease; or
- if the mortgagee of the registered owner of the lot or registered lessee of the lease is in possession – the mortgagee in possession.

For surrender of easements under the provisions of s. 371 of the Land Act, the State is taken to be the owner of unallocated State land and reserves (s. 371(5) of the Land Act).

For surrenders of easement under the provisions of s. 371(6) of the Land Act, the meaning of owner of land includes[3]:

- a registered owner; or
- a trustee of land granted in trust; or
- a lessee or licensee; or
- a mortgagee in possession.

An easement is wholly or partially extinguished by the registration of a surrender of that easement. Only the owner of the benefited lot has the power to execute a surrender of that easement. The owner of the burdened lot cannot, alone, effect the surrender of an easement. However, the owners of the benefited and burdened lots, acting together, can surrender an easement.

Lodgement fees are payable and a duty notation is required.

[10-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[10-2000] Practice

Surrender Executed by Owner of Dominant Tenement and Servient Tenement

The owners of both the benefited (dominant tenement) and burdened (servient tenement) lots may together execute the Form 10 – Surrender of Easement.

Similarly, if either the dominant or servient tenements are a registered freehold lease, the lessee may execute the Form 10 – Surrender of Easement with the other party.

Surrender Executed only by Owner of Dominant Tenement

A Form 10 – Surrender of Easement executed only by the owner of the lot that benefits from the easement (the dominant tenement) will be effective to surrender the easement.

Similarly, if the dominant tenement as identified at Item 3 of the Form 9 – Easement is a registered freehold lease, the lessee of the lease may alone execute the Form 10 – Surrender of Easement.

Surrender of Public Utility Easement

In relation to public utility easements (easements in gross), the public utility provider must execute the surrender.

Partial Surrender of Easement

If the easement is to be only partly surrendered, the surrendered portion must be capable of precise definition. If the surrendered portion is not capable of precise definition, the area to be surrendered, or the area to remain in the easement, must be defined by a plan of survey drawn in accordance with direction 6 of the Registrar of Titles Directions for the Preparation of Plans. Alternatively, the easement should be fully surrendered and a new easement created.

Consent of Mortgagee or Lessee to a Full or Partial Surrender of an Easement

The consent, in Form 18 – General Consent, of any registered mortgagees of the benefited lot (the dominant tenement) must also be lodged. Further, the consent of any lessee that receives a benefit from the easement is also required (ss. 90(3) and (4) of the *Land Title Act 1994*).

The consent of all persons who have a registered interest in the land benefited by the easement ss. 371(3) and (4) of the *Land Act 1994*) is also required.

Similarly, if the dominant tenement as identified at Item 3 of the Form 9 – Easement is a registered freehold lease, the consent of any registered mortgagee or sublessee of the lease who receive the benefit of the easement must also be lodged.

[10-2010] Surrender of Easement Affecting Common Property for a Community Titles Scheme[2]

When the body corporate executes a surrender of an easement, either as a grantee or as a grantor, the execution must be done in accordance with the relevant regulation module for the scheme. For further information see Part [45-2060].

A copy of the resolution in accordance with the scheme's regulation module is required to be deposited.

[10-4000] Forms

[10-4000] General Guide to Completion of Forms

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

SURRENDER OF EASEMENT

FORM 10 Version 4
Duty Imprint

Dealing Number

OFFICE USE ONLY

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1. Dealing number of easement being surrendered

700001245

Lodger (Name, address, E-mail & phone number)
CONSTANTUS & LEE
SOLICITORS
200 NORTH QUAY
BRISBANE QLD 4000
mail@conlee.com.au
(07) 3221 3429

Lodger Code
99

2. Description of Easement/Lot on Plan — **Title Reference**

Servient Tenement (burdened land)
EASEMENT G ON RP176953 — 13894001

*Dominant Tenement (benefited land)

* not applicable if easement in gross

LOT 4 ON RP176953 — 14359147

3. Grantor

PETER ROSS THOMPSON

4. Grantee

MICHAEL ALLEN MARSDEN
JOSEPHINE ELAINE MARSDEN

5. Surrender/Execution

***Full Surrender**
The Grantee surrenders the easement in item 1 so that the easement is extinguished.

~~***Partial Surrender***~~
~~The Grantee surrenders the easement in item 1 so that the easement is extinguished so far as the easement relates to:-~~
~~*part of the Dominant Tenement; or~~
~~*part of the Servient Tenement~~.

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

G I Constantus
.....signature
GUSTAVE *IGOR* CONSTANTUS
.....full name
SOLICITOR
.....qualification
Witnessing Officer

4/12/2007
Execution Date

M A Marsden
J E Marsden
.....
Grantee's Signature

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

R E Lester
.....signature
ROBERT EDWARD LESTER
.....full name
JUSTICE OF THE PEACE (QUALIFIED) #13445
.....qualification
Witnessing Officer

6/12/2007
Execution Date

P R Thompson
.....
Grantor's Signature

Guide to Completion of Form 10

[10-4010] Item 1

Insert the dealing number of the easement being surrendered (e.g. 602148090). If the easement is one that was registered while the land was State leasehold land, it may have two numbers:

- the dealing number given when the land was freeholded; **and**
- the original dealing number when first registered, which should be shown in brackets.

[10-4020] Item 2

Insert the description of the easement, for the burdened lot/s or freehold lease e.g. Easement [identifier] on [plan reference], and the Lot [number] on [plan reference] for the benefited lot or lot the freehold lease is registered over. The title reference for both tenements must also be inserted.

In the case of an easement in gross, the section of Item 2 relating to the benefited lot should be marked “Not applicable”.

[10-4030] Item 3

Insert the full names of the grantor/s. The current registered owner of the burdened lot or lessee of the freehold lease may not necessarily be the same as the original grantor. The relevant name to be inserted is that of the current registered owner or lessee of the freehold lease.

[10-4040] Item 4

Insert the full names of the grantee/s. The current registered owner of the benefited lot or lessee of the freehold lease may not necessarily be the person who was the original grantee of the easement. The relevant name to be inserted is that of the current registered owner or the lessee of the lease if the dominant tenement is a registered lease.

[10-4050] Item 5

Both parties, grantor and grantee, or alternatively, only the grantee alone (ss. 90(2)(b) and (c) of the *Land Title Act 1994* or ss. 371(2)(b) and (c) of the *Land Act 1994)* complete where indicated.

At Item 5, there are paragraphs applicable to a full and to a partial surrender. When completing the Form, the paragraph not applicable to the situation is to be ruled through.

The grantee alone may execute, or both the grantor and the grantee may execute, the surrender.

However, the grantor alone may not execute a surrender.

See also part 61 – Witnessing and Execution of Instruments or Documents, esp. [61-3000].

[10-6000] deleted

[10-7000] Case Law

Nil.

[10-8000] Fees

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

[10-9000] Cross References and Further Reading

Part 9 – Easement

Part 61 – Witnessing and Execution of Instruments or Documents

Bradbrook and Neave, *Easements and Restrictive Covenants*, Butterworths, 1986

[10-9050] Notes in text

Note [1] – This part 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.

Titles QUEENSLAND

Part 11 – Caveat

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Part 11 – Caveat

[11-0000] General Law

[11-0000] Definitions

A 'caveat' is a notice to the Registrar which, subject to some exceptions, has the effect of prohibiting the registration of an instrument or document, including a prior unregistered instrument or document (unless expressly excluded in the caveat) affecting the interest claimed by the caveator until the caveat is withdrawn, removed, lapses or is cancelled. The purpose of a caveat is to allow time for parties to apply to the court to enforce or determine an interest in a lot, or a lease, sub-lease, licence or an interest in a reserve under the *Land Act 1994*.

However, as a caveat does not provide all of the benefits of the Torrens System and the *Land Title Act 1994*, it should not be seen as a viable alternative to registering the interest[2].

'Caveator', for a lot under the Land Title Act, means a person in whose favour the caveat is lodged (s. 4 of the Land Title Act).

'Caveator' for a lease, licence or an interest in a reserve under the Land Act over which a caveat has been lodged, means a person in whose favour the caveat is lodged (s. 3 of the Land Act).

'Caveatee', for a lot under the Land Title Act over which a caveat has been lodged, means:

- a registered proprietor of the lot; or
- someone (other than the caveator) who has an interest in the lot (s. 4 of the Land Title Act).

'Caveatee' for a lease, licence or interest in a reserve under the Land Act, over which a caveat has been lodged, means:

- a lessee of the lease or licensee of the licence; or
- someone, other than the caveator, who has an interest in the lease or licence; or
- the holder of an interest in a reserve (s. 3 of the Land Act).

[11-0010] Requirements of a Caveat

Sections 121(1), (2) and (2A) of the *Land Title Act 1994* and s. 389C (1), (2) and (2A) of the *Land Act 1994* provide that a caveat must be signed by or on behalf of the caveator and the caveat must state:

- the name of the caveator;
- an address where documents can be served on the caveator (the address stated may be the address of a stated legal practitioner);
- unless dispensed with by the Registrar, the name and address of the registered owner of the lot affected by the caveat and each other person whose interest or whose right to registration of an instrument is affected by the caveat[2];
- unless dispensed with by the Registrar of Titles, the name and address of the lessee or licensee affected by the caveat and each other person whose interest or whose right to registration of a document is affected by the caveat[1,3];
- the registered interest affected by the caveat;
- if the caveat relates to only a part of the lot or part of a water allocation – a description of the affected part or in the case of a water allocation the number of megalitres affected[2];
- the interest claimed by the caveator; and
- the grounds on which the interest is claimed.

These requirements apply to all caveats under the Land Title Act and the Land Act other than a caveat prepared and registered by:

- the Registrar under s. 17 of the Land Title Act (s. 121(3) of the Land Title Act); or
- the Registrar of Titles under s. 389L of the Land Act (s. 389C (3) of the Land Act).

Refer to [11-2100] for information regarding requisitions and rejection.

[11-0020] Persons Who May Lodge Caveat

Under the *Land Title Act 1994*[2]

Part 7, Division 2 is the division of the *Land Title Act 1994* that generally deals with the lodgement of caveats relating to interests in or over interests in freehold land and water allocations[2]. Pursuant to s. 122(1) of the Land Title Act a caveat may be lodged by:

- a person claiming an interest in a lot;
- the Registrar under s. 17;
- the registered owner of the lot;
- a person to whom an Australian court has ordered that an interest in a lot be transferred
- a person who has the benefit of a subsisting order of an Australian court in restraining a registered proprietor from dealing with a lot.

Section 122(2) of the Land Title Act makes it clear that an equitable mortgagee can only lodge a lapsing caveat[2].

Provision is also made for the lodgement of a caveat in the following circumstances[2]:

- by a person objecting to an application for adverse possession (s. 104 of the Land Title Act)[1];
- pursuant to an order of the Supreme Court when a person applies for an order that another person be registered as proprietor of a lot (s. 114 of the Land Title Act); and
- by a purchaser under an instalment contract (s. 93 of the *Property Law Act 2023*); and
- by an interest holder in a water allocation who has given notice under s. 73(1)(b) of the *Water Act 2000* (s. 171(3) of the Water Act).

Under the *Land Act 1994*[1,3]

Chapter 6, Part 4, Division 11A of the *Land Act 1994* deals with the lodgement of caveats relating to interests in State land. Pursuant to s. 389D (1) of the Land Act a caveat may be lodged by[1,3]:

- the Registrar of Titles under s. 389L(1); or
- a person to whom an Australian court has ordered that an interest in a lease or licence be transferred; or
- a person who has the benefit of a subsisting order of an Australian court in restraining a lessee from dealing with a lease or licensee from dealing with a licence.

[11-0030] A Person Claiming an Interest in a Lot[2]

Pursuant to s. 122(1)(a) of the *Land Title Act 1994*, a person claiming an interest in a lot may lodge a caveat. The caveator must identify an interest in the lot in the caveat.

Caveatable interests

It is not within the scope of this manual to give an exhaustive list of caveatable and non caveatable interests. The following are some examples of interests capable of supporting a caveat:

- The interest of a purchaser under a valid unconditional contract of sale. See Example 1 and the guide to completion at [11-4010].

  While this represents a valid interest, the need for such a caveat has generally been superseded by priority notices (see Part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice).

- The interest of a chargee under an agreement which specifically charges the land. See Example 2 and the guide to completion at [11-4010].
- The interest of an unregistered mortgagee (i.e. an equitable mortgagee). See Example 3 and the guide to completion at [11-4010].

  An equitable mortgagee can only lodge a lapsing caveat (s. 122(2) of the *Land Title Act 1994*).

  Mortgagees seeking the best protection available under the Torrens System should register their mortgage. An equitable mortgagee's caveat lapses unless an action is commenced in a court of competent jurisdiction. Equitable

mortgagees' caveats are only appropriate if the mortgagee needs to commence a court action to enforce their mortgage.

- The interest of a beneficiary of a constructive, resulting or implied trust. See Example 4 and the guide to completion at [11-4010].
- The interest of the trustee in bankruptcy following the vesting of the property under section 58 of the *Bankruptcy Act 1966* (Cth). See Example 5 and the guide to completion at [11-4010].

See further [11-4040], [11-4050] and [11-4055].

Interests that are not caveatable

Rights and interests that are unlikely to sustain a caveat include, for example:

- A vendor's right to unpaid purchase money as this is not capable of giving rise to any equitable lien on the lot (s. 191 of the *Land Title Act 1994*).
- Judgement debts owed to financiers and other creditors.
- Personal contractual rights or a personal interest in land.
- The mere possibility of obtaining a court order or success in court.
- A right of first refusal or a right of pre-emption.
- The interest of a beneficiary under a discretionary trust.

See further [11-2020].

[11-0040] Registrar (*Land Title Act 1994*)[2]

Pursuant to ss. 17(1) to (4) of the *Land Title Act 1994*, the Registrar may prepare and register a caveat over a lot or an interest in a lot, in favour of a person, to prevent a dealing with the lot that may prejudice:

- the Commonwealth, a State or a local government;
- a minor;
- a person who is intellectually or mentally impaired or is incapable of managing his/her own affairs;
- a person who is absent from the State;
- a person because of misdescription of the lot or its boundaries, or fraud or forgery;
- a person to whom a notice has been given, or has been required to be given, under s. 30(3) of the Land Title Act; or
- a person, other than a person mentioned in any of the above, who has an interest in the lot.

Also, the Registrar may act under section 17 to prevent a dealing with a lot to give effect to an order of a court of competent jurisdiction directed to the Registrar or upon the receipt of a submission in writing, provided it is supported by relevant evidence, from a person who is in a position to protect the interest, for example:

- the Attorney General in respect of the State or the Commonwealth;
- the guardian of a minor or some other person concerned about the rights of a minor;
- the Public Trustee or an administrator appointed for a person who has impaired capacity for a matter; or
- a person absent from the State or his/her solicitor.

In all cases, good reasons would have to be demonstrated before the Registrar would exercise the discretion.

The Registrar may only prepare and register a caveat under s. 17 of the Land Title Act in one of the circumstances set out in the Act.

A Registrar's caveat does not lapse (s. 126(1)(d) of the Land Title Act).

A Registrar's caveat may be removed by:

- voluntary withdrawal by the Registrar; or
- a court order.

The remedy available to the caveatee to apply to the Supreme Court under s. 127 of the *Land Title Act* for an order that the caveat be removed, applies equally to caveats lodged by the Registrar.

[11-0045] Registrar of Titles (*Land Act 1994*)[1,3]

Pursuant to ss. 389L(1) to (4) of the *Land Act 1994*, the Registrar of Titles may prepare and register a caveat over a relevant tenure in favour of the State, to prevent a dealing with the relevant tenure that may prejudice:

- the Commonwealth, a State or a relevant local government;
- a person who is intellectually or mentally impaired or is incapable of managing his/her own affairs;
- a person who is absent from the State;
- a person because of misdescription of the tenure, or fraud or forgery;
- a person to whom a notice has been given, or has been required to be given, under s. 295(2) of the Land Act; or
- a person, other than a person mentioned in any of the above, who has an interest in the relevant tenure.

The Registrar of Titles may also act under s. 389L(1) to prepare and register a caveat to prevent a dealing with a relevant tenure if the relevant tenure is to be extinguished; or to give effect to an order of a court of competent jurisdiction directed to the Registrar of Titles.

[11-0050] Registered Owner[2]

Generally, a registered owner (irrespective of tenancy) is entitled to lodge a caveat which does not lapse (ss. 122(1)(c) and 126(1)(a) of the *Land Title Act 1994*). However, this does not entitle a registered owner to lodge a caveat without valid grounds to support it. The caveat will be requisitioned if valid grounds are not included to support the caveat. If details of the grounds are not then provided, the caveat will be rejected.

A caveat lodged by a registered owner will lapse where the lot is subject to a mortgage and the grounds stated in the caveat relate to the actions of the mortgagee in relation to registration of the mortgage (if the mortgage is already registered) or in relation to the mortgagee's power of sale (s. 126(1A) of the Land Title Act). In these situations, the caveat will be subject to the lapsing provisions of s. 126 of the Land Title Act (see [11-0190]).

Section 124(2) of the Land Title Act identifies instruments which are not prevented from being registered by lodgement of a caveat.

A joint tenant cannot, by caveat, prevent other joint tenants severing the joint tenancy.

[11-0060] Court Order

Section 122(1)(d) of the *Land Title Act 1994* and s. 389D(1)(b) of the *Land Act 1994* provide that a person to whom an Australian court has ordered that an interest in a lot under the Land Title Act, or an interest in a lease or licence under the Land Act be transferred, may lodge a caveat. For example, if the Family Court ordered that a person transfer his/her interest in the matrimonial home to his/her spouse, this would be an interest sufficient to support a caveat. However, a caveat may not be lodged on this ground if the court order does not order an interest transferred, but rather merely indicates that a spouse has an interest and can lodge a caveat.

Pursuant to s. 122(1)(e) of the Land Title Act and s. 389D(1)(c) of the Land Act, when an Australian court has given an order restraining a registered proprietor under the Land Title Act, or a lessee or licensee under the Land Act from dealing with a lot or interest, the person with the benefit of that order may lodge a caveat.

Order under the *Criminal Proceeds Confiscation Act 2002*

[11-0063] Forfeiture Order

Sections 58 and 151 of the *Criminal Proceeds Confiscation Act 2002* (Qld) provide that the court may issue a forfeiture order. If a forfeiture order is made, an interest sufficient to sustain a caveat in keeping with s. 122(1)(d) of the *Land Title Act 1994* and s. 389D(1)(b) of the *Land Act 1994* exists.

Either the Crime and Corruption Commission or the Commissioner of Police may lodge a caveat if a forfeiture order is made and that caveat prevents registration of any instrument or document in keeping with s. 122(1)(d) of the Land Title Act and s. 389D(1)(b) of the Land Act.

An authorised officer of the Crime and Corruption Commission or the Commissioner of Police may execute a caveat lodged pursuant to ss. 58 or 151 of the Criminal Proceeds Confiscation Act.

The Registrar will not inquire as to the authority of the person who executes these caveats.

No lodgement fee is payable by the State for the registration of the caveat (s. 264 of the Criminal Proceeds Confiscation Act).

[11-0066] Restraining Order

Under s. 31 of the *Criminal Proceeds Confiscation Act 2002* (Qld), a restraining order may be made in relation to property. If a restraining order is made under s. 31, an interest sufficient to sustain a caveat in keeping with s. 122(1)(e) of the *Land Title Act 1994* and s. 389D(1)(c) of the *Land Act 1994* exists (ss. 51(5) and 142(5) of the Criminal Proceeds Confiscation Act).

The Crime and Corruption Commission or the Commissioner of Police or the Director of Public Prosecutions may lodge a caveat if a restraining order is made and that caveat prevents registration of any dealing in keeping with s. 122(1)(d) of the Land Title Act and s. 389D(1)(b) of the Land Act (ss. 51(5) and 142(5) of the Criminal Proceeds Confiscation Act).

The Registrar will not inquire as to the authority of the person who executes these caveats.

No lodgement fee is payable by the State for the registration of the caveat (s. 264 of the Criminal Proceeds Confiscation Act).

[11-0070] Adverse Possession[1,2]

Section 104 of the *Land Title Act 1994* makes provision for a person who claims an interest in a lot to lodge a caveat over the lot at any time before the applicant (adverse possessor) is registered as owner of the lot.

If the Registrar is satisfied that the caveator has an interest in the lot that has not been extinguished under the *Limitation of Actions Act 1974*, the Registrar may:

- refuse to register the applicant for title by adverse possession as owner of the lot (s. 107(1)(a) of the Land Title Act); or
- register the applicant as the holder of a lesser interest in the lot that the Registrar considers appropriately reflects the use made of the lot by the applicant and the period that the applicant has used the lot (s. 107(1)(b) of the Land Title Act); or
- if the caveator does not agree to the registration of the applicant for a lesser interest in the lot, issue a written notice to the caveator of the Registrar's intention to register the lesser interest and the caveator then has one month in which to begin proceedings in the Supreme Court to recover the lot. The caveator must, within one month of receiving the Registrar's notice, give written notice to the Registrar, in the way the Registrar requires, that the proceeding has started (by way of a Form 14 – General Request. Refer to [11-0130] and [11-2040]). If the caveator fails to commence proceedings within this time, the caveat will lapse and the Registrar may proceed to register the applicant (ss. 107(2), (3), (3A) and (4) of the Land Title Act).

If the Registrar is not satisfied that the caveator has an interest in the lot, or is satisfied that the interest of the caveator has been extinguished under the *Limitation of Actions Act 1974*, the Registrar will issue a notice to the caveator to start proceedings to recover the lot within six months of the notice (s. 105(1) of the Land Title Act). The caveat will lapse six months after the notice is given unless the caveator commences proceedings and notifies the Registrar, in the way the Registrar requires, of this within this period (s. 105(2) of the Land Title Act).

In addition, s. 105(3) of the Land Title Act provides that the caveat will lapse if:

- the proceeding is withdrawn or dismissed;
- judgement in the proceeding is given against the caveator and the time for appealing against the judgement expires without an appeal being lodged; or
- if judgement in the proceeding is given against the caveator and the judgement is appealed - the appeal is dismissed or withdrawn.

While the applicant's application for title by adverse possession is still current, a further caveat of the caveator can never be lodged in relation to the interest claimed on the same, or substantially the same, grounds unless the leave of the Supreme Court to lodge the further caveat has been granted (s. 106 of the Land Title Act).

[11-0080] Transmission by Death[2]

The applicant of a lodged Transmission Application (see part 5, 5A, 6 – Transmission Applications) may be required by the Registrar to give public notice of the Transmission Application request (s. 18(2) of the *Land Title Act 1994*).

The Registrar may specify what the applicant is to include in the public notice (s. 18(4)(a) of the Land Title Act). For example, the Registrar may specify that the advertisement is to include a date after which registration will take place unless

a caveat is lodged before that date. In such a case, the provisions in Part 7, Division 2 of the Land Title Act would be applicable.

Pursuant to ss. 114(1) and (2) of the Land Title Act, certain persons may apply to the Supreme Court for an order that another person be registered as proprietor of a lot. In such a case, the Supreme Court may make an order that a caveat be lodged to protect a person's interest in the lot (s. 114(3)(c) of the Land Title Act).

[11-0090] Purchaser under an Instalment Contract[2]

Section 93(1) of the *Property Law Act 2023* gives a purchaser under an instalment contract for the sale of land registered under the *Land Title Act 1994* the right to lodge a caveat. Section 93(2) of the Property Law Act specifically states that such a caveat is not taken to have been lodged under Part 7, Division 2 of the Land Title Act. Therefore, it is a non-lapsing caveat (s. 126 of the Land Title Act). However, the caveat is limited to the duration of the instalment contract.

Caveats lodged under s. 93(1) of the Property Law Act 'forbid the registration of any instrument affecting the land the subject of the contract until completion of the instalment contract', or until the caveat is removed or withdrawn (s. 93(3) of the Property Law Act). As a result of s. 93(2) of the Property Law Act, the provisions of the Land Title Act in respect of caveats do not apply to caveats lodged under s. 93.

Section 92 of the Property Law Act makes provision for sale or mortgage of the land the subject of the instalment contract with the consent of the purchaser. However, to allow any other transaction (e.g. a lease or easement), the caveat must be withdrawn and a further caveat lodged (Note: s. 129 of the Land Title Act does not apply to prevent a further caveat from being lodged on the same, or substantially the same, grounds). The exceptions to the prevention of registration in s. 124(2) of the Land Title Act do not apply to caveats lodged under s. 93 of the Property Law Act.

Section 93(3) of the Property Law Act provides that instalment contract caveats lodged under s. 93 may be removed by interested parties. Removal follows proof to the satisfaction of the Registrar of Titles or the court that:

- the purchaser under the instalment contract has consented to the removal; or
- the instalment contract has been rescinded, terminated or discharged by performance or otherwise; or
- other grounds exist that justify the removal.

Section 91 of the Property Law Act clarifies that an instalment contract is not determined immediately on default in the payment of an instalment by the purchaser. Before the contract may be determined, at least 30 days must have expired since service on the purchaser of a notice of default as prescribed in the Act.

Refer to [11-2015] for practice and [14-2120] for removal and withdrawal.

[11-0095] Interest Holder under a Notice Deposited under the *Water Act 2000*[2,3]

Under s. 171(3) of the Water Act (the Act) an interest holder in a former water entitlement who has given the Chief Executive notice about a water allocation under s. 73(1)(b) of the Act may, within 60 business days of the water allocation being recorded in the register under s. 146(1)(b) of the Act or before the interest mentioned in the notice is recorded on the register, lodge a caveat claiming an interest in the water allocation.

Once the caveat is lodged under s. 171 of the Act claiming an interest in the water allocation, the equivalent interest continues until the interest claimed in the caveat is recorded on the water allocations register or the caveat lapses, or is otherwise cancelled, removed or withdrawn (s. 171(3) of the Act).

Under s. 171(4) of the Act the Registrar must not record any other dealing for the water allocation, other than a notice mentioned in s. 172(1) of the Act, until the caveat ceases to have effect in relation to the interest.

[11-0100] Effect of Caveat

Subject to some exceptions, the lodgement of a caveat prevents the registration of an instrument or document affecting the lot or interest from the date and time endorsed on the caveat by the Registrar at lodgement until the caveat is withdrawn, removed, cancelled, rejected or lapses (ss. 124(1) and (1A) of the *Land Title Act 1994* or ss. 389F(1) and (2) of the *Land Act 1994*).

Lodgement of a caveat, other than a caveat lodged pursuant to s. 171(3) of the *Water Act 2000*, does not prevent registration of the following[1]:

- an instrument or document specified in the caveat as an instrument or document to which the caveat does not apply. The instrument or document may be identified by a dealing number if lodged prior to the caveat or by way of description if it is to be lodged subsequent to the caveat.

- an instrument or document to which the caveator has given written consent for its registration. Please note that the consent of the Caveator to an instrument or document provided by way of a Form 18 – General Consent must be deposited with the instrument or document being consented to (see [18-2000]).
- an instrument or document executed by a mortgagee whose interest was registered before lodgement of the caveat if the mortgagee has power under the mortgage to execute the instrument or document and the caveator claims an interest in the lot or lease under the Land Act as security for the payment of money or money's worth. This exception does not apply to a Registrar's caveat under section 17 of the Land Title Act.
- a transfer of mortgage executed by a mortgagee whose interest was registered before lodgement of the caveat. This exception does not apply to a Registrar's caveat under section 17 of the Land Title Act or to a caveat lodged by the registered owner under section 122(1)(c) of the Land Title Act.
- for a caveat lodged by a person with the benefit of an order restraining a registered proprietor under s. 122(1)(e) of the Land Title Act or a lessee under 389D(1)(c) of the Land Act – a dealing other than a dealing restrained by the order. For example, a caveat lodged by a person with the benefit of an order that restrains the registered owner of a lot from transferring or mortgaging the lot will not prevent the registration of an instrument of lease for the lot.
- an instrument or document creating or affecting another interest that, if registered, would not affect the interest claimed by the caveator. For example, a release of mortgage or a change of name.
- a writ of execution lodged after the caveat.
- a writ of execution lodged before the caveat that is unregistered at the time of lodgement of the caveat.

However, the caveat will prevent registration of a Sheriff's transfer pursuant to a writ of execution. Lodgement of a caveat does not prevent a caveat by another caveator being lodged.

[11-0110] Notification of Caveat

When a caveat is lodged, the Registrar must give written notice to:

- each registered proprietor of the lot affected by the caveat[2];
- each lessee or licensee affected by the caveat[1,3]; and
- each other person whose interest or whose right to registration of an instrument or document is affected by the caveat.

See further [11-2030] and s. 123 of the *Land Title Act 1994* or s. 389E of the *Land Act 1994*.

[11-0120] Caveatee's Notice to Caveator and Notification to Registrar – Form 14 (Caveatee's Notice)[2]

The caveatee under a lodged caveat may serve a notice on the caveator to start a proceeding in a court of competent jurisdiction, within 14 days of service of the notice, to establish the interest claimed in the caveat (s. 126(2)(a) of the *Land Title Act 1994*).

The Land Title Act defines a caveatee as a registered proprietor of the lot, or someone (other than the caveator) who has an interest in the lot.

Section 126(2)(b) of the Land Title Act further requires a caveatee to notify the Registrar within 14 days of the service of such notice on the caveator. The notification to the Registrar must be made by way of a Form 14 – General Request (Caveatee's Notice).

No deposit fee is payable for a Form 14 – General Request (Caveatee's Notice). Refer to [11-2035] for practice requirements, Example 6 and the Guide to completion at [11-4100]. See also [52-0020].

The notification will be recorded as an administrative advice and entered on title as NOTICE (see [52-2000]).

If the caveator does not commence a proceeding within the 14-day period and notify the Registrar, the caveat will lapse (s. 126(5) of the Land Title Act).

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.

[11-0130] Caveator's Notice to Registrar – Form 14 (Notice of Action)[2]

If a caveator does not want a lapsing caveat to lapse under section 126 of the *Land Title Act 1994*, a caveator must:

- start a proceeding in a Court of competent jurisdiction to establish the interest claimed under the caveat; and

- deposit a Form 14 – General Request (Notice of Action) within specified time limits (see [11-0190] for details of the specified time limits) to notify the Registrar that a proceeding has been started.

  Note: It is not sufficient to deposit a copy of the originating proceeding or a copy of a court order **with the caveat** to comply with the requirements of s. 126(4)(b) of the Land Title Act. A separate Form 14 – General Request (Notice of Action) must be deposited.

No deposit fee is payable for a Form 14 – General Request (Notice of Action).

Refer to [11-2040] for practice requirements, Example 7 and the Guide to completion at [11-4100]. See also [52-0010].

The Notice of Action will be recorded as an administrative advice and entered on title as NTCE OF ACTN (see [52-2000]).

The entry of a Notice of Action as an administrative advice on a title does not automatically prevent a caveat from lapsing, as there are other factors which determine the effect of a Notice of Action, including:

a. whether the Notice of Action was deposited within the prescribed time; and
b. whether the proceedings:
   i. have been started in a court of competent jurisdiction; and
   ii. seek to establish the interest claimed in the caveat.

If any of the above factors are not met, the notice will not have any effect on the caveat. A requisition will be issued for the notice to be withdrawn from the registry within seven days.

If a deficiency other than those mentioned above is found in the notice during examination, a requisition will be issued. For further information see [11-2100] and part 60 – Miscellaneous, esp [60-0030].

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.

[11-0140] Caveatee's Proceedings in the Supreme Court

Pursuant to s. 127 of the *Land Title Act 1994* or s. 389H of the *Land Act 1994*, the caveatee may at any time apply to the Supreme Court for an order that the caveat be removed (see also [11-0200]).

[11-0150] Further Caveat

If a caveat (the original caveat) is lodged in relation to an interest, a further caveat with the same caveator can never be lodged on the same, or substantially the same, grounds as the grounds stated in the original caveat unless the leave of a court of competent jurisdiction to lodge the further caveat has been granted (s. 129 of the *Land Title Act 1994* and s. 389J of the *Land Act 1994*). Evidence of the leave of a court of competent jurisdiction to lodge the further caveat must be deposited with the further caveat. The Registrar will scrutinise previous caveats lodged by the caveator over the same title to determine whether the current caveat has been lodged on the same, or substantially the same grounds.

[11-0160] Compensation[2]

Pursuant to s. 130(1) of the *Land Title Act 1994*, a caveator under a caveat lodged or continued without reasonable cause must compensate anyone else who suffers loss or damage as a result. Section 130(2) of the Land Title Act specifically provides that a court of competent jurisdiction, when determining the compensation in such a proceeding, may include a component for exemplary damages. It is presumed that a caveat has been lodged or continued without reasonable cause until the caveator proves that there was reasonable cause (s. 130(3) of the Land Title Act).

[11-0170] Lapsing of Caveat[2]

When a caveat lapses, the Registrar may remove it from the freehold land register (s. 126(7) of the *Land Title Act 1994*).

Refer to [11 0190] and [11-2050] for more information on the lapsing of a caveat.

Pursuant to s. 126(1) of the Land Title Act, a caveat will not lapse if it is lodged:

- by the registered owner (except for when s.126(1A) of the Land Title Act applies) or if his/her consent is deposited when the caveat is lodged;
- pursuant to a court order mentioned in ss. 122(1)(d) or (e) of the Land Title Act;
- by the Registrar under s. 17 of the Land Title Act; or

- other than under Part 7, Division 2 of the Land Title Act, e.g. a caveat by a purchaser under an instalment contract.

By virtue of s. 122(2) of the Land Title Act, a caveat lodged by an equitable mortgagee lapses, even if the consent of the registered proprietor was deposited at the time of lodgement.

[11-0180] Consent of Registered Owner[2]

If a person with an interest in the lot lodges a caveat with the consent of the registered owner, the caveat will not lapse. The consent of the registered owner in Form 18 – General Consent must be deposited with the caveat and not at a later date. Whether the dating of the registered owner's consent is concurrent with, prior to or subsequent to the execution of the caveat is immaterial, as long as it is deposited with the caveat and the caveator is not an equitable mortgagee.

While the consent of the registered owner means that a caveat (other than an equitable mortgagee caveat) does not lapse, this does not mean that a person may lodge a caveat, whether or not he/she has an interest in the land, by relying simply on the consent.

[11-0190] Automatic Lapsing[2]

Section 126 imposes time limits on the duration of a caveat lodged under Part 7, Division 2 of the *Land Title Act 1994*, depending upon the action (or inaction) of the caveator and the caveatee after the caveat is lodged. The scenarios are as follows:

Scenario 1 – Notice by Caveatee pursuant to s. 126(2) of the Land Title Act

- Pursuant to s. 126(2) of the Land Title Act, the caveatee:
  - may serve on the caveator a notice requiring the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under the caveat; and
  - must notify the Registrar by depositing a Form 14 – General Request within 14 days of service of this notice upon the (see [11-0120] and [11-2035]).

  Even if the caveatee serves a notice on the caveator, but fails to notify the Registrar by depositing a Form 14 – General Request (Caveatee's Notice), the notice will not be effective under s. 126(2) of the Land Title Act.
- If the caveatee complies with the above process and the caveator does not:
  - start a proceeding to establish the interest claimed in a court of competent jurisdiction within 14 days after the notice is served; and
  - notify the Registrar by depositing a Notice of Action in a Form 14 – General Request (see [11-0130] and [11-2040]) within that 14-day period;

  the caveat will lapse at the expiry of the 14 days or three months after lodgement of the caveat, whichever is earlier (s. 126(5) of the Land Title Act).

  Even if the caveator starts a proceeding, but fails to notify the Registrar, the caveat will lapse at the end of the applicable period as above (s. 126(4)(b) of the Land Title Act).

  See Example 9 and the guide to completion at [11-4200].
- If the caveator starts a proceeding and the Registrar is notified within the required period, the caveat will remain in force until the proceeding is determined by the court or the caveat is withdrawn.

Scenario 2 – No notice by Caveatee pursuant to s. 126(2) of the Land Title Act

- If the caveatee does not act pursuant to s. 126(2) of the Land Title Act (by serving a notice on the caveator and notifying the Registrar) – to prevent the caveat lapsing the caveator must within three months of the lodgement of the caveat:
  - start a proceeding to establish the interest claimed in a court of competent jurisdiction to establish the interest claimed; and
  - notify the Registrar by depositing a Notice of Action in a Form 14 – General Request (ss. 126(4)(a)(ii) and 126(4)(b) of the Land Title Act, see [11-0130] and [11-2040]).

  In this case, the caveat will remain in force until the proceeding is determined by the court or the caveat is withdrawn.
- If a proceeding is not started and a Notice of Action in a Form 14 – General Request deposited within three months of the lodgement of the caveat, the caveat will lapse.

See Example 9 and the guide to completion at [11-4200].

Note: Under s. 126(6) the caveator is taken to have complied with s. 126(4)(a) if before the caveat was lodged a proceeding has been started in a court of competent jurisdiction to establish the interest claimed under the caveat; and the proceeding has not been decided, discontinued or withdrawn.

[11-0200] Removal by the Court

Pursuant to s. 127 of the *Land Title Act 1994* or s. 389H of the *Land Act 1994*, a caveatee may apply at any time to the Supreme Court for an order that a caveat be removed.

The Supreme Court may make the order whether or not the caveator has been served with the application and may make the order on the terms it considers appropriate.

If an order is obtained, the Caveatee can remove the caveat by lodging a Form 14 – General Request to Remove Caveat. Refer to [11-2080] for practice requirements, Example 10 and the Guide to completion at [11-4100]. See also Part 14 esp. [14-2100].

Withdrawal

[11-0210] Registered Caveat

A registered caveat may be withdrawn by the caveator by lodging a Form 14 – Request to Withdraw (s. 125 of the *Land Title Act 1994* or s. 389G of the *Land Act 1994*).

Refer to [11-2060] and [11-2065] for practice requirements, Example 8, 8A and 8B and the guide to completion at [11 4200].

See also Part 14 esp. [14-2100] and [14-2110].

[11-0220] Unregistered Caveat

An unregistered caveat may be withdrawn by way of a letter signed by the caveator or the caveator's current solicitor.

See [11-2070] and [14-2100].

[11-0230] Cancellation

Cancellation on the basis of a Form 14 – General Request to Cancel a Caveat

Pursuant to s. 128 of the *Land Title Act 1994* or s. 389I of the *Land Act 1994*, the Registrar may cancel a caveat upon receipt of a Form 14 – General Request to Cancel Caveat if the Registrar is satisfied of a basis detailed in the table below.

BASIS FOR CANCELLATION OF CAVEAT	LEGISLATION REFERENCE
The interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn	s. 128(1)(a) of the *Land Title Act 1994* s. 389I(2)(a) of the *Land Act 1994*
The claim of the caveator has been settled by agreement or otherwise satisfied	s. 128(1)(b) of the *Land Title Act 1994* s. 389I(2)(b) of the *Land Act 1994*
The nature of the interest claimed does not entitle the caveator to prevent registration of an instrument or document that has been lodged	s. 128(1)(c) of the *Land Title Act 1994* s. 389I(2)(c) of the *Land Act 1994*
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 1994* or 389D(1)(c) of the *Land Act 1994* – the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended	s. 128(1)(d) of the *Land Title Act 1994* s. 389I(2)(d) of the *Land Act 1994*

The Registrar must notify the caveator of the Registrar's intention to cancel the caveat at least seven days before it is cancelled (s. 128(2) of the Land Title Act or s. 389I(3) of the Land Act). If no response is received within the seven days, the caveat will be cancelled.

Refer to [11-2090] for practice requirements, Example 11 (Form 14 – General Request to Cancel Caveat pursuant to s. 128(1)(a) of the *Land Title Act 1994*) and the guide to completion at [11-4200].

See also Part 14 esp. [14-2100].

Cancellation in other circumstances

The Registrar may cancel a caveat immediately before registering:

- an instrument or document that has been lodged that will, on registration, give full effect to the interest claimed in the caveat (s. 128(3) of the *Land Title Act 1994* or s. 389I(4) of the *Land Act 1994*); or
- an instrument of transfer lodged by a prior registered mortgagee if the Registrar is satisfied that section 124(2)(c) of the Land Title Act applies to allow the registration of the dealing (s. 128(3) of the Land Title Act).

The Registrar may also cancel 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 if:

- an instrument or document for a dealing other than a dealing restrained by the order is registered; and
- because of the registration of the instrument or document, the order can have no further effect to restrain dealings by the person subject to the order.

[11-0240] Overriding of Caveat

Pursuant to s. 12(5) of the *Acquisition of Land Act 1967*, a resumption of land by the State, a local government or some other 'resuming authority' cancels any caveat over the land[1].

A transfer by a prior registered mortgagee exercising a power of sale overrides a caveat if

- the mortgagee has power under the mortgage to execute the transfer; and
- the caveator claims an interest in the lot under the *Land Title Act 1994*; or lease under the *Land Act 1994*, as security for the payment of money or money's worth (s. 124(2)(c) of the *Land Title Act 1994* or s. 389F(3)(c) of the *Land Act 1994*).

However, this does not apply to caveats lodged by the Registrar under section 17 of the Land Title Act.

Registration of a transfer of mortgage by a mortgagee whose interest was registered before the caveat is only prevented by a caveat of the Registrar or the registered owner (ss. 124(3) and (4) of the Land Title Act).

[11-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[11-2015] Practice

Requirements of a Caveat and [11-2000] deleted

[11-2010] Rejection moved to [11-2100]

[11-2015] Caveat by a purchaser under an instalment contract pursuant s. 93 of the *Property Law Act 2023*

In addition to the general practice requirements that apply to a Form 11, the following specific practice requirements apply to a caveat lodged under s. 93 of the Property Law Act:

- Item 3 – the interest being claimed may be specified as 'the interest of a purchaser under an instalment contract as defined by s. 89 of the Property Law Act 2023';
- Item 4 – this item must state that the caveat is being lodged pursuant to s. 93 of the Property Law Act 2023 and include the date of the instalment contract;
- Item 7 – paragraph (a) is to be amended to refer to the completion of the instalment contract mentioned in item 4; and
- a copy of the instalment contract must be lodged with the caveat.

Refer to [11-0090] for general law information and [14-2120] for removal or withdrawal.

[11-2020] Examination of Caveat or Caveatable Interest

It is not the function of the Registrar of Titles to decide the rights and wrongs of any claim made by the caveator. However, every Form 11 - Caveat is required to have sufficient information (i.e. at Items 3 and 4 of the Form 11) to clearly describe that the caveator claims some currently existing legal or equitable interest in the lot amounting to a caveatable interest.

[11-2030] Notification of Caveat

The names, capacity and addresses of the persons upon whom notices are required to be served must be detailed in Items 5 and 6 of the caveat (refer to [11-0110]).

The Registrar relies on the information provided by the caveator when providing notice to relevant persons under s. 123 of the *Land Title Act 1994* or s. 389E of the *Land Act 1994*.

[11-2035] Caveatee's Notice to Caveator and Notification to Registrar – Form 14 (Caveatee's Notice)[2]

In addition to the general practice requirements that apply to a Form 14, the following specific practice requirements apply to a Form 14 – General Request (Caveatee's Notice):

- Item 6 – must contain the dealing number of the caveat for which notice has been provided;
- details of the service of the notice (by hand, by fax, by post [including the date sent and service used] etc.) on the caveator must be provided to determine the application of the lapsing provisions under the *Land Title Act 1994*;
- a copy of the notice that was sent by the caveatee to the caveator must be deposited with the Form 14; and
- the notice sent by the caveatee to the caveator must contain sufficient information to link the notice to the caveat (e.g. the notice can refer to the dealing number of the caveat).

See Example 6 and the Guide to completion at [11-4100]. See [11-0120] for general law information.

No deposit fee is payable.

[11-2040] Caveator's Notice to Registrar – Form 14 (Notice of Action)[2]

In addition to the general practice requirements that apply to a Form 14, the following specific practice requirements apply to a Form 14 – General Request (Notice of Action):

- the Form 14 must clearly identify the caveat, the court action number of the proceeding, and all relevant titles; and

- a copy (see [60-1030]) of the originating proceeding showing the court action number must be deposited with the Form 14. The originating proceeding must:
  - seek to establish the interest claimed in the caveat*; and
  - be started in a court of competent jurisdiction#.

* For example, if the caveator is claiming an equitable interest as the beneficiary of a constructive trust (and/or implied or resulting trust), the originating proceeding must seek to establish the existence of the constructive (and/or implied or resulting) trust rather than just claiming a monetary amount.

\# Caveators should bear in mind the limited jurisdiction of inferior courts such as the Queensland Magistrates Court (particularly for equitable claims where the relief sought is not a monetary amount, see for example s. 4(c) *Magistrates Courts Act 1921*) and the Queensland Civil and Administrative Tribunal.

See Example 7 and the Guide to completion at [11-4100]. See [11-0130] for general law.

No deposit fee is payable.

[11-2050] Lapsing of Caveat[2]

Any person can make a request to remove a lapsed caveat by lodging a Form 14 – General Request to Remove Lapsed Caveat.

A lapsed caveat can be removed whether it is registered or unregistered.

No lodgement fee is payable.

See Example 9 and the Guide to completion at [11-4200]. See also [14-2100].

Withdrawal

[11-2060] Registered Caveat

A registered caveat may be withdrawn by the caveator by lodging a Form 14 – General Request to Withdraw Caveat (s. 125 of the *Land Title Act 1994* or s. 389G of the *Land Act 1994*).

This Form must be signed by a caveator or by the caveator's solicitor on the caveator's behalf. If signed by the caveator's solicitor on the caveator's behalf, the solicitor must also print their full name upon execution.

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

See Example 8 and the Guide to completion at [11-4200]. See also [14-2100].

[11-2065] Partial Withdrawal of registered Caveat by Caveator

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 (see Example 8A); or
- here 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 (see Example 8B)[1].

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

The parcels or the part of the title over which the caveat is to be withdrawn must be clearly identified in Item 2 and the request must be signed by the caveator or the caveator's solicitor.

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

See Example 8A and 8B and the Guide to completion at [11-4200]. See also [14-2110].

[11-2070] Unregistered Caveat

An unregistered caveat may be withdrawn by way of a letter signed by the caveator or the caveator's current solicitor.

[11-2080] Removal by the Court

A caveatee may at any time apply to the Supreme Court for an order that a 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 a copy (see [60-1030]) of the court order.

There is no duty payable on the Request, however normal lodgement fees are payable.

See Example 10 and the Guide to completion at [11-4200]. See also [14-2100].

[11-2090] Cancellation

Any person, including the caveatee, may utilise the provisions of s. 128 of the *Land Title Act 1994* or s. 389I of the *Land Act 1994* to cancel a caveat by lodging a Form 14 – General Request to Cancel Caveat with sufficient evidence to satisfy the Registrar of a basis detailed in the table below.

BASIS FOR CANCELLATION OF CAVEAT	LEGISLATIONS REFERENCE
The interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn	s. 128(1)(a) of the Land Title Act 1994 s. 389I(2)(a) of the Land Act 1994
The claim of the caveator has been settled by agreement or otherwise satisfied	s. 128(1)(b) of the Land Title Act 1994 s. 389I(2)(b) of the Land Act 1994
The nature of the interest claimed does not entitle the caveator to prevent registration of an instrument or document that has been lodged	s. 128(1)(c) of the Land Title Act 1994 s. 389I(2)(c) of the Land Act 1994
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 1994* or 389D(1)(c) of the *Land Act 1994* – the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended	s. 128(1)(d) of the Land Title Act 1994 s. 389I(2)(d) of the Land Act 1994

See also [11-0230] and [14-2100].

In addition to the general practice requirements that apply to a Form 14, the following specific practice requirements apply to a Form 14 – General Request to Cancel Caveat:

- Item 6 – this item must include the legislation reference (including subsection and paragraph) for the basis being relied upon to cancel the caveat (see the table above for the basis and legislation reference)*; and

  * For example, Item 6 must include a reference to s. 128(1)(a) of the *Land Title Act 1994* if the applicant is asserting that the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn.

- Items to be deposited – sufficient evidence must be included with the Form 14 – General Request to Cancel Caveat to satisfy the Registrar of the relevant basis from s. 128(1) of the Land Title Act or s. 389I(2) of the Land Act (see the table above)**.

  ** This evidence should include:

  – a Form 20 – Declaration by the applicant or their solicitor setting out the grounds supporting the request; and
  – any documentary evidence supporting the ground for cancellation (e.g. where the applicant is asserting that the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn under s. 128(1)(a) of the *Land Title Act 1994* – a copy of a notice of discontinuance filed by the caveator).

Normal lodgement fees apply.

Refer to Example 11 (Form 14 – General Request to Cancel Caveat pursuant to s. 128(1)(a) of the *Land Title Act 1994*) and the guide to completion at [11-4200].

[11-2100] Rejection

If a caveat is requisitioned pursuant to s. 156(1) of the *Land Title Act 1994* or s. 305(1) of the *Land Act 1994* and the requisition is not complied with within the rejection period specified in the requisition notice, the caveat may be rejected (s. 157(1)(a) of the Land Title Act or s. 306(1)(a) of the Land Act). A notice of intention to reject is generally given by the

Registrar, allowing seven days for the lodger to respond prior to rejection. However, the failure to give a seven day courtesy notice of the rejection does not give the caveator protection against rejection.

Under the Land Title Act, caveats lodged with the consent of the registered owner and caveats for which a notice of action has been deposited may be rejected if the requisition has not been complied with at the expiry of the rejection period[2].

A caveat requisitioned pursuant to s. 156(7) of the Land Title Act or s. 305(7) of the Land Act may be rejected at the end of the period specified in the requisition notice (s. 157(1)(b) of the Land Title Act or s. 306(1)(b) of the Land Act).

[11-4000] Forms

[11-4000] General Guide to Completion of Forms

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

Guide to Completion of Form 11 for Examples 1 to 5

[11-4010] Duty

A duty notation is required on a caveat where the claim refers to a document creating a mortgage or charge and the document was first signed before 1 July 2008.

[11-4020] Item 1

Insert the full name of the caveator and an address where documents can be served on the caveator where indicated (this address may be the address of a stated legal practitioner).

If the caveator is claiming the interest in a certain capacity (for example as trustee), then such capacity must be specified after the name of the caveator (e.g. John Smith as Trustee).

If the caveator is acting as a Trustee in Bankruptcy then the prescribed name should be shown here (see [14-2170] and Example 5).

If there is more than one caveator, reference should be made in the address to 'both of' or 'all of', if such be the case, or individual addresses should be shown.

If there is insufficient space, insert "see Enlarged Panel" and use a Form 20 – Enlarged Panel (see [20-2020]).

Insert the lodger details and lodger code (if applicable) where indicated (see [59-2030]).

[11-4030] Item 2

Freehold Description[1,2]

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

Water Allocation Description[2,3]

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

State Tenure Description[1,3]

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 crown plans).

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

If the caveat is against only part of the land, that part must be capable of precise identification and will require the inclusion of a sketch plan[1,2].

A caveat against a lot on a plan which has not yet been lodged will be accepted with a sketch plan identifying the land, however, the description in Item 2 should be as per the title[1,2].

If the plan has been lodged but not yet registered, the description should be as per the plan and the number of the plan should be included in Item 7 to indicate that the caveat does not apply to it[1,2].

If a caveat is against only part of a water allocation, that part must be described by indicating the number of megalitres affected[2,3].

Item 3, Item 4 and Examples

[11-4040] Item 3 Interest being claimed

The nature of the interest claimed by the caveator must be precisely and clearly expressed and must relate to the fee simple under the *Land Title Act 1994*, a lease, licence or an interest in a reserve under the *Land Act 1994*, or a water allocation where applicable. The nature of the interest claimed by the caveator should be sufficiently described so that it is clear that the caveator is claiming some currently existing legal or equitable interest in the lot.

Where the caveator claims the interest of a purchaser under an instalment contract pursuant to s. 93 of the *Property Law Act 2023* the interest being claimed may be specified as 'the interest of a purchaser under an instalment contract as defined by s. 89 of the *Property Law Act 2023*'.

For some Item 3 wording examples refer to [11-4055] and caveat Examples 1 to 5.

[11-4050] Item 4 Grounds of claim

Insert the grounds of the claim to sufficiently describe the basis upon which the caveator claims some currently existing legal or equitable interest in the lot. The grounds on which the claim is being made must be clear, and wherever possible, supported by reference to some documentary evidence. The grounds upon which the claim is based should include the date and particulars of any writings upon which the caveator bases the claim.

Please note the following specific practice requirements:

- Where the caveator claims the interest of a purchaser under a valid unconditional contract of sale:
  - details of the contract, such as the date and parties must be included in this item (see Example 1 and the Item 3 and 4 Examples Table in [11-4055]); and
  - a copy of the contract of sale is not required to be lodged with the caveat;
- Where the caveator claims the interest of a purchaser under an instalment contract pursuant to s. 93 of the *Property Law Act 2023*[2]:
  - this item must state that the caveat is being lodged pursuant to s. 93 of the *Property Law Act 2023* and include the date of the instalment contract; and
  - a copy of the instalment contract must be lodged with the caveat;
- Where the caveator is claiming a lease or option to lease:
  - the term of the lease/option must be stated in this item including when the lease/option commences (the date and/or event) and expires (the term length/expiry date and/or event);
  - the lease area must be accurately and precisely described in this item either:
    - where the lease area is the whole of a lot or lots – by referring to the land in Item 2 or the lot on plan description/s of the lot/s; or

- where the lease area is for part of the land or part of a building – by referring to a deposited sketch plan* that accurately and precisely identifies the lease area (see requirement below); and

– where the lease area is for part of the land or part of a building, a sketch plan* that accurately and precisely identifies the lease area must be deposited.

*A survey plan or a copy of a registered survey plan is also acceptable but architectural plans or concept plans are not acceptable. The sketch plan should be detailed enough to show the measured dimensions of the lease area; and

- for a part of land lease – the location of the lease area in relation to the boundary of the lot; or
- for a part of building lease – the location of the lease area within the building and the location of the building in relation to the boundary of the lot.

- Where the caveator is claiming an easement:
  – the easement area must be accurately and precisely described in this item either:
    - where the easement area is the whole of a lot or lots – by referring to the land in Item 2 or the lot on plan description/s of the lot/s; or
    - where the easement area is for part of the land – by referring to a deposited sketch plan** that accurately and precisely identifies the easement area (see requirement below); and
  – where the easement area is for part of the land, a sketch plan** that accurately and precisely identifies the easement area must be deposited.

**A survey plan or a copy of a registered survey plan is also acceptable but architectural plans or concept plans are not acceptable. The sketch plan should be detailed enough to show the measured dimensions of the easement area and the location of the easement area in relation to the boundary of the lot.

For some Item 4 wording examples refer to [11-4055] and caveat Examples 1 to 5.

While the Registrar does not presume to adjudicate a claim, there is no obligation on the part of the Registrar to automatically register any caveat lodged, even if it is lodged with the consent of the registered proprietor

[11-4055] Some Item 3 and 4 Wording Examples[2]

CLAIM CATEGORY	WORDING EXAMPLES – ITEM 3 ESTATE OF INTEREST BEING CLAIMED	WORKING EXAMPLE – ITEM 4 GROUNDS OF CLAIM
Purchase See Example 1	An equitable interest as purchaser of an estate in fee simple*	Pursuant to a contract/agreement in writing dated [DATE] between the registered owner# as vendor and the Caveator as purchaser.
Charge See Example 2 and Example 2A	An equitable interest as chargee of an estate in fee simple*	Pursuant to clause [CLAUSE NUMBER] in an agreement dated [DATE] between the registered owner# and the Caveator, whereby the registered owner agreed to charge all their interest in the land with payment of monies owing to the Caveator.
		Pursuant to an agreement between the registered owner and the Caveator dated [DATE], whereby the registered owner# agreed to charge all their interest in the land with payment of monies owing to the Caveator.
		Pursuant to clause [CLAUSE NUMBER] of that part of a written account application entitled 'Deed of Guarantee and Indemnity' dated [DATE] between the registered owner# and the Caveator by which the registered owner charged their interest in the land with payment of monies owing to the Caveator.
Mortgage See Example 3	An equitable interest as mortgagee of an estate in fee simple*	The Caveator claims an interest as mortgagee pursuant to clause [CLAUSE NUMBER] in an agreement dated [DATE] between the registered owner# and the Caveator charging the property to secure to the Caveator the money therein stated.
		The Caveator claims an interest as mortgagee pursuant to an unregistered mortgage in registrable form, to secure the money therein stated, executed by the registered owner# on [DATE].
Constructive Trust (and/or implied or resulting trust) See Example 4	An equitable interest in the fee simple estate*	Pursuant to a constructive and/or implied or resulting trust arising upon the financial and nonfinancial contributions of the Caveator to the acquisition, conservation and/or improvement of the property.
Bankruptcy See Example 5	An equitable interest in the fee simple estate as Trustee in Bankruptcy of the estate of [NAME OF BANKRUPT REGISTERED OWNER], a bankrupt	Pursuant to section 58 of the *Bankruptcy Act 1966,* the property of [NAME OF BANKRUPT REGISTERED OWNER] vests in [NAME OF TRUSTEE IN BANKRUPTCY] as trustee appointed on [DATE].
Restraining Order	The Caveator has the benefit of a subsisting order of an Australian court in restraining the registered owner from dealing with the lot in Item 2	Pursuant to section 122(1)(e) of the *Land Title Act 1994* the caveator having the benefit of order [ORDER NUMBER] of the [COURT] Order made [DATE] (a certified copy deposited herewith), restraining [NAME OF REGISTERED PROPRIETOR], from dealing with the lot in Item 2.

* If the interest being claimed does not relate to all registered owners include "in the interest of [NAME OF REGISTERED OWNER/S]" (one or more, but not all, registered owners must be inserted).

e.g. An equitable interest as chargee of an estate in fee simple <u>in the interest of Peter Jones</u>.

If the interest being claimed does not relate to all registered owners include “identified in Item 3”.

e.g. Pursuant to clause 17 in an agreement dated 04/01/2020 between the registered owner identified in Item 3 and the Caveator, whereby the registered owner agreed to charge all their interest in the land with payment of monies owing to the Caveator.

Note: For caveats over State Leasehold lots – reference should be made to the relevant State Leasehold estate instead of the fee simple estate and to the lessee or licencee instead of the registered owner/proprietor. Any references to legislation should also be updated.

For caveats over water allocations – reference should be made to the water allocation instead of the fee simple estate (e.g., an equitable interest as mortgagee of a water allocation) and to the allocation holder instead of the registered owner/proprietor.

[11-4060] Item 5

Insert in this item:

- the full name of every registered[2] owner of the lot (or lessee or licencee[1, 3]) affected by the caveat, including any capacity under which they are registered (e.g. John Smith as Trustee); and
- the postal address of every registered[2] owner of the lot (or lessee or licencee[1, 3]) affected by the caveat.

If there is insufficient space, insert “see Enlarged Panel” and use a Form 20 – Enlarged Panel (see [20-2020]).

[11-4070] Item 6

Insert the full name/s (including capacity where applicable) and postal address/es of any other person/company/institution etc. having an interest in the land or State tenure that may be affected by the caveat (e.g. the mortgagee). A Form 20 – Enlarged Panel should be used if there is insufficient space.

[11-4080] Item 7

Delete the paragraph and sentences that are not applicable to the type of caveat being dealt with and execute as required. Where the caveator claims the interest of a purchaser under an instalment contract pursuant to s. 93 of the *Property Law Act 2023* paragraph (a) is to be amended to refer to the completion of the instalment contract mentioned in item 4[2].

Instruments or documents to which the caveat does not apply must be identified by dealing number if they are lodged prior to the caveat. If the dealings are to be lodged subsequently, they must be identified by description, e.g. ‘Transfer from A to B dated [date]’ or ‘any lease by X as lessor’.

Solicitors must print their full name and qualification adjacent to their signature. Refer to Part 50 and Part 61 for more information about requirements for execution.

Example 1 – Equitable interest as purchaser

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

CAVEAT

Duty Imprint

FORM 11 Version 4

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 Titles Queensland website.

1. Caveator full name and address for service
JOHN THOMAS BLAKE
29 ALBATROSS STREET
CAMP HILL QLD 4152

Lodger (Name, address, E-mail & phone number)
JONES & CO. SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description
LOT 811 ON RP 993662

Title Reference
17317021

3. Interest being claimed
An equitable interest as purchaser of an estate in fee simple

4. Grounds of claim
Pursuant to a contract/agreement in writing dated 14/07/2025 between the registered owner as vendor and the Caveator as purchaser

5. Registered owner full name and address
KATHERINE MANNING
56 WHITE COURT
WYNNUM QLD 4178

6. Other parties full name and address (eg Mortgagees)
XYZ BANKING CORPORATION
1200 QUEEN STREET
BRISBANE QLD 4000

7. Request/Execution

a) The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the registration of any instrument affecting the land described in item 2 until:

*this caveat is withdrawn by the Caveator
~~*the completion of the instalment contract mentioned in item 4 (only if Caveat is pursuant to Section 93 of the *Property Law Act 2023*)~~

~~#This caveat does not apply to the following instruments:~~
~~# Insert dealing number of lodged instrument or identify instrument type by date of execution and name of parties or delete if not applicable~~.

OR

b) ~~The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the entering of the application for adverse possession.~~

* delete if not applicable

R E Lee
ROBERT EDWARD LEE

01/08/2025 .....
Execution Date **~~Caveator's or~~ Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Caveator

NOTE:
- A copy of the contract of sale is not required to be lodged with the caveat.
- Item 4 must contain details of the contract such as the date and parties.

SAMPLE

Example 2 – Equitable interest as chargee by agreement

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

CAVEAT

Duty Imprint

FORM 11 Version 4

Dealing Number

OFFICE USE ONLY

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1. Caveator full name and address for service
FREIGHT HANDLING PTY LTD ACN 123 456 789
C/- JONES & CO SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000

Lodger (Name, address, E-mail & phone number)
JONES & CO. SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description
LOT 6 ON RP 177662

Title Reference
19229134

3. Interest being claimed
An equitable interest as chargee of an estate in fee simple

4. Grounds of claim
Pursuant to clause 17 of an agreement dated 04/01/2021 between the registered owner and the Caveator, whereby the registered owner agreed to charge all their interest in the land with payment of monies owing to the Caveator

5. Registered owner full name and address
RICHARD JAMES
7 GERBERA STREET
MELBOURNE VIC 3002

6. Other parties full name and address (eg Mortgagees)
XYZ BANKING CORPORATION
1200 QUEEN STREET
BRISBANE QLD 4000

7. Request/Execution

a) The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the registration of any instrument affecting the land described in item 2 until:

*this caveat is withdrawn by the Caveator
~~*the completion of the instalment contract mentioned in item 4 (only if Caveat is pursuant to Section 93 of the *Property Law Act 2023*)~~

~~#This caveat does not apply to the following instruments:-~~
~~# Insert dealing number of lodged instrument or identify instrument type by date of execution and name of parties or delete if not applicable~~.

OR

b) ~~The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the entering of the application for adverse possession.~~

* delete if not applicable

R E Lee
ROBERT EDWARD LEE

01/08/2025 .....
Execution Date ~~**Caveator's or**~~ **Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Caveator

NOTE:
- A duty notation is required if the document referred to as creating the charge was first signed before 1 July 2008

SAMPLE

Example 2A – Equitable interest as chargee by deed of guarantee and indemnity

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

CAVEAT

Duty Imprint

FORM 11 Version 4

Dealing Number

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Privacy Statement
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1. Caveator full name and address for service
COMPANY AUSTRALIA PTY LTD ACN 123 456 789
123 COMPANY CLOSE
BRISBANE QLD 4000

Lodger (Name, address, E-mail & phone number)
JONES & CO. SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description
LOT 33 ON RP 213130

Title Reference
34567112

3. Interest being claimed
An equitable interest as chargee of an estate in fee simple

4. Grounds of claim
Pursuant to clause 17 of that part of a written account application entitled 'Deed of Guarantee and Indemnity' dated 04/01/2021 between the registered owner and the Caveator by which the registered owner charged their interest in the land with payment of monies owing to the Caveator

5. Registered owner full name and address
GRANT THOMPSON
448 MARSDEN ROAD
WAMURAN QLD 4512

6. Other parties full name and address (eg Mortgagees)
ABC BANKING CORPORATION
L 9 1000 BIG BANK DRIVE
SYDNEY NSW 2000

7. Request/Execution

a) The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the registration of any instrument affecting the land described in item 2 until:

*this caveat is withdrawn by the Caveator
~~*the completion of the instalment contract mentioned in item 4 (only if Caveat is pursuant to Section 93 of the *Property Law Act 2023*)~~

~~#This caveat does not apply to the following instruments:~~
~~# Insert dealing number of lodged instrument or identify instrument type by date of execution and name of parties or delete if not applicable~~.

OR

b) ~~The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the entering of the application for adverse possession.~~

* delete if not applicable

R E Lee
ROBERT EDWARD LEE

01/08/2025
Execution Date

.....
~~**Caveator's or**~~ **Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Caveator

NOTE:
- A duty notation is required if the document referred to as creating the charge was first signed before 1 July 2008

SAMPLE

Example 3 – Equitable interest as mortgagee under an unregistered mortgage in registrable form

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

CAVEAT

Duty Imprint

FORM 11 Version 4

Dealing Number

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1. Caveator full name and address for service
ABC BANKING CORPORATION LTD CAN 123 456 789
LEVEL 9 1000 BIG BANK DRIVE
SYDNEY NSW 2000

Lodger (Name, address, E-mail & phone number)
JONES & CO. SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description | **Title Reference**

LOT 4 ON RP 955211	12255187
LOT 5 ON RP 955211	12255187
LOT 120 ON RP 102421	13334452

3. Interest being claimed
An equitable interest as mortgagee of an estate in fee simple

4. Grounds of claim
The Caveator claims an interest as mortgagee pursuant to an unregistered mortgage in registrable form, to secure money therein stated, executed by the registered owner on 25/07/2025

5. Registered owner full name and address
WILL RIPAY
123 DETTA AVENUE
WILSON'S POCKET QLD 4570

6. Other parties full name and address (eg Mortgagees)

7. Request/Execution

a) The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the registration of any instrument affecting the land described in item 2 until:
*this caveat is withdrawn by the Caveator
~~*the completion of the instalment contract mentioned in item 4 (only if Caveat is pursuant to Section 93 of the *Property Law Act 2023*)~~

~~#This caveat does not apply to the following instruments:-~~
~~# Insert dealing number of lodged instrument or identify instrument type by date of execution and name of parties or delete if not applicable~~.

OR

b) ~~The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the entering of the application for adverse possession.~~

* delete if not applicable

R E Lee
ROBERT EDWARD LEE

01/08/2025 .....
Execution Date **~~Caveator's or~~ Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Caveator

NOTE:
- A duty notation is required if the document referred to as creating the charge was first signed before 1 July 2008

SAMPLE

Example 4 – Equitable interest as beneficiary of a constructive trust (and/or implied or resulting trust)

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

CAVEAT

Duty Imprint

FORM 11 Version 4
Page 1 of 1

Dealing Number

OFFICE USE ONLY

Privacy Statement
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1. Caveator full name and address for service
SUE-ELLEN GREEVES
123 PARTITION COURT
SYDNEY NSW 2000

Lodger (Name, address, E-mail & phone number)
JONES & CO. SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description
LOT 10 ON RP 223344

Title Reference
13123066

3. Interest being claimed
An equitable interest in fee simple estate

4. Grounds of claim
Pursuant to a constructive and/or implied or resulting trust arising upon the financial and nonfinancial contributions of the Caveator to the acquisition, conservation and/or improvement of the property

5. Registered owner full name and address
MICHAEL JOHN GREEVES
123 DUPARTIA LANE
WALLANGARRA QLD 4383

6. Other parties full name and address (eg Mortgagees)
ABC BANKING CORPORATION LTD
LEVEL 9 1000 BIG BANK DRIVE
SYDNEY NSW 2000

7. Request/Execution

a) The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the registration of any instrument affecting the land described in item 2 until:

*this caveat is withdrawn by the Caveator
~~*the completion of the instalment contract mentioned in item 4 (only if Caveat is pursuant to Section 93 of the *Property Law Act 2023*)~~

~~#This caveat does not apply to the following instruments:~~
~~# Insert dealing number of lodged instrument or identify instrument type by date of execution and name of parties or delete if not applicable~~.

OR

b) ~~The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the entering of the application for adverse possession.~~

* delete if not applicable

R E Lee
ROBERT EDWARD LEE

01/08/2025
Execution Date

.....
~~**Caveator's or**~~ **Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Caveator

SAMPLE

Example 5 – Equitable interest as Trustee in Bankruptcy

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

CAVEAT

Duty Imprint

FORM 11 Version 4
Page 1 of 1

Dealing Number

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Privacy Statement
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1. Caveator full name and address for service
THE TRUSTEES OF THE PROPERTY OF
JOHN REGINALD SMITH, A BANKRUPT
LEVEL 99, 70 GRAND STREET
SYDNEY NSW 2000

Lodger (Name, address, E-mail & phone number)
JONES & CO. SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description
LOT 811 ON RP 993662

Title Reference
17317021

3. Interest being claimed
An equitable interest in the fee simple estate as Trustee in Bankruptcy of the estate of John Reginald Smith, a Bankrupt

4. Grounds of claim
Pursuant to section 58(1) of the Bankruptcy Act 1966 (Cth), the estate or interest of the bankrupt specified in Item 3 in the land described in Item 2, vests in the Trustees in Bankruptcy, Michael David Wright and Mark Lewis Walton

5. Registered owner full name and address
JOHN REGINALD SMITH
842 SPRINGFIELD LANE
WYNNUM QLD 4999

6. Other parties full name and address (eg Mortgagees)
XYZ BANKING CORPORATION
L9 1000 BIG BANK DRIVE
SYDNEY NSW 2000

7. Request/Execution

a) The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the registration of any instrument affecting the land described in item 2 until:

*this caveat is withdrawn by the Caveator
~~*the completion of the instalment contract mentioned in item 4 (only if Caveat is pursuant to Section 93 of the *Property Law Act 2023*)~~

~~#This caveat does not apply to the following instruments:~~
~~# Insert dealing number of lodged instrument or identify instrument type by date of execution and name of parties or delete if not applicable~~.

OR

b) ~~The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the *Land Title Act 1994* forbids the entering of the application for adverse possession.~~

* delete if not applicable

R E Lee
ROBERT EDWARD LEE

01/08/2025
Execution Date

.....
~~Caveator's or~~ Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Caveator

NOTE:
- Item 1 – the prescribed name of the private trustee/s should be used (see 14-2170) e.g. The Trustee/s of the property of [NAME OF BANKRUPT], a bankrupt

SAMPLE

[11-4100] Guide to Completion of Form 14 for Examples 6 and 7[2]

[11-4110] Lodgement fees

No lodgement fees apply to these administrative advices.

[11-4120] Item 1

Insert the nature of request.

FORM 14	REQUEST	ITEM 1 NATURE OF REQUEST WORDING EXAMPLES
Example 6	Request to record notice pursuant to s. 126(2) of the *Land Title Act 1994* (NOT) [Caveatee's notification to Registrar]	REQUEST TO RECORD NOTICE PURSUANT TO SECTION 126(2) OF THE LAND TITLE ACT 1994
Example 7	Request to record notice of action pursuant to s. 126(4) of the *Land Title Act 1994* (NOA) [Caveator's notice to Registrar]	REQUEST TO RECORD NOTICE OF ACTION PURSUANT TO SECTION 126(4) OF THE LAND TITLE ACT 1994

[11-4130] Item 2

Insert the lot on plan description and title reference of each lot over which the relevant caveat has been recorded.

Freehold Description[1]

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

Water Allocation Description[3]

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

[11-4140] Item 3

Insert the full name of the registered proprietor.

[11-4150] Item 4

Insert interest – fee simple or water allocation.

[11-4160] Item 5

Insert the full name of the applicant including capacity (e.g. John Doe as Trustee).

FORM 14	REQUEST	ITEM 5 COMPLETION
Example 6	Request to record notice pursuant to s. 126(2) of the *Land Title Act 1994* (NOT) [Caveatee's notification to Registrar]	Insert the full name of the caveatee including capacity (e.g. John Doe as Trustee)
Example 7	Request to record notice of action pursuant to s. 126(4) of the *Land Title Act 1994* (NOA) [Caveator's notice to Registrar]	Insert the full name of the caveator including capacity (e.g. John Doe as Trustee)

[11-4170] Item 6

Insert full details of the request.

FORM 14	REQUEST	ITEM 6 REQUEST WORDING EXAMPLES
Example 6	Request to record notice pursuant to s. 126(2) of the *Land Title Act 1994* (NOT) [Caveatee's notification to Registrar]	I hereby request that: the Registrar of Titles be notified of service of notice on the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under caveat number 712345678, where notice in the form of a letter dated 22 January 2021 (deposited herewith) was sent by express post on that date to the caveator at the address for service of the caveator in item 1 of the caveat.*
Example 7	Request to record notice of action pursuant to s. 126(4) of the *Land Title Act 1994* (NOA) [Caveator's notice to Registrar]	I hereby request that: the Registrar of Titles be notified that proceeding number 123456/2021 (deposited herewith) has been started in the Supreme Court of Queensland seeking a declaration that Sue-Ellen Greeves holds an equitable interest in the land the subject of caveat number 712345678 pursuant to a constructive and/or implied or resulting trust arising upon the financial and nonfinancial contributions she made to the acquisition, conservation and/or improvement of the property.**

* The caveat number must be clearly identified and details of the service of the notice (by hand, by fax, by post [including the date sent and service used] etc.) on the caveator must be provided to determine the application of the lapsing provisions under the *Land Title Act 1994.*

** The caveat number and the court action number of the proceeding must be clearly identified.

[11-4180] Item 7

Complete and execute where indicated.

The request must be signed by the applicant or the applicant's solicitor (the solicitor's full name must be included).

[11-4190] Items to be deposited

FORM 14	REQUEST	ITEMS TO BE DEPOSITED
Example 6	Request to record notice pursuant to s. 126(2) of the *Land Title Act 1994* (NOT) [Caveatee's notification to Registrar]	A copy of the notice served on the caveator[a] (e.g. a copy of a letter sent to the caveator at the address for service of the caveator in item 1 of the caveat).
Example 7	Request to record notice of action pursuant to s. 126(4) of the *Land Title Act 1994* (NOA) [Caveator's notice to Registrar]	A copy (see [60-1030]) of the originating proceeding showing the court action number.[b]

[a] The notice sent by the caveatee to the caveator must contain sufficient information to link the notice to the caveat (e.g. the notice can refer to the dealing number of the caveat).

[b] **Note**: The originating proceeding must:

- seek to establish the interest claimed in the caveat[c]; and
- be started in a court of competent jurisdiction[d].

[c] For example, if the caveator is claiming an equitable interest as the beneficiary of a constructive trust (and/or implied or resulting trust), the originating proceeding must seek to establish the existence of the constructive (and/or implied or resulting) trust rather than just claiming a monetary amount.

[d] Caveators should bear in mind the limited jurisdiction of inferior courts such as the Queensland Magistrates Court (particularly for equitable claims where the relief sought is not a monetary amount, see for example s. 4(c) *Magistrates Courts Act 1921*) and the Queensland Civil and Administrative Tribunal.

Example 6 – Form 14 – General Request (Caveatee's Notice) – Request to record notice pursuant to s. 126(2) of the *Land Title Act 1994* (Caveatee's notification to Registrar)

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

GENERAL REQUEST

FORM 14 Version 4
Duty Imprint

Dealing Number

OFFICE USE ONLY

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1. Nature of request

REQUEST TO RECORD NOTICE PURSUANT TO SECTION 126(2) OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

SMITH & CO SOLICITORS
17 Peace Street
BRISBANE QLD 4000
mail@smithcosolicitors.com.au
(07) 3999 1111

Lodger Code
987

2. Lot on Plan Description

LOT 10 ON RP 223344

Title Reference
13123066

3. Registered Proprietor/State Lessee

MICHAEL JOHN GREEVES

4. Interest

FEE SIMPLE

5. Applicant

MICHAEL JOHN GREEVES

6. Request

I hereby request that: the Registrar of Titles be notified of service of notice on the caveator to start a proceeding in a court of competent jurisdiction to establish the interest claimed under caveat number 712345678, where notice in the form of a letter dated 22 January 2021 (deposited herewith) was sent by express post on that date to the caveator at the address for service of the caveator in Item 1 of the caveat.

7. Execution by applicant

R E Windward
ROBERTA ELIZABETH WINDWARD

25/01/2021 .....
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:

- A copy of the notice served on the caveator must be deposited. The notice sent by the caveatee to the caveator must contain sufficient information to link the notice to the caveat (e.g. the notice can refer to the dealing number of the caveat).
- Details of the service of the notice (by hand, by fax, by post [including the date sent and service used] etc.) on the caveator must be provided to determine the application of the lapsing provisions under the *Land Title Act 1994*.

SAMPLE

Example 7 – Form 14 – General Request (Notice of Action) – Request to record notice of action pursuant to s. 126(4) of the *Land Title Act 1994* (Caveator's notice)

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

GENERAL REQUEST

FORM 14 Version 4
Duty Imprint

Dealing Number

OFFICE USE ONLY

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1. Nature of request

REQUEST TO RECORD NOTICE OF ACTION PURSUANT TO SECTION 126(4) OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

JONES & CO SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description

LOT 10 ON RP 223344

Title Reference
13123066

3. Registered Proprietor/State Lessee

MICHAEL JOHN GREEVES

4. Interest

FEE SIMPLE

5. Applicant

SUE-ELLEN GREEVES

6. Request

I hereby request that: the Registrar of Titles be notified that proceeding number 123456/2021 (deposited herewith) has been started in the Supreme Court of Queensland seeking a declaration that Sue-Ellen Greeves holds an equitable interest in the land the subject of caveat number 712345678 pursuant to a constructive and/or implied or resulting trust arising upon the financial and nonfinancial contributions she made to the acquisition, conservation and/or improvement of the property.

7. Execution by applicant

R E Lee
ROBERT EDWARD LEE

28/01/2021
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:

- the caveat number, the court action number of the proceeding and all relevant titles must be clearly identified.
- a copy (see [60-1030]) of the originating proceeding showing the court action number must be deposited. The originating proceeding must seek to establish the interest claimed in the caveat and be started in a court of competent jurisdiction.

SAMPLE

[11-4200] Guide to Completion of Form 14 for Examples 8 to 11

[11-4210] Lodgement fees and Duty

Lodgement fees apply but a duty notation is not required.

[11-4220] Item 1

Insert the nature of the request.

FORM 14	REQUEST	ITEM 1 NATURE OF REQUEST WORDING EXAMPLES
Example 8	Request to withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	REQUEST TO WITHDRAW CAVEAT PURSUANT TO SECTION 125 OF THE LAND TITLE ACT 1994
Example 8A and 8B	Request to partially withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	REQUEST TO PARTIALLY WITHDRAW CAVEAT PURSUANT TO SECTION 125 OF THE LAND TITLE ACT 1994
Example 9	Request to remove lapsed caveat pursuant to s. 126(7) of the *Land Title Act 1994*[2]	REQUEST TO REMOVE LAPSED CAVEAT PURSUANT TO SECTION 126(7) OF THE LAND TITLE ACT 1994
Example 10	Request to remove caveat pursuant to s. 127 of the *Land Title Act 1994* (pursuant to a court order)	REQUEST TO REMOVE CAVEAT PURSUANT TO SECTION 127 OF THE LAND TITLE ACT 1994
Example 11	Request to cancel caveat pursuant to s. 128(1) of the *Land Title Act 1994*	REQUEST TO CANCEL CAVEAT PURSUANT TO SECTION 128(1) OF THE LAND TITLE ACT 1994

[11-4230] Item 2

Insert the lot on plan description and title reference of each lot to which the request relates.

FORM 14	REQUEST	ITEM 2 COMPLETION
Example 8	Request to withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	Insert the lot on plan description and title reference of each lot over which the relevant caveat is recorded.
Example 8A and 8B	Request to partially withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	Only insert the lot on plan description and title reference of each lot from which the caveat is being withdrawn. Do not include the lot on plan description and title reference of any lots over which the caveat is to remain recorded.
Example 9	Request to remove lapsed caveat pursuant to s. 126(7) of the *Land Title Act 1994*[2]	Insert the lot on plan description and title reference of each lot over which the relevant caveat is recorded.
Example 10	Request to remove caveat pursuant to s. 127 of the *Land Title Act 1994* (pursuant to a court order)	Insert the lot on plan description and title reference of each lot over which the relevant caveat is recorded.
Example 11	Request to cancel caveat pursuant to s. 128(1) of the *Land Title Act 1994*	Insert the lot on plan description and title reference of each lot over which the relevant caveat is recorded.

Freehold Description[1,2]

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

Water Allocation Description[2,3]

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

State Tenure Description[1,3]

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 crown plans).

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

[11-4240] Item 3

Insert the full name of the registered proprietor/holder.

[11-4250] Item 4

Insert interest. E.g. fee simple, water allocation or the type of State tenure e.g. State Lease.

[11-4260] Item 5

Insert the full name of the applicant including capacity (e.g. John Doe as Trustee).

FORM 14	REQUEST	ITEM 5 COMPLETION
Example 8	Request to withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	Insert the full name including capacity of the caveator. (the applicant must be the caveator)
Example 8A and 8B	Request to partially withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	Request to partially withdraw caveat pursuant to s. 125 of the Land Title Act 1994 Insert the full name including capacity of the caveator. (the applicant must be the caveator)
Example 9	Request to remove lapsed caveat pursuant to s. 126(7) of the *Land Title Act 1994*[2]	Insert the full name of the person making the application. (any person can apply to remove a lapsed caveat)
Example 10	Request to remove caveat pursuant to s. 127 of the *Land Title Act 1994* (pursuant to a court order)	Insert the full name of the person making the application.
Example 11	Request to cancel caveat pursuant to s. 128(1) of the *Land Title Act 1994*	Insert the full name of the person making the application.

[11-4270] Item 6

Insert full details of the request. The caveat number must be clearly identified.

For a Form 14 – General Request to Cancel Caveat, this item must include the legislation reference (including subsection and paragraph) for the basis being relied upon to cancel the caveat (see the table below).

BASIS FOR CANCELLATION OF CAVEAT	LEGISLATIONS REFERENCE
The interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn	s. 128(1)(a) of the *Land Title Act 1994* s. 389I(2)(a) of the *Land Act 1994*
The claim of the caveator has been settled by agreement or otherwise satisfied	s. 128(1)(b) of the *Land Title Act 1994* s. 389I(2)(b) of the *Land Act 1994*
The nature of the interest claimed does not entitle the caveator to prevent registration of an instrument or document that has been lodged	s. 128(1)(c) of the *Land Title Act 1994* s. 389I(2)(c) of the *Land Act 1994*
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 1994* or 389D(1)(c) of the *Land Act 1994* – the proceeding in which the order was made has been discontinued or dismissed, or has otherwise ended	s. 128(1)(d) of the *Land Title Act 1994* s. 389I(2)(d) of the *Land Act 1994*

Item 6 Request Wording Examples

FORM 14	REQUEST	ITEM 6 REQUEST WORDING EXAMPLES
Example 8	Request to withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	I hereby request that: caveat number 712345678 be withdrawn.
Example 8A and 8B	Request to partially withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	I hereby request that: caveat number 723456899 be partially withdrawn so far as relates to the Land described in Item 2 above.
Example 9	Request to remove lapsed caveat pursuant to s. 126(7) of the *Land Title Act 1994*[2]	I hereby request that: caveat number 876543219 be removed pursuant to section 126(7) of the Land Title Act 1994 as the caveator has not met the requirements of section 126(4) of the Land Title Act 1994 and the caveat has lapsed.
Example 10	Request to remove caveat pursuant to s. 127 of the *Land Title Act 1994* (pursuant to a court order)	I hereby request that: in accordance with the Supreme Court order dated 12 December 2020 deposited herewith, caveat number 777444000 be removed.
Example 11	Request to cancel caveat pursuant to s. 128(1) of the *Land Title Act 1994* (**Note**: Example 11 is a request pursuant to s. 128(1)(a) of the *Land Title Act 1994*)	I hereby request that: caveat 732165485 be cancelled pursuant to section 128(1)(a) of the Land Title Act 1994 as the claim to the interest claimed by the caveator has been abandoned or withdrawn, as evidenced by the notice of discontinuance in Supreme Court proceeding 98765/2020 filed 17 February 2021 (copy deposited herewith).

[11-4280] Item 7

Complete and execute where indicated.

The request must be signed by the applicant or the applicant's solicitor (the solicitor's full name must be included).

[11-4290] Items to be deposited

For a Form 14 – General Request to Cancel Caveat, sufficient evidence must be included to satisfy the Registrar of the relevant ground from s. 128(1) of the *Land Title Act 1994* or s. 389I(2) of the *Land Act 1994* (see [11-2090]). This evidence should include:

- a Form 20 – Declaration by the applicant or their solicitor setting out the grounds supporting the request; and

- any documentary evidence supporting the basis for cancellation (e.g. where the applicant is asserting that the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn under s. 128(1)(a) of the *Land Title Act 1994* – a copy of a notice of discontinuance filed in the court by the caveator).

Items to be deposited with Examples 8 to 11

FORM 14	REQUEST	ITEM 6 REQUEST WORDING EXAMPLES
Example 8	Request to withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	Nil.
Example 8A and 8B	Request to partially withdraw caveat pursuant to s. 125 of the *Land Title Act 1994*	Nil.
Example 9	Request to remove lapsed caveat pursuant to s. 126(7) of the *Land Title Act 1994*[2]	Nil.
Example 10	Request to remove caveat pursuant to s. 127 of the *Land Title Act 1994* (pursuant to a court order)	A copy (see [60-1030]) of the court order that orders the removal of the caveat.
Example 11	Request to cancel caveat pursuant to s. 128(1) of the *Land Title Act 1994* (**Note**: Example 11 is a request pursuant to s. 128(1)(a) of the *Land Title Act 1994*)	Because Example 11 is a request for cancellation pursuant to s. 128(1)(a) of the Land Title Act 1994, evidence must be deposited to satisfy the Registrar that the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn. This evidence should include a Form 20 – Declaration by the applicant or their solicitor setting out the grounds supporting the request and any documentary evidence supporting the basis for cancellation (e.g. a copy of a notice of discontinuance filed in the court by the caveator).

Example 8 – Form 14 Request to withdraw caveat (registered) pursuant to s. 125 of the *Land Title Act 1994*

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 WITHDRAW CAVEAT PURSUANT TO SECTION 125 OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

JONES & CO SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description

LOT 10 ON RP 223344

Title Reference

13123066

3. Registered Proprietor/State Lessee

MICHAEL JOHN GREEVES

4. Interest

FEE SIMPLE

5. Applicant

SUE-ELLEN GREEVES

6. Request

I hereby request that: caveat number 712345678 be withdrawn.

7. Execution by applicant

R E Lee
ROBERT EDWARD LEE

28/01/2021
Execution Date

.....
~~Applicant's or~~ Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Example 8A – Form 14 Request to partially withdraw (registered) caveat (caveat registered over multiple lots on different titles and being withdrawn from all of the lots on one title)

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

GENERAL REQUEST

Duty Imprint

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Page 1 of 1

Dealing Number

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1. Nature of request

REQUEST TO PARTIALLY WITHDRAW CAVEAT PURSUANT TO SECTION 125 OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

JONES & CO SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description

LOT 120 ON RP 102421

Title Reference

13334452

3. Registered Proprietor/State Lessee

WILL RIPAY

4. Interest

FEE SIMPLE

5. Applicant

ABC BANKING CORPORATION LTD ACN 123 456 789

6. Request

I hereby request that: caveat number 723456899 be partially withdrawn so far as relates to the Land described in Item 2 above.

7. Execution by applicant

R E Lee
ROBERT EDWARD LEE

28/02/2021
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:

- This partial withdrawal is based on Example 3 which was recorded over Lots 4 and 5 on RP 955211 (Title Reference 12255187) and Lot 120 on RP 102421 (Title Reference 13334452).
- This partial withdrawal withdraws the caveat only so far as relates to Lot 120 on RP 102421 (Title Reference 13334452).
- Following this partial withdrawal, the caveat will continue to be recorded over Lots 4 and 5 on RP 955211 (Title Reference 12255187).

SAMPLE

Example 8B – Form 14 Request to partially withdraw (registered) caveat (caveat registered over one title with multiple lots and being withdrawn from one of the lots on that title)

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

GENERAL REQUEST

Duty Imprint

FORM 14 Version 4

Dealing Number

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1. Nature of request

REQUEST TO PARTIALLY WITHDRAW CAVEAT PURSUANT TO SECTION 125 OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

JONES & CO SOLICITORS
13 GRACE STREET
BRISBANE QLD 4000
mail@jonescosolicitors.com.au
(07) 3224 5555

Lodger Code
21

2. Lot on Plan Description

LOT 5 ON RP 955211

Title Reference

12255187

3. Registered Proprietor/State Lessee

WILL RIPAY

4. Interest

FEE SIMPLE

5. Applicant

ABC BANKING CORPORATION LTD ACN 123 456 789

6. Request

I hereby request that: caveat number 723456899 be partially withdrawn so far as relates to the Land described in Item 2 above.

7. Execution by applicant

R E Lee
ROBERT EDWARD LEE

28/02/2021
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:

- This partial withdrawal is based on Example 3 which was recorded over Lots 4 and Lot 5 on RP 955211 (Title Reference 12255187) and Lot 120 on RP 102421 (Title Reference 13334452).
- This partial withdrawal withdraws the caveat only so far as relates to Lot 5 on RP 955211 (Title Reference 12255187).
- Following this partial withdrawal, the caveat will continue to be recorded over Lot 4 on RP 955211 (Title Reference 12255187) and Lot 120 on RP 102421 (Title Reference 13334452).

SAMPLE

Example 9 – Form 14 Request to remove lapsed caveat pursuant to s. 126(7) of the *Land Title Act 1994*

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 LAPSED CAVEAT PURSUANT TO SECTION 126(7) OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

SMITH & CO SOLICITORS
17 PEACE STREET
BRISBANE QLD 4000
mail@smithcosolicitors.com.au
(07) 3999 1111

Lodger Code
987

2. Lot on Plan Description

LOT 33 ON RP 213130

Title Reference

34567112

3. Registered Proprietor/State Lessee

GRANT THOMPSON

4. Interest

FEE SIMPLE

5. Applicant

GRANT THOMPSON

6. Request

I hereby request that: caveat number 876543219 be removed pursuant to section 126(7) of the Land Title Act 1994 as the caveator has not met the requirements of section 126(4) of the Land Title Act 1994 and the caveat has lapsed.

7. Execution by applicant

R E Windward
ROBERTA ELIZABETH WINDWARD

28/01/2021
Execution Date

.....
~~Applicant's or~~ Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Example 10 – Form 14 Request to Remove Caveat pursuant to s. 127 of the *Land Title Act 1994* (pursuant to a court order)

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 CAVEAT PURSUANT TO SECTION 127 OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

SMITH & CO.
SOLICITORS
17 PEACE STREET
BRISBANE QLD 4000
mail@smithcosolicitors.com.au
(07) 3999 1111

Lodger Code
987

2. Lot on Plan Description

LOT 230 ON RP176

Title Reference

11223145

3. Registered Proprietor/State Lessee

JOHN DONALD BROWNE

4. Interest

FEE SIMPLE

5. Applicant

JOHN DONALD BROWNE

6. Request

I hereby request that: in accordance with the Supreme Court order dated 12 December 2020 deposited herewith, caveat number 777444000 be removed.

7. Execution by applicant

J D Browne

21/01/21
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:

- A copy (see [60-1030]) of the court order ordering the removal of the caveat must be deposited.

SAMPLE

Example 11 – Form 14 Request to cancel caveat pursuant to s. 128(1)(a) of the *Land Title Act 1994*

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

GENERAL REQUEST

FORM 14 Version 4
Duty Imprint
Page 1 of 1

Dealing Number

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1. Nature of request

REQUEST TO CANCEL CAVEAT PURSUANT TO SECTION 128(1) OF THE LAND TITLE ACT 1994

Lodger (Name, address, E-mail & phone number)

SMITH & CO SOLICITORS
17 PEACE STREET
BRISBANE QLD 4000
mail@smithcosolicitors.com.au
(07) 3999 1111

Lodger Code
987

2. Lot on Plan Description

LOT 6 ON RP 177662

Title Reference
19229134

3. Registered Proprietor/State Lessee

RICHARD JAMES

4. Interest

FEE SIMPLE

5. Applicant

RICHARD JAMES

6. Request

I hereby request that: caveat 732165485 be cancelled pursuant to section 128(1)(a) of the Land Title Act 1994 as the claim to the interest claimed by the caveator has been abandoned or withdrawn, as evidenced by the notice of discontinuance in Supreme Court proceeding 98765/2020 filed 17 February 2021 (copy deposited herewith).

7. Execution by applicant

R E Windward
ROBERTA ELIZABETH WINDWARD

28/02/2021 .....
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:

- Evidence must be deposited with the request to satisfy the Registrar of the relevant ground from s. 128(1) of the *Land Title Act 1994* (e.g. for cancellation pursuant to s. 128(1)(a) – evidence must be deposited to satisfy the registrar that the interest claimed by the caveator has ceased or the claim to it has been abandoned or withdrawn).
- This evidence should include a Form 20 – Declaration by the applicant or their solicitor setting out the grounds supporting the request and any documentary evidence supporting the grounds for cancellation (e.g. for Example 11 a copy of a notice of discontinuance filed in the court by the caveator could be provided).

SAMPLE

[11-5000] eConveyancing

[11-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [11-5105 and 62-6000] for further information on the application of the eConveyancing mandate An Electronic Conveyancing Document is a document under 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.

[11-5100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions currently available through eConveyancing.

[11-5105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the *Land Title Regulation 2022* provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

The Form 11-Caveat and Request to Withdraw a Caveat (Form 14) are required instruments under the Regulation and are therefore required to be lodged through a ELN unless an exemption applies.

Because the Electronic Lodgment Network Operators (ELNOs) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and exemptions is maintained on the Titles Queensland website rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the Titles Queensland website for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[11-5110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the Regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the Titles Queensland website.

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a Form 11 – Caveat and a Form 14 – General Request) and a list of these exclusions can be found on the Titles Queensland website and are updated from time to time as the functionality of each instrument changes.

[11-5115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For Further information refer to Part [62-6040].

[11-5200] Prescribed Requirements – Form 11 (electronic)

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 11 (electronic).

[11-5300] Attachments

An attachment cannot be included with an Electronic Conveyancing Document unless:

- it is in the circumstances detailed in this section; and
- the attachment only includes the stated evidence required in those circumstances.

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

[11-5310] Form 11 (electronic) – Caveat

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a Form 11 (electronic) lodged through eConveyancing.

[11-5320] Form 14 (electronic) – General Request

General Request to withdraw caveat (registered) pursuant to s. 125 of the *Land Title Act 1994*

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a General Request to withdraw caveat lodged through eConveyancing.

[11-5400] Execution and Certification

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

[11-5600] Electronic Forms

[11-5610] Approved Electronic Forms

Form 11 (electronic) – Caveat

A caveat that is an Electronic Conveyancing Document (an eConveyancing caveat) 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 caveat must be digitally signed by or for each caveator 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.

Form 14 (electronic) – General Request

A General Request that is an Electronic Conveyancing Document (an eConveyancing General Request) 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 General Request must be digitally signed by or for each applicant 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 below.

Approved Electronic Form – Form 11 (electronic) - Caveat

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

FORM 11 (electronic) Version 2
Page 1 of

CAVEAT

Lodger Details:

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For more information see the Titles Queensland website.

1. Caveator

2. Lot on Plan Description **Title Reference**

3. Interest being claimed

4. Grounds of claim

5. Registered Owners **6. Other Parties**

7. Request/Execution

The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the Land Title Act 1994 forbids the registration of an instrument affecting the land described in item 2 until this caveat is withdrawn by the Caveator.

I certify that:

Signed by:

For
On behalf of
Dated:

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

GENERAL REQUEST

Lodger Details:

Privacy Statement

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For more information see the Titles Queensland website.

1. Nature of Request

2. Lot on Plan Description **Title Reference**

3. Registered Proprietor/State Lessee

4. Interest

5. Applicant

6. Request

7. Execution

I certify that:

Signed by:

For
On behalf of
Dated:

[11-5620] Electronic Form Examples

Electronic Form Example 1 – Form 11 (electronic) – Caveat

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

FORM 11 (electronic) Version 2

CAVEAT

812345678
SY 800
21/01/2021 09:01:13

Lodger Details:

LEE WEI LAWYERS
999 OBLADI TERRACE
MELBOURNE VIC 3000

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For more information see the Titles Queensland website.

1. Caveator

JOHN THOMAS CLARE
29 Albert Street
Camp Hill QLD 4152

2. Lot on Plan Description

LOT 16 ON RP 54908

Title Reference

15432999

3. Interest being claimed

An equitable interest as purchaser of an estate in fee simple

4. Grounds of claim

Pursuant to a contract/agreement between the registered owner as vendor and the Caveator as purchaser, dated 04/01/2021

5. Registered Owners

JOHN IAN CLEWS
34 Long Street
WYNNUM QLD 4178

6. Other Parties

XYZ BANKING CORPORATION ACN 123 456 789
1200 Queen Street
BRISBANE QLD 4000

7. Request/Execution

The Caveator claiming as per item 3 on the grounds detailed in item 4 and subject to the Land Title Act 1994 forbids the registration of an instrument affecting the land described in item 2 until this caveat is withdrawn by the Caveator.

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 has taken reasonable steps to verify the identity of the caveator or his, her or its administrator or attorney.

Signed by:
Robert Edward Lee
For LEE WEI LAYWERS
On behalf of
JOHN THOMAS CLARE
Dated: 21/01/2021

SAMPLE

[11-5700] Electronic Form Notes for Completion – Form 11 (electronic)

Refer to the table below for notes for the completion of a Form 11 (electronic).

ITEM	NOTES
Item 1	Insert the full name of the caveator and an address where documents can be served on the caveator (this address may be the address of a stated legal practitioner). Only the legal entity name of the caveator is to be inserted in the name data fields. It is not permissible to include other words or symbols that are not part of the name of the caveator in any of the name data fields. Any other information such as 'Administrator appointed' or 'in Liquidation' is to be shown in the Organisation Status data field.

Note: it is not currently possible to lodge an eConveyancing caveat where the caveator is a trustee, personal representative, statutory/trustee for sale or responsible entity or a registered owner.

Electronic Form Example 2 – Form 14 (electronic) – General Request to withdraw caveat (registered) pursuant to s. 125 of the *Land Title Act 1994*

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

FORM 14 (electronic) Version 2

GENERAL REQUEST

812345678
SY 102
28/01/2021 09:01:13

Lodger Details:

JONES & CO SOLICITORS
13 GRACE 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 Titles Queensland website.

1. Nature of Request

Withdrawal of Caveat 712345678

2. Lot on Plan Description

LOT 10 ON RP 223344

Title Reference

13123066

3. Registered Proprietor/State Lessee

MICHAEL JOHN GREEVES

4. Interest

Fee Simple

5. Applicant

SUE-ELLEN GREEVES

6. Request

I hereby request that the action described in Item 1 (Nature of request) be performed.

7. 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.
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 caveator or his, her or its administrator or attorney.

Signed by:
Robert Edward Lee
For JONES & CO SOLICITORS
On behalf of SUE-ELLEN GREEVES
Dated: 28/01/2021

SAMPLE

[11-5760] Electronic Form Notes for Completion – Form 14 (electronic) – General Request to withdraw Caveat (registered) pursuant to s. *125 of the Land Title Act 1994*

Nil.

[11-6000] to [11-7060] deleted

[11-8000] Fees

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

[11-9000] Cross References and Further Reading

Part 2 – Mortgage (National Mortgage Form)

Part 5, 5A, 6 – Transmission Applications

Part 14 – General Request

Part 62 – eConveyancing

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

Christensen, Dixon and Wallace, *Land Titles Law and Practice Queensland* (Thomson Reuters, subscription service)

Colbran and Jackson, *Caveats*, FT Law and Tax Asia Pacific, 1996

Duncan and Vann, *Property Law and Practice in Queensland*, (Thomson Reuters, subscription service)

Lindsay, S, *Caveats Against Dealings in Australia and New Zealand*, The Federation Press, 1995

[11-9050] Notes in text

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.

Titles QUEENSLAND

Part 12 – Request to Register Writ of Execution

LAND TITLE PRACTICE MANUAL

Updated: 20 March 2025

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Part 12 – Request to Register Writ of Execution

[12-0000] General Law

Where an unsatisfied judgment or order of a court exists for the payment of a sum of money by a defendant (enforcement debtor) to a plaintiff (enforcement creditor), enforcement proceedings may be taken to sell interests in real property owned by the debtor and to have the proceeds of the sale applied to the satisfaction of the judgment or order.

Under the *Land Title Act 1994* and *Land Act 1994*, the term 'writ of execution' means a writ or warrant of execution after judgment in any court, and includes an enforcement warrant.

An enforcement warrant also includes an enforcement warrant under s 828 of the Uniform Civil Procedure Rules 1999 or under s 63 of the *State Penalties Enforcement Act 1999*.

A writ of execution provides the means to compel an involuntary sale of the debtor's property for the satisfaction of the judgment or order. The normal procedure for enforcement is the registration of a writ of execution against the real property interests of the debtor and for the property to be sold by the relevant enforcement officer of the court that issued the writ of execution.

The Registrar is authorised by s 116 of the Land Title Act or s 386 of the Land Act to register the writ of execution against the title to the land or other interest described in the request, subject to:

- the lot, lease or sublease under the Land Act or other interest the subject of the writ of execution being registered in the name of the debtor/s at the time of lodgement or registration; and
- the writ of execution being issued within the previous 12 months or, if issued for more than 12 months, lodgement of court evidence of its extension.

Application under the *Land Act 1994*

Registration of a writ of execution against a lease or sublease under the Land Act binds the lease under the *Land Act* as regards the interests of buyers, sublessees, mortgagees and creditors (s 387 Land Act) during the binding period of six months from lodgement, and any extended time allowed by the court, but only if the writ of execution is executed by the delegated court officer by selling the lease during that period.

Application under the *Land Title Act 1994* or *Water Act 2000*

The registration of a writ of execution against a lot or water allocation binds the lot or water allocation as regards the interests of purchasers, lessees, mortgagees and creditors (s 117 Land Title Act) during the binding period of six months from lodgement, and any extended time allowed by the court, but only if the writ of execution is executed by the delegated court officer by selling the lot or water allocation during that period.

[12-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[12-2000] Practice

[12-2000] General

It is not the responsibility of the Registrar to enquire into the nature of a writ of execution. Within Queensland, a writ of execution can be issued by the following:

- High Court of Australia
- Federal Court of Australia
- Federal Circuit Court of Australia
- Supreme Court of Queensland
- District Court
- Magistrates Court
- Registrar of the State Penalties Enforcement Registry (SPER)
- Family Court of Australia.

The above list is not necessarily exhaustive.

An interstate judgment may be enforced in Queensland by registration of the interstate judgment in the relevant Queensland court, whereupon a writ of execution is issued by the relevant State court in Queensland. Interstate judgments are registered and enforced under the provisions of the *Service and Execution of Process Act 1992* (Cth).

In Queensland judgments obtained in foreign courts to which the *Foreign Judgments Act 1991* (Cth) applies may be registered in the Supreme Court.

Upon registration, the foreign judgment has the same force and effect as if it were a judgment of the Supreme Court of Queensland.

A money judgment may be enforced by the same means of execution as is available under the law of the place of registration.

A writ of execution issued on a judgment against an enforcement debtor in their own right cannot be entered against land or any interest which is held in a representative capacity or vice versa.

[12-2010] Currency of the Writ of Execution

Court Issued Writ of Execution

A writ of execution issued by a court is valid for a period of 12 months from the date of issue (s. 820 of the Uniform Civil Procedure Rules 1999). However, a writ of execution may state that it ends at an earlier time (s. 92 of the *Supreme Court of Queensland Act 1991*). The date of issue of the document will be shown on the face of the writ of execution, regardless of the court which has issued the document. The writ of execution may be extended for a further period of 12 months by order of the court and normally that extension is endorsed upon the face of the writ of execution.

The Registrar must not register a writ of execution if it has been lodged more than 12 months after it was issued by the court and has not been further extended by order of that court.

Writ of Execution issued by Registrar of the State Penalties Enforcement Registry

A writ of execution issued by the Registrar of the State Penalties Enforcement Registry (SPER) is current for up to six months from the date of issue as stated on the writ of execution.

The Registrar of SPER may renew the writ of execution for a period of not more than six months at any one time before the writ of execution ends. However, to bind the register a new Form 12 together with a copy (see [60-1030]) of the renewed writ of execution must be lodged.

A writ of execution issued by the Registrar of the State Penalties Enforcement Registry may not be extended.

[12-2020] General Request to Record Extension of a Writ of Execution

In seeking to record an extension of a writ of execution, the following matters must be attended to:

- a Form 14 – General Request must be lodged;
- no fee is payable in respect of the lodgement of the Form 14;
- all items on the Form 14 must be appropriately completed;
- the affected lot or interest in the lot, or the lease or sublease under the *Land Act 1994* must be identical to that described in the writ of execution;
- a copy of the court issued order, (see [60-1030]) extending the binding time for the writ of execution to comply with s. 117(b)(ii) of the *Land Title Act 1994* or s. 387(b)(ii) of the *Land Act 1994* must be deposited with the Form 14; and
- the writ of execution must not have been cancelled.

If a writ of execution has been cancelled and a Form 14 – General Request to record extension of the writ of execution is subsequently lodged, it cannot be registered. The appropriate documentation is another Form 12 –Request to Register the Writ of Execution with copies of the:

- original writ of execution; and
- court issued order extending the time.

[12-2025] Effect of the Writ of Execution

A registered writ of execution binds the interest of the enforcement debtor as regards purchasers, mortgagees, lessees and creditors from him/her for a period of six months from the date of lodgement or such extended time that is allowed by the court and notified to the Registrar. This allows the authorised court officer (generally the Bailiff or Sheriff) to auction the lot, a lease or sublease under the *Land Act 1994* or other interest and to execute a transfer to the purchaser. Any dealing other than those by purchasers, mortgagees, lessees and creditors lodged after the writ of execution and during the initial or extended binding period may be registered.

Any prior unregistered dealings are not affected by the lodgement of a writ of execution.

On registration of a transfer executed by the Bailiff or Sheriff, the transferee becomes the registered owner of the lot, or a lessee of a lease or sublessee of a sublease under the *Land Act 1994*, only subject to registered interests (s. 120(2)(a) of the *Land Title Act 1994* or s. 325(1)(b) of the Land Act), and also for a lot, any equitable mortgages notified by caveat lodged before registration of the writ of execution (s. 120(2)(b) of the Land Title Act. Note: this provision is only capable of application to equitable mortgages notified by non-lapsing caveats lodged under s. 30A of the *Real Property Act 1877*)[1,2].

If a lot or a lease or sublease under the Land Act is sold by an authorised court officer under a registered writ of execution, the authorised officer is empowered to execute a Form 1 – Transfer to the purchaser under the seal of the court. Officers who affix the seal of the court must show their official designation or position adjacent to their signature.

If the land is subdivided after the issue of the writ of execution, but the plan is lodged prior to the writ of execution, a declaration identifying the new lots (excluding road and public use land) as being the same land as that referred to in the writ of execution is required[1,2].

[12-2030] deleted

[12-2040] Request to Register Writ of Execution

To register a writ of execution, a Form 12 – Request to Register Writ of Execution or Warrant of Execution needs to be completed and lodged, together with a copy (see [60-1030]) of the court issued writ of execution. If the writ of execution (other than that issued by the Registrar of State Penalties Enforcement Register (SPER)) has been previously deposited for registration is still within its 12 month currency, it may be exhibited as evidence for the lodgement of a further writ of execution.

Separate writs of execution under different writs may be registered against a lot.

Where an enforcement debtor under a writ of execution issued by SPER has incurred multiple fines for different offences the Registrar of SPER may issue multiple writs of execution. In such instances, it is acceptable for multiple writs of execution to be lodged with one Form 12.

The following items must be attended to in the registration of a writ of execution:

- all items on the Form 12 must be appropriately completed;
- the lodgement fee must be paid;
- a copy of the court issued writ of execution (or copy issued by the Registrar of SPER), must be deposited (see [60-1030]) with the writ of execution;
- the lot, lease or sublease under the *Land Act 1994* or other interest described in the Form 12 must be in the name of the enforcement debtor shown in the writ of execution.

Removal of Writ of Execution

[12-2050] General

Writs of execution expire; they do not lapse in the same manner as caveats.

A writ of execution issued from a court may be removed from the register by:

- lodging a Form 14 – Request to Record Discharge or Satisfaction of a Writ of Execution at any time after payment of the debt in full;
- lodging a Form 14 – Request to Cancel a Writ of Execution for a writ of execution which has expired and has not been put into force and effect;
- withdrawing an unregistered writ of execution by letter from the enforcement creditor or their solicitor.

For further information see part 14 – General Request, esp. [14-2125].

[12-2060] to [12-2090] deleted

[12-2100] Withdrawal of Unregistered Writ of Execution

An unregistered writ of execution may be withdrawn by a letter from the enforcement creditor or their solicitor to the Registrar (s. 159 of the *Land Title Act 1994* or s. 308 of the *Land Act 1994*).

[12-2110] Rejection

If a writ of execution is requisitioned pursuant to s. 156(1) of the *Land Title Act 1994* or s. 305(1) of the *Land Act 1994* and the requisition is not complied with within the specified period, the writ of execution may be rejected (s. 157(1) of the Land Title Act or s. 306(1) of the Land Act). Generally, a notice of intention to reject is given by the Registrar allowing seven days for the lodger to respond prior to rejection. However, the failure to give a seven-day courtesy notice does not give the enforcement creditor protection against rejection.

[12-2120] Overriding a Writ of Execution

The following will be operative, notwithstanding the lodgement of a writ of execution:

- A sale of a lot, or a sale of a lease or sublease under the *Land Act 1994*, or an application by a local government, under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012 overrides a writ of execution[1].
- A resumption of land or a lease under the Land Act pursuant to s. 12(5) of the Acquisition of *Land Act 1967* by the State, a local government, or authorised constructing authority overrides a writ of execution[1].
- A caveat with a notice of action prevents registration of a transfer under a writ of execution[2].
- Actions taken under statutory charges by the Commonwealth or State e.g. land tax charge may take precedence over a writ of execution.
- A transfer by mortgagee exercising power of sale, executed on or after 7 June 2001, overrides a writ of execution, provided the mortgage under which the power is exercised was registered prior to the registration of the writ of execution.
- A transfer of a lease under the Land Act sold by the Chief Executive pursuant to Chapter 5, Part 4, Division 3A, Subdivision 4 of the Land Act overrides a writ of execution[1,3].

[12-2130] Transfer under a Writ of Execution

See part 1, esp. [1-2530] and [1-2540].

[12-4000] Forms

[12-4000] General Guide to Completion of Forms

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

REQUEST TO REGISTER WRIT / WARRANT OF EXECUTION

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 Titles Queensland website.

Lodger (Name, address, E-mail & phone number)
Name: Ace Legal Services
Postal Address: 89 Edward St, Brisbane QLD 4000
Email: info@acelegalservices.com.au
Phone Number: (07) 3227 9947

Lodger Code 858

1. Lot on Plan Description
LOT 77 **ON** RP **94912**

Title Reference
10946033

2. Registered Proprietor(s)/State Lessee(s) whose interest is bound or affected
LEONARD LLEWLLYN JONES

3. Name of Applicant (the Enforcement Creditor)
SMITH AND SMITH PTY LTD A.C.N. 123 123 123

4. Particulars of Writ/Warrant
Writ/Warrant of Execution No. 186
of 2025
Court / Registry: Queensland Magistrates Court
Enforcement Debtor – LEONARD LLEWELLYN JONES
Expiry Date[1] - 19/03/2026

5. Request and Execution by the Applicant

The applicant requests that the **attached** Writ / Warrant of Execution be registered over the land described in Item 1.

The applicant confirms that:

a) The Writ/Warrant has not been wholly satisfied. An office copy[2] of the Writ/Warrant is attached.

b) The Registered Proprietor/State Lessee of the interest is identical with the Enforcement Debtor in the Writ/Warrant.

c) It is requested that the particulars of the Writ/Warrant be registered.

d) The applicant is authorised to make this request.

Signature	J Preston	Signature	
Signer Name	John James Preston	Signer Name	
Signer Authority	Legal Practitioner	Signer Authority	
Execution Date	25/03/2025	Execution Date	

[1] The Court order must be current at the time of lodgement. If the writ / warrant has been extended, the new expiry date must be inserted.

[2] Office copy means the actual certificate or document issued from the issuing authority (including court) and certified or otherwise authenticated by the authority where this is the authority's practice, or a certified copy of the original certificate or document. For further guidance refer to Part [60-1030] of the Land Title Practice Manual.

Guide to Completion of Form 12

[12-4010] Item 1

Freehold Description[1,2]

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

Water Allocation Description[2,3]

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

State Tenure Description[1,3]

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 crown plans).

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

[12-4020] Item 2

Insert the full name of the registered proprietor/lessee/sublessee. If the title for the lot, lease or sublease under the *Land Act 1994* or other interest is in the name of more than one registered proprietor or lessee or sublessee under the Land Act, but the writ was issued against only one of them, then only the name of the registered proprietor or lessee or sublessee under the Land Act against whom the writ of execution was issued should be shown. If there is a discrepancy between the name on the writ of execution and the name on the title, identification should be provided in Item 5(b).

[12-4030] Item 3

Insert the name of the enforcement creditor as shown in the writ of execution.

[12-4040] Item 4

Insert the relevant particulars from the writ of execution (refer to the Queensland Enforcement Warrant example on the following page):

1. Writ/Warrant of Execution No.

Insert the Court File Number or the Warrant Number.

2. Year

Insert the year the Enforcement Warrant was issued.

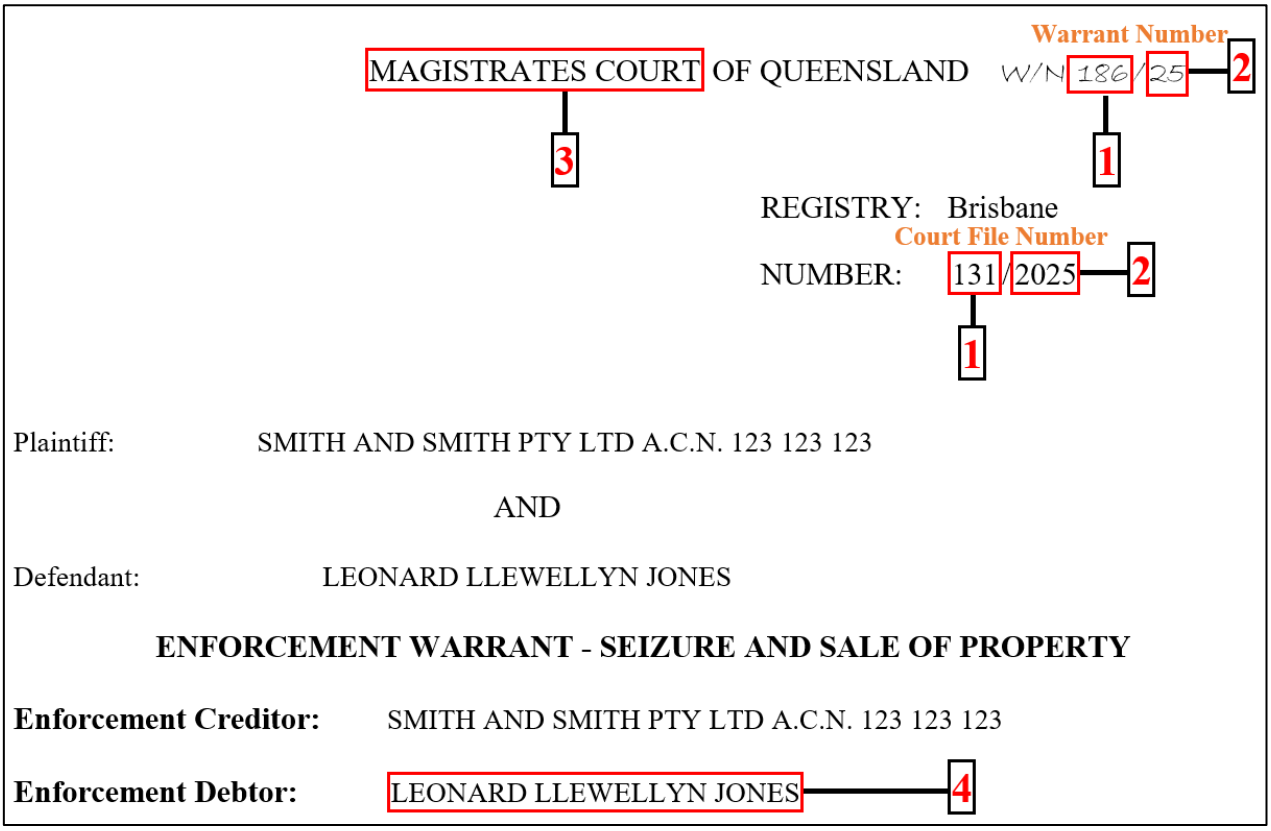
3. Court

Insert the Court (or registry) issuing the Enforcement Warrant.

4. Enforcement Debtor

Insert the name of the Enforcement Debtor.

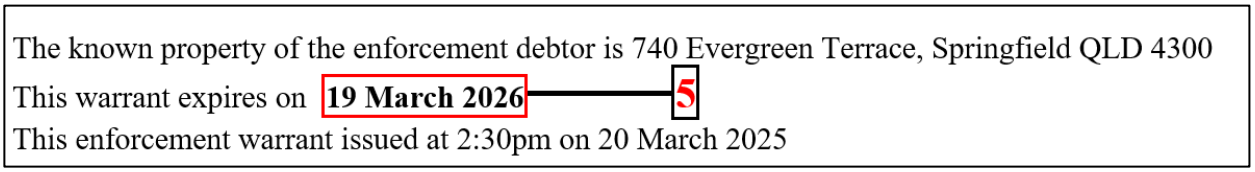
Queensland Enforcement Warrant Example:



5. Expiry Date

Insert the expiry date of the Enforcement Warrant.

Queensland Enforcement Warrant Example:



[12-4050] Item 5

The following persons can execute a Form 12 – Request to Register Writ/Warrant of Execution on the form itself:

- The Enforcement Creditor;
- An authorised officer of the Enforcement Creditor;
- A duly appointed attorney for the Enforcement Creditor;
- A legal practitioner acting for the Enforcement Creditor; or
- An authorised officer of the State Penalties Enforcement Registry.

A Body Corporate for a Community Title Scheme can also execute a Form 12 - Request to Register Writ/Warrant of Execution, however this execution must be completed on a Form 20 – BCCM Execution. For more information on the execution of forms by a Body Corporate see Part 45, esp. [45-2060].

[12-4060] deleted

[12-4070] Duty

There is no duty payable on a Form 12 – Request to register writ of execution.

[12-6000] deleted

[12-7000] Case Law

[12-7000] *Hoy and Anor v AAA Home Loans Pty Ltd and Others* [1985] VR 281

In this case, it was held that successive copies of a writ of execution may be served on the Registrar. These copies have the effect of giving priority for the binding period (under the *Land Title Act 1994*, six months) after the service of such writ of execution. However, the lodgement of a successive writ of execution is not effective against instruments lodged in the binding period (under the Land Title Act, six months).

[12-7010] to [12-7040] deleted

[12-8000] Fees

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

[12-9000] Cross References and Further Reading

Part 1 – Transfer, esp. [1-2530] to [1-2540]

[12-9050] Notes in text

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.

Titles QUEENSLAND

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre, Building Management Statement or Carbon Abatement Interest

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre, Building Management Statement or Carbon Abatement Interest

[13-0000] General Law

Under the provisions of the *Land Title Act 1994* and the *Land Act 1994*, amendments to registered leases, easements, covenants, mortgages, profits a prendre and Building Management Statements may be registered. Form 13 is the appropriate form in each case. A Form 20 – Schedule setting out the amendment may be attached to the Form 13.

[13-0010] Amendment of Lease

Unless otherwise stated in this numbered section, a reference to a lease means a lease or sublease of freehold land or a water allocation, or a sublease or trustee lease under the *Land Act 1994*.

Section 67 of the *Land Title Act 1994* and ss. 57A and 336 of the Land Act provide that a registered lease may be amended by registering an amendment of lease. However, the amendment must not:

For a lease or sublease of freehold land or a water allocation:

- increase or decrease the area leased; or
- add or remove a party to the lease; or
- be lodged after the lease's term has ended.

For a sublease or trustee lease under the *Land Act 1994*:

- increase or decrease the area leased or
- add or remove a party to the lease; or
- increase the term of the lease; or
- be lodged after the sublease's term has ended.

Section 67(5) of the Land Title Act provides that the procedure for amendment set out in s. 67 of the Land Title Act is in addition to any other rights, provided that they are not inconsistent with the Act[2].

[13-0020] Amendment of Easement[1]

Section 91 of the *Land Title Act 1994* and s. 370 of the *Land Act 1994* provide that a registered easement (other than a high-density development easement under Part 6 Division 4AA of the Land Title Act) may be amended by registering an amendment of easement. However, the amendment must not:

- change the location of the easement; or
- increase or decrease the area of land affected by the easement; or
- change a party to the easement.

The Land Title Act and the Land Act specifically provide that s. 181 of the *Property Law Act 2023* applies to registered easements (s. 92 of the Land Title Act and s. 373 of the Land Act). Section 181 of the Property Law Act allows a person interested in the land to apply to the Supreme Court for an order that an easement be modified or wholly or partially extinguished.

[13-0030] Amendment of Mortgage

Section 76 of the *Land Title Act 1994* and s. 343 of the *Land Act 1994* provide that a registered mortgage may be amended by registering an amendment of mortgage. However, the amendment must not:

For a mortgage of freehold land or a water allocation:

- increase or decrease the area of land or the number of water allocations charged by the mortgage; or
- add or remove a party to the mortgage.

For a mortgage of a lease or sublease under the Land Act:

- add or remove a party to the mortgage

[13-0040] deleted

[13-0041] Amendment of Covenant[1]

Section 97C of the *Land Title Act 1994* and s. 373C of the *Land Act 1994* provide that a registered covenant may be amended by registering an amendment of covenant. However, the amendment must not:

- increase or decrease the area of land which is the subject of the covenant; or
- add or remove a party to the covenant.

[13-0050] Amendment of Profit a Prendre[1]

Section 97K of the *Land Title Act 1994* and s. 373N of the *Land Act 1994* provide that a profit a prendre may be amended by registering an amendment of a profit a prendre. However, the amendment must not:

- increase or decrease the area of land which is the subject of the profit a prendre; or
- add or remove a party to the profit a prendre.

[13-0060] Amendment of Building Management Statement[1]

Section 54E of the *Land Title Act 1994* and s. 294F of the *Land Act 1994* provide for the registration of an amendment of building management statement. However, the amendment must not:

- change the lots to which the statement applies.

[13-0070] Amendment of Carbon Abatement Interest[1]

Section 97S of the *Land Title Act 1994* and s. 373X of the *Land Act 1994* provide that a carbon abatement interest may be amended by registering an amendment of a carbon abatement interest. However, the amendment must not:

- increase or decrease the area of land which is the subject of the carbon abatement interest; or
- add or remove a party to the carbon abatement interest.

[13-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[13-2000] Practice

[13-2000] Amendment of Lease

Unless otherwise stated in this numbered section, a reference to a lease means a lease or sublease of freehold land or a water allocation, or a sublease or trustee lease under the *Land Act 1994.*

A registered lease may be amended by registering a Form 13 – Amendment of Lease. However, the amendment **cannot**:

For a lease or sublease of freehold land or a water allocation:

a. increase or decrease the area leased; or

b. add or remove a party to the lease; or

c. be lodged after the lease's term has ended

For a sublease or trustee lease under the *Land Act 1994*:

- increase or decrease the area leased or
- add or remove a party to the lease; or
- increase the term of the lease; or
- be lodged after the lease's term has ended.

The covenants to be amended must be included on a Form 20 – Schedule. The covenants may be amended by deleting a particular clause, amending a particular clause or inserting a new clause. The Form 20 – Schedule need only refer to the particular clause(s) to be deleted, amended or inserted for the purpose of the amendment.

If a lease is to be amended in any of the ways above, then it will be necessary to surrender the existing lease and to enter into a new lease (see part 8 – Surrender of Lease).

A lease may be amended more than once.

Before an amendment of a trustee lease or a sublease under the Land Act is registered, the amendment must be endorsed with, as appropriate, either the Minister's approval under s. 57A(1) or s. 332 of the Land Act, or the Minister's general authority to amend under s. 333 of the Land Act[1,3].

However, the Minister's approval is not required if the trustee lease is[1,3]:

- a trustee lease (construction); or
- a construction trustee sublease; or
- a trustee lease (State or statutory body); or
- a sublease of a trustee lease (State or statutory body) (s. 57A(2) of the Land Act).

An amendment of a freehold lease, a lease of a water allocation or a sublease under the Land Act executed after the registration of a mortgage is not valid against the mortgagee unless the mortgagee consents to the amendment before it is registered (s. 66 of the *Land Title Act 1994* and s. 338 of the Land Act). The Registrar will register the amendment of lease even if the lot or interest is mortgaged and the consent of the mortgagee is not included. However, registration will not give validity to the amended lease against the mortgagee as a matter of law.

It is in the lessee's interest to obtain the consent of any mortgagee of the fee simple, a sublease under the *Land Act* 1994 or a water allocation to an amendment of lease (s. 66 of the Land Title Act and s. 338 of the Land Act); however it is not a prerequisite for registration.

An amendment of lease does not require the consents of any sublessees in order to be registered, even if the covenants in the (head) lease are being amended.

An amendment may increase or decrease the term of the lease[2]. However, an amendment to increase the term must be lodged during the term of the lease as defined in s. 67(3) of the Land Title Act. An amendment to extend the second or subsequent option period can only be registered if the preceding option period is the subject of a registered amendment.

An amendment of lease can create, cancel, extend or shorten a period of a further term available under an option[2].

An amendment of lease **cannot** amend the commencement date of a lease that has commenced.

If the amendment of lease decreases the term, it must be for a term which is longer than the term, including those available under options, of any sublease of the lease. Conversely, any increase in the term, including those available under options

in a sublease must not exceed the term of the head-lease[2]. **Note**: Only the initial term and first unexercised option period of the lease are recorded on the relevant title.

If the amendment extends the term and the lessor is a trustee, the new term, including further terms available under options, should not exceed 21 years (s. 32(1)(e) of the *Trusts Act 1973*) unless the trust deed authorises leases for a greater term[2].

If a lease is over part of the land and the term is extended, the approval of the local government is required if the new term, including further terms available under options, is for a period of over ten years (s. 65(3A) of the Land Title Act and s. 6 (Schedule 2) of the *Planning Act 2016* – reconfiguring a lot)[1, 2].

Given the nature of a lease the Registrar will not enquire whether all titles subject to the lease are included in the Form 13 – Amendment of Lease[2].

Refer to the following table for duty requirements. The table has been compiled in consultation with the Queensland Revenue Office.

AMENDMENT OF LEASE	
Any Form 13 that:	**Duty notation required**
Increases the term (where the amendment of the lease term commenced ***prior to 1 January 2006***)	Yes
* Increases the term (where the amendment of the lease term commenced ***on or after 1 January 200***6)	No
Increases the rental (where the amendment of the lease rental commenced ***prior to 1 January 2006***)	Yes
* Increases the rental (where the amendment of the lease rental commenced ***on or after 1 January 2006***)	No
Amends the covenants only	No

* **Note** – From 1 January 2006 lease duty was abolished by the *Revenue Legislation Amendment Act 2005*.

Lodgement fees are payable. In cases where the lessee is the State, and a Form 13 – Amendment of Lease gives effect to exercise of an option to renew or otherwise extends the term of the lease, no lodgement fee is payable.

For further information see part 7 – Lease.

[13-2010] to [13-2030] deleted

[13-2035] Amendment of Easement[1]

A registered easement (other than a high-density development easement under Part 6 Division 4AA of the *Land Title Act 1994*) may be amended by registering an amendment of the easement in Form 13 (s. 91(1) of the Land Title Act and s. 370(1) of the *Land Act 1994*). However, the amendment must not:

a. change the location of the easement; or

b. increase or decrease the area of land affected by the easement; or

c. change a party to the easement.

An amendment may replace, delete and/or insert provisions to the easement. If the covenants are inserted or replaced, they should be included on a Form 20 – Schedule. The Form 20 need only refer to the particular clause(s) to be deleted, amended or inserted for the purpose of the amendment.

Due to the nature of an easement, all titles subject to an easement must be included in the Form 13 – Amendment of Easement.

For duty requirements refer to the following table, which has been completed in consultation with the Queensland Revenue Office.

EASEMENTS	
Any Form 13 that:	**Duty notation required**
Increases or provides for additional consideration	Yes
Amends the purpose	No

EASEMENTS	
Amends the covenants	No

Lodgement fees are payable (see [13-8000]).

[13-2040] to [13-2050] deleted

[13-2055] Amendment of Mortgage

A registered mortgage may be amended by registering an amendment (Form 13) of the mortgage (s. 76 of the *Land Title Act 1994* and s. 343 of the *Land Act 1994*). However, the amendment must not:

For a mortgage of freehold land or a water allocation:

a. increase or decrease the area or the number of water allocations charged by the mortgage; or

b. add or remove a party to the mortgage.

For a mortgage of a lease or sublease under the Land Act:

- add or remove a party to the mortgage.

The covenants to be amended must be included on a Form 20 – Schedule. The covenants may be amended by deleting a particular clause, amending a particular clause or inserting a new clause. The Form 20 – Schedule need only refer to the particular clause(s) to be deleted, amended or inserted for the purpose of the amendment.

Given the nature of a mortgage, when an amendment of mortgage is lodged the Registrar will not enquire as to whether all the lots in the mortgage are included in the amendment.

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

Section 11A of the Land Title Act and s. 288A of the Land Act places an onus on **ALL** mortgagees to adopt appropriate due diligence practices prior to lodging for registration any amendment of mortgage. The provisions under s. 11A of the Land Title Act and s. 288A of the Land Act apply to **ALL** amendments of mortgage lodged for registration in Queensland, whether or not the mortgagee has other business relationship with the mortgagor. For more information see [2-2005].

[13-2060] to [13-2100] deleted

[13-2110] Amendment of Covenant[1]

A registered covenant may be amended by registering an amendment of the covenant provided the amendment is validly executed by all parties to the covenant (i.e. the current registered owner or lessee and the State, a statutory body representing the State or a local government). If non-freehold land is involved, written approval of the amendment by the chief executive is required.

An amendment of covenant must not:

a. increase or decrease the area of land which is the subject of the covenant; or

b. add or remove a party to the covenant.

Due to the nature of a covenant an amendment of covenant must include all of the titles to which the covenant relates.

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

[13-2130] Amendment of Profit a Prendre[1]

An amendment of profit a prendre must not:

a. increase or decrease the area of land which is the subject of the profit a prendre; or

b. add or remove a party to the profit a prendre.

Given the nature of a profit a prendre the Registrar will not enquire whether all titles subject to the profit a prendre are included in the Form 13 – Amendment of Profit a Prendre.

For duty requirements refer to the following table, which has been completed in consultation with the Queensland Revenue Office.

PROFIT A PRENDRE	
Any Form 13 that:	**Duty notation required**
Increases or provides for additional consideration	Yes
Amends the covenants	No

Lodgement fees are payable.

[13-2140] deleted

[13-2150] Amendment of a Building Management Statement[1]

A Form 13 that amends a building management statement (BMS) must:

a. include in Item 2 of the form all lots (and common property if applicable) affected by the BMS; and

b. be signed by:
   - the registered owners or lessees under the *Land Act 1994* of all lots to which it applies; or
   - the body corporate where lots affected by the BMS form part of a community titles scheme. The execution by the body corporate must be done in accordance with the relevant regulation module for the scheme. For further information see [45-2060][2]; or
   - both of the abovementioned, if relevant.

Lots may not be added to or removed from a building management statement by an amendment.

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

[13-2160] Amendment of Carbon Abatement Interest[1]

A registered carbon abatement interest may be amended by registering a Form 13 – Amendment of Carbon Abatement Interest provided the amendment is validly executed by all parties to the carbon abatement interest.

An amendment of carbon abatement interest must not:

a. increase or decrease the area of land which is the subject of the carbon abatement interest; or

b. add or remove a party to the carbon abatement interest.

Given the nature of a carbon abatement interest, when an amendment of a carbon abatement interest is lodged the Registrar will not enquire as to whether all the lots in the carbon abatement interest are included in the Form 13 – Amendment of Carbon Abatement Interest.

For duty requirements refer to the following table, which has been completed in consultation with the Queensland Revenue Office.

CARBON ABATEMENT INTEREST	
Any Form 13 that:	**Duty notation required**
Increases or provides for additional consideration	Yes
Amends the carbon abatement interest	No

Lodgement fees are payable.

[13-4000] Forms

[13-4000] General Guide to Completion of Forms

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

Example 1 – Amendment of Easement

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

AMENDMENT

Duty Imprint

FORM 13 Version 7

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 Titles Queensland website.

Print one-sided only

1. Type/Dealing No of Instrument/Document being amended

Type of Instrument/Document EASEMENT .....
Dealing Number 700004070 .....

Lodger (Name, address, E-mail & phone number)

D A McCALLUM
1 OCEAN DRIVE
SURFERS PARADISE QLD 4217
(07) 5202 1495

Lodger Code

2. Lot on Plan Description | **Title Reference**

LOT BURDENED | 11462065

LOT BENEFITED | 12356047

3. Grantor/Mortgagor/Lessor/Covenantor
ANDREW DOUGLAS BARTON

4. Grantee/Mortgagee/Lessee/Covenantee
DOUGLAS ANGUS McCALLUM

5. Amendment of Lease Details (Both parts (a) AND (b) must be completed. Do not complete if amending covenants only)

(a) Expiry date (DD/MM/YYYY): / / **AND/OR** Event (if applicable):

(b) Option/s#:

Insert *NIL* if no option or insert option period (e.g. 2 years or 2 x 3 years)

6. Request/Execution

The parties identified in items 3 and 4 agree that the instrument/document in item 1 is amended in accordance with:-
~~*item 5; *item 5 and attached schedule;~~ *attached schedule.

* rule through or delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

A D Lein
.....signature
ARNOLD DOUGLAS LEIN
.....full name
JUSTICE OF THE PEACE (C.DEC) #27345
.....qualification

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

11/11/2007
Execution Date

A D Barton
.....
Grantor's/Mortgagor's/Lessor's/ Covenantor's Signature

P J Writ
.....signature
PETER JOHN WRIT
.....full name
SOLICITOR
.....qualification

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

17/11/2007
Execution Date

D A McCallum
.....
Grantee's/Mortgagee's/Lessee's/ Covenantee's Signature

SAMPLE

Example 1 (cont'd)

Title Reference [11462065]

(Changes to clauses of the easement to be set out here)

SAMPLE

Example 2 – Amendment of Lease

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

AMENDMENT

FORM 13 Version 7
Duty Imprint

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 Titles Queensland website.

Print one-sided only

1. Type/Dealing No of Instrument/Document being amended

Type of Instrument/Document LEASE.....
Dealing Number 601447298 .....

Lodger (Name, address, E-mail & phone number)
SACHS & CO
SOLICITORS.
5 ALBERT STREET
BRISBANE QLD 4000
mail@sachs.com.au
(07) 3227 4149

Lodger Code
102

2. Lot on Plan Description

LOT 42 ON RP99332

Title Reference
13131166

3. Grantor/Mortgagor/Lessor/Covenantor

SUBURBAN SHOPPING CO PTY LTD ACN 685 742 321

4. Grantee/Mortgagee/Lessee/Covenantee

PARKER JAMES SCHRIVNER and AQUILLA NEIL SCHRIVNER

5. Amendment of Lease Details (Both parts (a) AND (b) must be completed. Do not complete if amending covenants only)

(a) Expiry date (DD/MM/YYYY): 31/12/2013 **AND/OR** Event (if applicable): ON THE DEATH OF THE LESSEE

(b) Option/s#: NIL

Insert *NIL* if no option or insert option period (e.g. 2 years or 2 x 3 years)

6. Request/Execution

The parties identified in items 3 and 4 agree that the instrument/document in item 1 is amended in accordance with:- ~~*item 5;~~ *item 5 and attached schedule; ~~*attached schedule~~.

* rule through or 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)

4/9/2007
Execution Date

J Thomas, Director
JOHN PETER THOMAS

P Dean, Secretary
PAUL IAN DEAN

.....
Grantor's/Mortgagor's/Lessor's/ Covenantor's Signature

E E Shield
.....signature
EGERTON ELI SHIELD
.....full name
JUSTICE OF THE PEACE (QUALIFIED) #39145
.....qualification

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

5/9/2007
Execution Date

P J Schrivner

A N Schrivner

.....
Grantee's/Mortgagee's/Lessee's/ Covenantee's Signature

SAMPLE

SCHEDULE

Title Reference [13131166]

(Changes to clauses of the lease to be set out here)

SAMPLE

Guide to Completion of Form 13

[13-4010] Item 1

Insert the dealing number of the document being amended.

[13-4020] deleted

[13-4021] Item 2

Freehold Description[1,2]

The description of the relevant lot/s should always read "Lot [no.] on [plan reference]". Plan references must contain the appropriate prefix (eg "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).

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

For an amendment of an easement the descriptions of both the lot/s benefited and lot/s burdened must be shown.

Water Allocation Description[2,3]

A water allocation should be identified as "Water Allocation", "Allocation" or "WA". A water allocation has no reference to County or Parish, hence these fields are not completed. 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

State Tenure Description[1,3]

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

[13-4030] Item 3

Insert the full name of the grantor/mortgagor/lessor/covenantor.

[13-4040] Item 4

Insert the full name of the grantee/mortgagee/lessee/covenantee.

[13-4050] Item 5

This item is not to be completed for an amendment of a mortgage, easement, profit a prendre, building management statement, covenant or carbon abatement interest.

This item is to be completed only where the term and/or the option of a lease is being amended[1,2].

Where only the terms and conditions (covenants) of a lease are being amended, this item is to be left blank.

Where Item 5 is to be completed <u>BOTH</u> parts (a) and (b) must be completed <u>in every instance</u>:

- For part (a) – insert the date (in DD/MM/YYYY format) and/or event on which the lease term or amended lease term is to expire; and
- For part (b) – insert the details of all option/s or if there are no options *NIL* must be inserted.

Where Item 5 is to be completed – if part (a) or (b) is not completed a requisition will issue for the completion of the relevant part.

[13-4055] Item 6

Complete where indicated. The amendment document or a completed Form 20 that sets out the amendments must be attached.

Execute as required.

[13-4060] deleted

[13-4070] deleted

[13-6000] deleted

[13-7000] Case Law

Nil.

[13-8000] Fees

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

[13-9000] Cross References and Further Reading

Part 2 – Mortgage (National Mortgage Form)

Part 3 – Release of Mortgage

Part 7 – Lease

Part 8 – Surrender of Lease

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Part 10 – Surrender of Easement

Part 14 – General Request

Part 29 – Profit a prendre

Part 31 –Covenants

Part 32 – Building Management Statements

Part 33 – Release of Covenant/Profit a prendre

Part 34 – Extinguishment of Building Management Statement

Part 36 – Carbon Abatement Interest

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

Property Law and Practice, Duncan and Vann, Law Book Company Limited (loose-leaf service)

[13-9050] Notes in text

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.

Titles QUEENSLAND

Part 14 – General Request

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 14 – General Request

[14-0000] General Law

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.

[14-0100] Body Corporate and Community Management Requests[1,2]

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

[14-0110] Reservation of Name[1,2]

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.

[14-0120] Community Management Statement[1,2]

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.

[14-0130] Change of address of Body Corporate[1,2]

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].

[14-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[14-2000] Practice

[14-2000] Request to Record Correction or Change of Name

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 interest's 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.

[14-2010] Natural Person

To correct or change the name of a natural person, a Form 14 – General Request must be lodged with a Form 20 – Statutory Declaration 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 they will:

a. retain their previous legal name (e.g. birth name); and/or
b. adopt the surname of their 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 their legal name;

- Mary and/or Tom may adopt a surname of Brown-Green as their legal name.

Conversely, when a person who adopted their 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 their partner or ends the civil partnership, they may revert to their previous legal name as their current 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 their 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 wish to change or correct their names, one Form 14 – General Request for each registered owner is required and the relevant lodgement fee must be paid for each request.

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.

[14-2020] Corporation

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.

[14-2025] Documents to be Deposited When Requesting Change or Correction of Name

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].

If the statutory declaration is not made by the registered owner, the declaration can be made on behalf of the law firm that prepared the document that recorded the owner's or holder's name/s. The declarant must have actual knowledge of the error and confirm that in writing (for example a solicitor or a paralegal at the same firm would have actual, first-hand knowledge of the error because they are able to review the relevant file and determine if an error was made). They would need to confirm in the declaration that an error was made that needs to be corrected. In these instances, 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.

[14-2030] Incorporated Association

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

[14-2035] Transition from an Incorporated Association to a Company Registered under the *Corporations Act 2001* (Cth)

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.

[14-2045] Request to Remove Expired Lease from Title

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

[14-2050] Request to Register Merger of Interest

A merger of interest may occur in the following circumstances:

a. merger of mortgage see [14-2060] [2];
b. merger of lease see [14-2070] [2];
c. merger of easement see [14-2080] [1]; and
d. merger of profit a prendre[1,2].

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 their own right, i.e. not as trustee. In that situation, the leasehold interest cannot merge with the freehold interest.

[14-2060] Merger of Mortgage[2]

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.

[14-2070] Merger of Lease[2]

Where a lessee becomes the registered owner of:

- a lot; or
- part of the lot[1];

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. 145 of the *Property Law Act 2023*). 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.

[14-2080] Merger of Easement (Extinguishment under s. 87A of the *Land Title Act 1994* or s. 368(2) of the *Land Act 1994*)[1]

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.

[14-2090] Withdrawal of Caveat and Discharge, Satisfaction, Cancellation and Withdrawal of Writ of Execution

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.

[14-2100] Withdrawal, Removal and Cancellation of Caveat

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).

[14-2110] Partial Withdrawal of registered Caveat by Caveator

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
- where 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[1].

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.

[14-2120] Instalment Contract Caveat[2]

A caveat lodged to protect a purchaser's interest under an instalment contract pursuant to s. 93 of the *Property Law Act 2023*, may be removed or withdrawn by a Form 14 – General Request. Lodgement fees are payable, however, a duty notation is not required.

[14-2125] Discharge, Satisfaction or Cancellation of Writ of Execution

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.

[14-2127] Withdrawal of Writ of Execution Issued by the Registrar of SPER

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.

[14-2130] Partial Discharge, Satisfaction or Cancellation of Writ of Execution

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

a. 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

b. 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[1,2].

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

a. plan of subdivision for freehold land[1]; or

b. subdivision of a water allocation[3];

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

[14-2150] Extension of Writ of Execution

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

[14-2160] Standard Terms Document Forming Part of Instrument/Document

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.

[14-2170] Request to Record Transmission by Bankruptcy

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 they haves 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.

The address for service of notices to the applicant must be inserted in Item 5.

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

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.

[14-2180] Bankruptcy of Debtor or Deceased Debtor's Estate

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;
- 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)[1, 2].

See Examples 12 and 13.

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

[14-2210] Trustee by Part IV Composition or Arrangement, Part IX Debt Agreement or Part X Personal Insolvency Agreement

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.

[14-2220] *Bankruptcy Legislation Amendment Act 2004* (Cth)

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.

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

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.

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

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).

Section 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)[2]. The grounds of claim in Item 4 of the Form 11 – Caveat should make reference to s. 189AB of the Bankruptcy Act.

[14-2240] Powers of a Trustee

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. 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[1]. 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).

[14-2250] Annulment of Bankruptcy

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:

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

[14-2260] Disclaimer

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 – General Request to validate the trustee's right to disclaim must be deposited with the Form 14.

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 28 days' 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 mortgagees of the lease or the sub-lease under the Land Act; and
- the notified persons have not, within 28 days of receipt 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 notice under s. 133(3) of the *Bankruptcy Act 1966* (Cth), a Form 14 – General Request to record 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 – General Request to validate the trustee's right to disclaim must be deposited with the Form 14.
- 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)).

The administrative advice will alert interested parties that all rights, interests 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 L*and 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.

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.

[14-2270] Statutory Charge under s. 139ZN or 139ZR of the *Bankruptcy Act 1966* (Cth)

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.

[14-2280] Interest for Life[1,2]

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.

[14-2290] Application for Title by Adverse Possession[1,2]

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*.

An application must comply with the Land Title Act and demonstrate, in accordance with common law principles, that the applicant is an adverse possessor. 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*, 9th edn, Sweet & Maxwell, 2019.
2. Butt, P, *Land Law*, 7th edn, Lawbook Co, 2017.
3. Moore, A, Grattan, S and Griggs, L, *Australian Real Property Law*, 7th edn, Lawbook Co, 2020.
4. Wallace et al, *Real Property Law in Queensland*, 5th edn, Lawbook Co, 2020.

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 they have 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 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 their 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** 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.

[14-2300] Deregistered Company

Company Deregistered Prior to the *Companies Act 1961*[1,2]

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.

[14-2310] Foreclosure and Vesting[2]

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.
- the address for service of notices to the applicant must be inserted in Item 5

Lodgement fees are payable.

See Example 18.

[14-2312] Court order to discharge mortgage under section 136 of the *Property Law Act 2023*

Where a mortgagee is:

- out of the jurisdiction; or
- can not be found or is not known; or
- is deceased and no personal representative is administering the deceased person's estate; or
- is uncertain in identity,

the person entitled to redeem the mortgage may apply to the Supreme Court under s. 136 of the Property Law Act for an order that the amount of the debt be ascertained and paid into the Court. A certificate of the Registrar of the Court that such payment has been made and that no amount remains payable under the mortgage, operates to discharge the mortgage debt (ss. 136(3) and 136(4) of the Property Law Act).

Where a person entitled to redeem a mortgage has obtained an order under s. 136 of the Property Law Act and seeks for the mortgage registered over the title to be released, a Form 14 (General Request to register order of the court) should be lodged, together with the original certificate and court order. Where the court order and the certificate do not both specify the mortgage dealing number, a letter should also be deposited confirming the mortgage to which the certificate and court order applies.

Lodgement fees are payable.

[14-2315] Dedication of Road by Notice[1,2]

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.

[14-2320] Resumption[1]

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.

Resumption of Freehold Land by a Constructing Authority[2]

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.

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

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

[14-2330] By Proclamation or Legislation (including a regulation)

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

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

The following practice requirements apply:

- the applicant in Item 5 must be the person in whom the interest is vested by the proclamation/legislation;
- either
  - a copy of the proclamation must be deposited with the Form 14, or
  - in the case of a vesting by legislation, reference to the relevant provision of the vesting legislation must be included in item 6 of the Form 14, and if the land is identified by way of transfer schedule, a certified copy of the transfer schedule must be deposited; and
- the Form 14 must have a duty notation.

The address for service of notices to the applicant must be inserted in Item 5.

Lodgement fees are payable unless exempted by legislation.

[14-2332] By Order of the Court

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.

The address for service of notices to the applicant must be inserted in Item 5.

Lodgement fees are payable.

[14-2335] Vesting in a Trustee

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].

The Form 14 must have a duty notation and lodgement fees are payable.

The address for service of notices to the applicant must be inserted in Item 5.

[14-2340] deleted

[14-2350] Request for Determination of Lease

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. 157 of the *Property Law Act 2023*

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 157 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. 153 of the Property Law Act to the Registrar where the lease is determined for repudiation at common law.

[14-2360] Vesting under the *Associations Incorporation Act 1981*

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.

The address for service of notices to the applicant must be inserted in Item 5.

Lodgement fees are payable.

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 may be lodged requesting the property of the cancelled association to be vested in the Public Trustee of Queensland pursuant to s94 of the *Associations Incorporation Act 1981*. The Form 14 – General Request is lodged with a copy of the gazette notice vesting the property in the Public Trustee. Alternatively, the chief executive of the department that administers the Associations Incorporation Act may, by a gazette notice, 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 gazette notice. A duty notation is required in either case.
- Pursuant to section 92 of the Associations Incorporation Act, where an incorporated association is wound up under section 90, the chief executive of the department that administers the Associations Incorporation Act may, by a gazette notice, vest all or any of the surplus assets of the incorporated association in the Public Trustee. A Form 14 – General Request is lodged, together with a copy of the gazette notice. A duty notation is required.
- 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.

[14-2365] Recording Vesting under the Returned & Services League of Australia (Queensland) Branch) Act 1956

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.

The address for service of notices to the applicant must be inserted in Item 5.

[14-2370] and [14-2380] deleted

[14-2390] Trustee

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]).

[14-2400] Legal and Beneficial Interests Merge

From time to time the situation will arise where a person (A), being registered on the title as the sole '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 they (as 'personal representative') have completed all executorial duties in respect of the administration of the estate of the deceased proprietor, and that they are the sole beneficiary of the estate of the deceased.
>
> See Example 23.

A duty notation is required, and lodgement fees apply.

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]).

[14-2410] Application by Local Government under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012[1]

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.

If the application is over the whole of the land, a new indefeasible title will not be created[2]. 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.

[14-2420] Change of Department Representing the State of Queensland[1]

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.

[14-2425] Removal of a Profit a prendre[1]

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.

[14-2430] Order of the Court Modifying or Extinguishing an Easement[1]

If the court makes a direct order for the extinguishment of an easement or modification of the covenants to an easement (pursuant to s. 181(6) of the *Property Law Act 2023*), 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.

Request to Record Reservation of Name for a Community Titles Scheme[1, 2]

[14-2500] Reservation of Name for Community Titles Scheme[1,2]

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

[14-2530] Duplication of Names[1,2]

Names may be duplicated or similar only when:

- the name for the scheme being reserved is not in the same Local Government Area; or
- where the name for the scheme being reserved is in the same Local Government Area, not in the same Locality/Suburb.

The prior written approval of the Registrar will be required in all other circumstances, which could be subject to the consent of the body corporate of the existing scheme or compliance with other special conditions.

[14-2540] Extension of Reservation of Name[1,2]

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 the reservation of name should be lodged to allow sufficient time for processing prior to the expiry 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.

[14-2550] Withdrawal of Reservation of Name[1,2]

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

[14-2600] Community Management Statements[1,2]

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

[14-2700] Change of Address of Body Corporate[1,2]

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].

[14-2800] Update of a Registered Power of Attorney

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.

[14-2810] Statutory Charge under the *Land Tax Act 2010*[1,2]

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 Queensland Revenue Office 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.

[14-2820] Removal of Statutory Charge under the *Land Tax Act 2010*[1,2]

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 Queensland Revenue Office or delegate.

A duty notation is not required however lodgement fees are applicable.

[14-2825] Statutory Charge under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*[1]

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.

[14-2827] Removal of Statutory Charge under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*[1]

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.

[14-2830] Statutory Charge under the *Retirement Villages Act 1999*[1,2]

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 administrating 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.

[14-2840] Removal of Statutory Charge under the *Retirement Villages Act 1999*[1,2]

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.

[14-2850] Statutory Charge under the *First Home Owners Grant Act 2000*[1]

Section 48 of the First Home Owners Grant Act provides for the Commissioner of Queensland Revenue Office 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 Queensland Revenue Office 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 Queensland Revenue Office 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.

[14-2860] Removal of Statutory Charge under the *First Home Owners Grant Act 2000*[1]

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 Queensland Revenue Office 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 Queensland Revenue Office or delegate must execute the request.

Lodgement fees apply but a duty notation is not required.

[14-2865] Statutory Charge under the *Public Health Act 2005*[1,2]

Section 407 of the Public Health Act provides for a local government to register a charge over land owned by a person where there is an unpaid amount payable by that person for steps taken by the local government under that Act. The request to register the charge must be accompanied by a certificate signed by the chief executive officer of the local government stating there is a charge over the land under s.407 of the Public Health Act.

A charge registered pursuant to s.407 of the Public Health Act 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.

Form 14 – General Request is appropriate for the purpose of recording the statutory charge and should be executed by the chief executive officer or delegate.

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

[14-2866] Removal of Statutory Charge under the *Public Health Act 2005*

A registered charge under s. 407 of the Public Health Act 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 their legal practitioner.

Lodgement fees are applicable. A duty notation is not required

[14-2870] Statutory Charge under the *Duties Act 2001*

Section 198 of the Duties Act provides that the Commissioner of Queensland Revenue Office 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 Queensland Revenue Office 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.

[14-2880] Removal of Statutory Charge under the *Duties Act 2001*

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 Queensland Revenue Office or delegate must execute the request.

Lodgement fees apply but a duty notation is not required.

[14-2890] Statutory Charge by utility service provider under the *Body Corporate and Community Management Act 1997*[1,2]

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.

[14-2900] Removal of Statutory Charge by utility service provider under the *Body Corporate and Community Management Act 1997*[1,2]

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.

[14-2905] Statutory Charge under the *Building Industry Fairness (Security of Payment) Act 2017*[1,2]

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.

[14-2906] Removal of Statutory Charge under the *Building Industry Fairness (Security of Payment) Act 2017*[1,2]

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.

[14-2910] Request for separate indefeasible title for a lot[1,2]

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.

[14-2915] Request for separate title for a tenant in common[2]

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.

[14-2920] Local government Statutory Charges[1]

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. Section 97 of the *City of Brisbane Act 2010* provides for the Brisbane City Council to register a charge over rateable land for overdue rates and charges. Rateable land is described in section 95 of the City of Brisbane Act.

[14-2930] Registration of a charge[1]

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* or s. 97 of the *City of Brisbane Act 2010* 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.

[14-2940] Removal of a charge[1]

A registered charge under s. 95 of the *Local Government Act 2009* or s.97 of the *City of Brisbane Act 2010* 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

[14-2950] Subdivision of a Water Allocation[2,3]

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.

[14-2960] Amalgamation of Water Allocations[2,3]

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.

[14-2970] Change of Water Allocation[2,3]

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.

[14-2980] Statutory Charge under the *Water Supply (Safety and Reliability) Act 2008*[1,2]

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.

[14-2990] Release of Statutory Charge under the *Water Supply (Safety and Reliability) Act 2008*[1,2]

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.

[14-3000] Amendment of Statutory Charge under the *Water Supply (Safety and Reliability) Act 2008*[1,2]

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.

[14-3010] Condition under s. 362 of the *Water Supply (Safety and Reliability) Act 2008*[1,3]

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.

[14-3015] Removal of a Carbon Abatement Interest[1]

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.

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

[14-3020] Notice of Agreement under the *Nature Conservation Act 1992*[1]

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).

[14-3025] Statutory Charge under the *Building Boost Grant Act 2011*[1]

Section 86 of the Building Boost Grant Act authorises the Commissioner of Queensland Revenue Office to recover a wrongly paid amount of a grant by recording a statutory charge over the title.

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 Queensland Revenue Office or delegate, must be deposited as evidence of the charge. The certificate states that there is a charge over the land under s. 86 of the Building Boost Grant Act and shows the amount owed in relation to the charge,

Lodgement fees apply but a duty notation is not required.

Removal

A charge under s. 86 of the Building Boost 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 Queensland Revenue Office or delegate, must be deposited as evidence of the payment of the charge. The certificate states that the amount owed in relation to the charge over the land has been paid. The Commissioner of Queensland Revenue Office or delegate must execute the request.

Lodgement fees apply but a duty notation is not required.

[14-3030] Statutory Charge under the *Veterans' Entitlements Act 1986* (Cth)[1]

Section 52ZF of the Veterans' Entitlements Act (the Act) provides that where a debt is owed to the Commonwealth, the person's real assets are subject to a charge in favour of the Commonwealth to secure payment of the debt. Section 52ZL of the Act authorises the Repatriation Commission to register a charge.

Lodgement fees apply but a duty notation is not required.

Removal

A charge under the Act may only be removed by lodgement of a Form 14 – General Request. The request is made by the Commonwealth of Australia and executed by an authorised officer or a legal representative.

Lodgement fees apply but a duty notation is not required.

[14-3040] Removal of Historical Charge dealings[1]

Historical Charge dealings that are registered as encumbrances on title are usually associated with private ownership of resources, such as coal. They were valid at the time of registration and continue to confer property rights and interests that are protected under Queensland's land titling system.

Parties seeking to deal with land that is subject to a Charge are responsible for addressing any issues arising from the encumbrance as part of their due diligence process.

Where a historical Charge is registered on title, and the charge is no longer required or being utilised, lodgement of a Form 14 General Request for the removal of the encumbrance is appropriate. The possible options are:

a. The registered owner may make the request provided it is supported by an Order of the Court. Refer to [part 60-1030] for further information regarding deposit of supporting documentation; or

b. The Public Trustee of Queensland may make the request pursuant to section 61 of the *Public Trustee Act 1978;* or

c. The registered holder of the Charge. Where the holder of the Charge is deceased, the Charge must first be transmitted to the personal representative of the deceased holder's estate, or the beneficiary entitled to the Charge under the deceased holder's estate. The personal representative or beneficiary may then make the request for the removal of the Charge.

A duty notation is required, and lodgement fees are payable.

[14-4000] Forms

[14-4000] General Guide to Completion of Forms

For general requirements for completion of forms see part 59.

Guide to Completion of Form 14 for Examples 1 to 25

[14-4010] Item 1

Insert nature of request.

[14-4020] Item 2

Freehold Description[1,2]

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

Water Allocation Description[2,3]

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

State Tenure Description[1, 3]

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

[14-4030] Item 3

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).

[14-4040] Item 4

Insert interest, either fee simple, water allocation, the type of State tenure e.g. State Lease, or lease or mortgage number.

[14-4050] Item 5

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
- An address for service of notice is not required for requests to change or correct the name of the registered owner.

[14-4060] Item 6

Insert details of the Request.

[14-4070] Item 7

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

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 Titles Queensland website.

1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

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 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

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

1/11/2023 .....
Execution Date **~~Applicant's or~~ Solicitor's Signature**
Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Example 1 (contd)

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

DECLARATION

Oaths Act 1867

STATUTORY DECLARATION

Title Reference [11345070]

I, **LOIS JANE FUNG** of 24 Logan Road, Logan in the State of Queensland, Solicitor, solemnly and sincerely that:

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*.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

W J Brown
Signature

1/ 12 /2023
Execution Date

L J Fung
Declarant's Signature

WILLIAM JOHN BROWN
Full Name

JP Qual #12345
Type of Witness*[2]

.....
~~**Name of Law Practice /**~~
~~**Witness's Place of Employment**~~*[3]

SAMPLE

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

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 Titles Queensland website.

1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

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 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

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

21/11/2023
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: Form must be accompanied by Statutory Declaration and any relevant evidence referred to in the declaration

SAMPLE

Example 1A (contd)

Title Reference [11345070]

Oaths Act 1867

STATUTORY DECLARATION

I, **DWAYNE KYLE PEARSON** of 24 Hideaway Close, Narangba in the State of Queensland, solemnly and sincerely declare that:

1. On 20 May 2023 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*.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

…W J Brown…… **Signature**

18/ 11 /2023
Execution Date

D K Pearson…… **Declarant's Signature**

WILLIAM JOHN BROWN.
Full Name

JP Qual #12345.
Type of Witness*[2]

……
~~**Name of Law Practice /**~~
~~**Witness's Place of Employment***[3]~~

SAMPLE

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

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 Titles Queensland website.

1. Nature of request

REQUEST TO RECORD A CHANGE OF NAME

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 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

6. Request

I hereby request that: in accordance with the declaration dated 21 November 2021 deposited herewith, the change of name of Laura Margaret Barnard to Laura Margaret Windsor be registered.

7. Execution by applicant

21/11/23
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

NOTE: Form must be accompanied by Statutory Declaration and any relevant evidence referred to in the declaration

SAMPLE

Example 2 (contd)

Title Reference [17688021]

Oaths Act 1867

STATUTORY DECLARATION

I, **LAURA MARGARET WINDSOR**, of 111 Example Street, Brisbane, in the State of Queensland solemnly and sincerely declare that:

1. I am the person identical with Registered Owner **LAURA MARGARET BARNARD** named in Item 3 on the attached Form 14 – General Request.

2. 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 2023 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*.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

J J Preston.
Signature

1/ 11 /2023
Execution Date

L M Windsor
Declarant's Signature

JOHN JAMES PRESTON.
Full Name

SOLICITOR
Type of Witness*[2]

BRADSHAW AND PARTNERS
Name of Law Practice /
Witness's Place of Employment*[3]

SAMPLE

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

OFFICE USE ONLY

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1. Nature of request

REQUEST TO RECORD CHANGE OF NAME

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 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

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

21/11/21
Execution Date

S Brown, Director
SAMUEL DENIS BROWN
.....
G Wolfe, Director/Secretary
GERALD JOSEPH WOLFE
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

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

Dealing Number

OFFICE USE ONLY

Privacy Statement
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1. Nature of request

REQUEST TO RECORD REMOVAL
OF EXPIRED LEASE FROM TITLE

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 27 ON RP131121

Title Reference

18329006

3. Registered Proprietor/State Lessee

BLACKDON PTY LTD ACN 030 662 421

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

21/12/23
Execution Date

D A Smith, Director
DIANNE ALLYSON SMITH
.....
M Hudson, Director/Secretary
MARGARET ALICE HUDSON
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Form must be accompanied by Statutory Declaration

SAMPLE

Example 4 (contd)

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

DECLARATION

Title Reference [18329006]

Oaths Act 1867

STATUTORY DECLARATION

I, **DIANNE ALLYSON SMITH** of 45 Queen Street, Brisbane, in the State of Queensland, Director of Blackdon Pty Ltd ACN 030 662 421 solemnly and sincerely declare that:

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*.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

Sean Cooper...
Signature

1/ 12 /2023
Execution Date

D A Smith.
Declarant's Signature

SEAN COOPER
Full Name

SOLICITOR
Type of Witness*[2]

COOPER AND ASSOCIATES
Name of Law Practice /
Witness's Place of Employment*[3]

SAMPLE

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

Dealing Number

OFFICE USE ONLY

Privacy Statement
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1. Nature of request

REQUEST TO REGISTER MERGER OF LEASE

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 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

21/11/21
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

SAMPLE

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

Dealing Number

OFFICE USE ONLY

Privacy Statement
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1. Nature of request

REQUEST TO REGISTER MERGER
OF EASEMENT NO. 623456789

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 — **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

21/11/21
Execution Date

P D Mazwell, Director
PETER DOUGLAS MAZWELL
.....
M S Hudson, Director/Secretary
MATTHEW STANLEY HUDSON
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

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

OFFICE USE ONLY

Privacy Statement
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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)

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 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

E J Jones

21/11/21 .....

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: 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

SAMPLE

Example 8 – Request to Record Removal of Caveat –moved to Part 11 – Example 10 (see [11-4200])

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)

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 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

21/11/21 .....
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

SAMPLE

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

Dealing Number

OFFICE USE ONLY

Privacy Statement
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1. Nature of request

REQUEST TO RECORD EXTENSION OF WRIT OF EXECUTION

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 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 2021 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

21/11/21
Execution Date

M P Laidlaw, Director
MARTIN PETRIE LAIDLAW
.....
D T Wright, Director/Secretary
DOUGLAS THOMAS WRIGHT
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

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)

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

Lodger Code
21

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

21/11/21 .....
Execution Date **~~Applicant's or~~ Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

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

Dealing Number

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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 | **Title Reference**

LOT 2 ON RP571535 | 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: PO BOX 10443 ADELAIDE STREET BRISBANE QLD 4001

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

21/10/21
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.

SAMPLE

Example 12 (contd)

Title Reference [3006134]

Oaths Act 1867

STATUTORY DECLARATION

I, **DIGBY NICHOLAS BARTHOLOMEW ROSS** of c/- 13th Level, 340 Adelaide Street, Brisbane in the State of Queensland, a Commonwealth Public Servant, 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.*

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

H P Thomas.
Signature

18/ 11 /2023
Execution Date

…D N B Ross….
Declarant's Signature

HAROLD PETER THOMAS.
Full Name

JP Qual #19833..
Type of Witness*[2]

……
~~**Name of Law Practice /**~~
~~**Witness's Place of Employment***[3]~~

SAMPLE

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 Number	QLD 2541/3/0
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.

Administration Type	Bankruptcy
Petition Type	Debtor Petition

End of Report

SAMPLE

The information in this extract comes from ITSA's National Personal Insolvency Index database as at the time and date indicated in this document. If you consider that the information contains errors, please promptly advice ITSA.

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

Dealing Number

OFFICE USE ONLY

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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: GPO BOX 301, BRISBANE, 4001

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

21/11/23 .....
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.

SAMPLE

Example 13 (contd)

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

DECLARATION

Title Reference [34567112]

Oaths Act 1867

STATUTORY DECLARATION

I, **ARTHUR WAYNE LACHLAN,** Chartered Accountant of c/- Level 30, Waterfront Place, 1 Eagle Street, Brisbane, Queensland solemnly and sincerely declare that:

1. On 1 November 2022 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.*

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

W J Brown....
Signature

1/ 11/ 2023
Execution Date

A W Lachlan....
Declarant's Signature

WILLIAM JOHN BROWN..
Full Name

SOLICITOR.
Type of Witness*[2]

BROWN AND ASSOCIATES
Name of Law Practice /
Witness's Place of Employment*[3]

SAMPLE

Example 14 deleted

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

Dealing Number

OFFICE USE ONLY

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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

K E Johnstone

21/11/21
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);
- 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])

SAMPLE

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

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 Titles Queensland website.

1. Nature of request

REQUEST TO RECORD REMOVAL OF LIFE ESTATE CHARGE

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 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

J E Cornwall

21/11/21
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:
- Certified copy of certificate of death, or evidence of relinquishment of life interest, as applicable.

SAMPLE

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

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)

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 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.

SAMPLE

Example 17 (contd)

Title Reference [19229134]

Oaths Act 1867

STATUTORY DECLARATION

I, **LAWRENCE FABIAN FORBES,** of 3 Brisbane Road, Brisbane in the State of Queensland 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.*

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

SAMPLE

WJ Brown..

Signature

8/ 10 /2023
Execution Date

L F Forbes....

Declarant's Signature

WILLIAM JOHN BROWN....
Full Name

JP (Qual) #12345..
Type of Witness*[2]

……
~~**Name of Law Practice /**~~
~~**Witness's Place of Employment**~~*[3]

SAMPLE

Example 17 (contd)

Title Reference [19229134]

Oaths Act 1867

STATUTORY DECLARATION

I, **EDITH DORA LEARY,** of 2 Brisbane Road, Brisbane in the State of Queensland 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.*

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

R A Mills.....
Signature

21/ 10 /2023
Execution Date

E D Leary
Declarant's Signature

ROBERT ADAM MILLS...
Full Name

SOLICITOR.
Type of Witness*[2]

MILLS, MOORE, SMITH AND PARTNERS
Name of Law Practice /
Witness's Place of Employment*[3]

SAMPLE

Title Reference [19229134]

Oaths Act 1867

STATUTORY DECLARATION

I, **FRANCIS TERRENCE DARVILLE** of 7 Brisbane Road, Brisbane in the State of Queensland 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.*

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

L Gibbs.
Signature

29/ 10/ 2023
Execution Date

F T Darville.....
Declarant's Signature

Leroy Gibbs.
Full Name

C Dec
Type of Witness*[2]

.....
~~**Name of Law Practice /**~~
~~**Witness's Place of Employment***[3]~~

SAMPLE

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 Titles Queensland website.

1. Nature of request

REQUEST TO REGISTER ORDER OF FORECLOSURE AND VESTING

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 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: PO BOX 259 SOUTH BRISBANE 4101

6. Request

I hereby request that: in accordance with the court order dated 20 July 2021 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

21/11/21
Execution Date

M J Kendall, Director
MARCUS JOHN KENDALL
.....
K M Chan, Director/Secretary
KEVIN MICHAEL CHAN
.....
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:
- 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.

SAMPLE

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

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 Titles Queensland website.

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 | **Title Reference**

LOT 10 ON RP223344 | 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: PO BOX 22, NARANGBA QLD 4460

6. Request

I hereby request that: in accordance with the gazette notice dated 11 May 2021 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

21/11/21 .....
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 20 deleted

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

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)

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 12 ON RP674555

Title Reference

13088190

3. Registered Proprietor/State Lessee

ABC CORPORATION LTD ACN 011 632 911

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

21/11/21
Execution Date

L Blundell, Director
LAUREL BLUNDELL
.....
J Smith, Director/Secretary
JORDAN RAYMOND SMITH
.....
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 documentation.

SAMPLE

Example 21 (contd)

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

DECLARATION

Title Reference [13088190]

Oaths Act 1867

STATUTORY DECLARATION

I, **LAUREL BLUNDELL** of 122 Edward Street, Brisbane, Queensland solemnly and sincerely declare that:

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 2020 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 2021 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.*

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

P D James
Signature

19/ 11 /21
Execution Date

Laurel Blundell
Declarant's Signature

Pamela Diane James..
Full Name

Solicitor.
Type of Witness*[2]

James and Associates.
Name of Law Practice /
Witness's Place of Employment*[3]

SAMPLE

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

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

ANTHEA NICOLA RICHARDS AND JONATHON MATTHEW BRADY AS TRUSTEE UNDER INSTRUMENT NO. 732468931

4. Interest

FEE SIMPLE

5. Applicant

ANTHEA NICOLA RICHARDS

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

A N Richards

21/11/21 .....

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:
- Certified copy of original deed of retirement (or discharge).

SAMPLE

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

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)

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 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

J C Middleton

10/11/23 .....

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.

N.B. – The request requires a duty notation.

SAMPLE

Example 23 (contd)

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

DECLARATION

Title Reference [23383085]

Oaths Act 1867

STATUTORY DECLARATION

I, **JONATHAN COLIN MIDDLETON** of 30 Inala Avenue, Browns Plains in the State of Queensland solemnly and sincerely declare that:

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 2022 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.*

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

P S Parker
Signature

10/ 11 /2023
Execution Date

J C Middleton
Declarant's Signature

Paula Simone Parker.
Full Name

JP (Qual) #98765.
Type of Witness*[2]

……
~~**Name of Law Practice /**~~
~~**Witness's Place of Employment***[3]~~

SAMPLE

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 | **Title Reference**

LOT 999 ON RP999999 | 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: POX 5555 GOLD COAST MAIL CENTRE 9726

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

21/11/21 .....
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

SAMPLE

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

Form 14 Version 4
Page 1 of 1

Duty Imprint

Dealing Number

OFFICE USE ONLY

Privacy Statement
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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)

J Bloggs
Authorised Officer

22/11/21
Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

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

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 REMOVE PROFIT A PRENDRE

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 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

21/9/21
Execution Date

.....
~~Applicant's or~~ Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Guide to Completion of Form 14 for Example 26[1]

[14-4090] Item 1

Insert the nature of the request.

[14-4100] Item 2

Insert the 'Lot on Plan' descriptions and identify all burdened and, if applicable, benefited lots comprised in the profit a prendre.

[14-4110] Item 3

Insert the full name(s) of the registered proprietor(s) or holder(s) of the lot(s) affected by the profit a prendre.

[14-4120] Item 4

Insert the profit a prendre number.

[14-4130] Item 5

Insert the full name of the applicant.

[14-4133] Item 6

Insert the appropriate words for the relevant request.

[14-4136] Item 7

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

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number

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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

21/9/23
Execution Date

C Johns, Director
CHARLES ANTHONY JOHNS
.....
K Brown, Director/Secretary
KENNETH ROBERT BROWN
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Guide to Completion of Form 14 for Example 27[1,2]

[14-4140] Item 1

Insert the nature of the request (i.e. 'Request for reservation of name/extension of reservation of name/withdrawal of reservation of name').

[14-4150] Item 2

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.

[14-4160] Item 3

Insert the full name(s) of the registered owner(s).

[14-4170] Item 4

Insert fee simple.

[14-4180] Item 5

Insert the full name of the applicant.

[14-4190] Item 6

Insert the appropriate words for the relevant request.

[14-4200] Item 7

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

Duty Imprint

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Dealing Number

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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

21/10/21
Execution Date

C Johns, Director
CHARLES ANTHONY JOHNS
.....
K R Brown, Director/Secretary
KENNETH ROBERT BROWN
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Guide to Completion of Form 14 for Example 28[1,2]

[14-4218] Lodger Details

The name, address, contact phone number and lodger code (if applicable) should be completed by the person/firm actually lodging the request for registration.

[14-4220] Item 1

Insert the nature of the request.

Example:

'Request to record first community management statement for Brighton Villa community titles scheme'.

[14-4230] Item 2

Insert the lot on plan description and title reference for each current parcel which will be subdivided to create the scheme land.

Example:

e.g.	**Lot on Plan Description**	**Title reference**
	Lot 70 on RP885798	50046270

[14-4240] Item 3

Insert the name(s) of the registered owner(s) as per the title(s).

[14-4250] Item 4

Insert not applicable.

[14-4260] Item 5

Insert the name of the applicant – registered owner(s).

[14-4270] Item 6

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

Duty Imprint

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Page 1 of 1

Dealing Number

OFFICE USE ONLY

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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 Fawlty Towers Community Titles Scheme 2345.

7. Execution by applicant

Celeste Sybil Booth
Treasurer
Body Corporate for Fawlty Towers CTS 2345

C Booth

21/10/24 .....
Execution Date **Applicant's or Solicitor's Signature**
Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Guide to Completion of Form 14 for Example 29[1,2]

[14-4290] Lodger Details

The name, address, contact phone number and lodger code (if applicable) should be completed by the person/firm actually lodging the request for registration.

[14-4300] Item 1

Insert the nature of the request.

Example:

> 'Request to record new community management statement for Fawlty Towers community titles scheme 2345.'

[14-4310] Item 2

Insert the description and title reference for the common property for the scheme.

Example:

e.g.	**Lot on Plan Description**	**Title reference**
	Common property of Fawlty Towers community titles scheme 2345	19201331

[14-4320] Item 3

Insert the name of the body corporate e.g. 'Body corporate for Fawlty Towers community titles scheme 2345'.

[14-4330] Item 4

Insert not applicable.

[14-4340] Item 5

Insert the name of the body corporate e.g. 'Body corporate for Fawlty Towers community titles scheme 2345'.

[14-4350] Item 6

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 Fawlty Towers community titles scheme 2345.'

[14-4360] Item 7

Execution can be by the applicant, or on behalf of the applicant by certain persons, refer to Part [45-2060] for further information and guidance.

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

Duty Imprint

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Dealing Number

OFFICE USE ONLY

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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

K R Brown
Kenneth Robert Brown
Secretary
Body Corporate for Brighton Villa CTS 1246

21/10/24 .....
Execution Date **Applicant's or Solicitor's Signature**
Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Guide to Completion of Form 14 for Example 30[1,2]

[14-4370] Item 1

Insert the nature of the request.

[14-4380] Item 2

Insert the description and title reference of the common property e.g. ‘Common property of Brighton Villa community titles scheme 1246’.

[14-4390] Item 3

Insert the name of the body corporate e.g. ‘Body corporate for Brighton Villa community titles scheme 1246’.

[14-4400] Item 4

Insert not applicable.

[14-4410] Item 5

Insert the name of the body corporate.

[14-4420] Item 6

Insert the appropriate request which includes the new address for service of the body corporate.

[14-4430] Item 7

Execute as required. For further information refer to Part [45-2060].

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

Duty Imprint

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Dealing Number

OFFICE USE ONLY

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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 **Title Reference**

NOT APPLICABLE

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

21/9/21 .....
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

SAMPLE

Guide to Completion of Form 14 for Example 31

[14-4440] Item 1

Insert the nature of the request.

[14-4450] Item 2

Insert not applicable.

[14-4460] Item 3

Insert the name of the principal/attorney as registered.

[14-4470] Item 4

Insert the reference to the power of attorney to be updated.

[14-4480] Item 5

Insert full name of principal/attorney to be registered.

[14-4490] Item 6

Insert details of the request.

[14-4500] Item 7

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

Duty Imprint

Form 14 Version 4

Dealing Number

OFFICE USE ONLY

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1. Nature of request

SUBDIVISION OF WATER ALLOCATION

Lodger (Name, address, E-mail & phone number)

A. Water-Owner
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

Lodger Code

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

21/9/21 .....
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)

SAMPLE

Guide to Completion of Form 14 for Example 32[2, 3]

[14-4510] Item 1

Insert the nature of the request.

[14-4520] Item 2

Insert Lot/Plan description of water allocation to be subdivided. Only one Water Allocation is permitted on each Form 14 – General Request.

[14-4530] Item 3

Insert the full name(s) of the registered owner(s).

[14-4540] Item 4

Insert: Water Allocation.

[14-4550] Item 5

Insert the full name of the applicant.

[14-4560] Item 6

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.

[14-4570] Item 7

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

Duty Imprint

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Dealing Number

OFFICE USE ONLY

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1. Nature of request

AMALGAMATION OF WATER ALLOCATION

Lodger (Name, address, E-mail & phone number)

A. Water-Owner
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

Lodger Code

2. Lot on Plan Description

	Title Reference
LOT 1234 ON AP1234	46009999
LOT 1235 ON AP1234	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

21/9/21
Execution Date

A Water-Owner, Director
ALFRED BRIAN WATER-OWNER
.....
B Water-Owner, Director/Secretary
BETTY BEATRICE WATER-OWNER
.....
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)

SAMPLE

Guide to Completion of Form 14 for Example 33[2, 3]

[14-4580] Item 1

Insert the nature of the request.

[14-4590] Item 2

Insert Lot/Plan description of all Water Allocations to be amalgamated. Only one amalgamation request is permitted on each Form 14 – General Request.

[14-4600] Item 3

Insert the full name(s) of the registered owner(s).

[14-4610] Item 4

Insert: Water Allocation.

[14-4620] Item 5

Insert the full name of the applicant.

[14-4630] Item 6

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.

[14-4640] Item 7

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

Duty Imprint

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Dealing Number

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1. Nature of request

CHANGE OF WATER ALLOCATION

Lodger (Name, address, E-mail & phone number)

B. F. Pioneer
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

Lodger Code

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

B F Pioneer

21/9/21
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)

SAMPLE

Guide to Completion of Form 14 for Example 34[2, 3]

[14-4650] Item 1

Insert the nature of the request.

[14-4660] Item 2

Insert Lot/Plan description of the water allocation to be changed. Only one Water Allocation is permitted on each Form 14 –General Request.

[14-4670] Item 3

Insert the full name(s) of the registered owner(s).

[14-4680] Item 4

Insert: Water Allocation.

[14-4690] Item 5

Insert the full name of the applicant.

[14-4700] Item 6

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.

[14-4710] Item 7

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

Duty Imprint

Form 14 Version 4
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Dealing Number

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1. Nature of request

RECORD STATUTORY CHARGE

Lodger (Name, address, E-mail & phone number)

TR CONSTRUCTIONS P/L
PO BOX 53
BRISBANE 4001
trconstructions@email.com

Lodger Code

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 (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

SAMPLE

Guide to Completion of Form 14 for Example 35[1,2]

[14-4720] Item 1

Insert the nature of the request.

[14-4725] Item 2

Insert Lot/Plan description/s and title reference/s.

[14-4730] Item 3

Insert the full name(s) of the registered owner(s) (the respondent).

[14-4735] Item 4

Insert: Fee Simple.

[14-4740] Item 5

Insert the full name of the applicant (the claimant). If the applicant is a company include the Australian Company Number.

[14-4745] Item 6

Insert the appropriate words for the relevant request.

For example:

> I hereby request that: A Charge under section 100B of the Building Industry Fairness (Security of Payment) Act 2017 and as set out in the attached evidence be recorded against the land referred to in item 2.

[14-4750] Item 7

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

Duty Imprint

Form 14 Version 4

Dealing Number

OFFICE USE ONLY

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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 **Title Reference**

LOT 9876 ON SP 313131 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

SAMPLE

Guide to Completion of Form 14 for Example 36[1,2]

[14-4755] Item 1

Insert the nature of the request.

[14-4760] Item 2

Insert Lot/Plan description/s and title reference/s.

[14-4765] Item 3

Insert the full name(s) of the registered owner(s) (the respondent).

[14-4770] Item 4

Insert: the dealing number of the Statutory Charge to be extended.

[14-4775] Item 5

Insert the full name of the applicant (the claimant). If the applicant is a company include the Australian Company Number.

[14-4780] Item 6

Insert the appropriate words for the relevant request.

For example:

> Statutory Charge dealing number XXXXXXXXX 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.

[14-4785] Item 7

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
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Dealing Number

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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 **Title Reference**

LOT 9876 ON SP 313131 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 (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.

SAMPLE

Guide to Completion of Form 14 for Example 37[1,2]

[14-4790] Item 1

Insert the nature of the request. (Either Release or Setting Aside)

[14-4795] Item 2

Insert Lot/Plan description/s and title reference/s.

[14-4800] Item 3

Insert the full name(s) of the registered owner(s) (the respondent(s)).

[14-4805] Item 4

Insert: the dealing number of the Statutory Charge.

[14-4810] Item 5

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 (Security of Payment) Act 2017.
- *For a Release – request by registered owner:*

  Statutory Charge dealing number XXXXXXXXX be removed pursuant to section 100D(4) of the Building Industry Fairness (Security of Payment) Act 2017 and in accordance with the attached statutory declaration.
- *For a Setting Aside:*

  Statutory Charge dealing number XXXXXXXXX be removed pursuant to section 100E(4) of the Building Industry Fairness (Security of Payment) Act 2017 and in accordance with the attached court order.

Item 7 [14-4820]

Execute as required.

[14-5500] Duty

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 Queensland Revenue Office.

FORM 14 – GENERAL REQUEST LIST OF LIKELY REQUESTS	DUTY NOTATION REQUIRED
Abolishment of council and vesting in another	No
Acquisition of land by Commonwealth	No
Agreement – River Improvement Trust Act 1940	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 Local Government Regulation 2012	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 – Local Government (Planning and Environment) Act 1990	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 Land Act 1994)	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

FORM 14 – GENERAL REQUEST LIST OF LIKELY REQUESTS	DUTY NOTATION REQUIRED
Retirement of trustee only	Yes
Register any direction, licence or order of the Supreme Court not being a vesting order	No
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 Land Title Act 1994 or s. 317 of the Land Act 1994)	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] eConveyancing

[14-7010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [14-7105 and 62-6000] for further information on the application of the eConveyancing mandate An Electronic Conveyancing Document is a document under 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.

[14-7100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions currently available through eConveyancing

[14-7105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the *Land Title Regulation 2022* provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

When a Form 14 is used for the purpose of withdrawing a caveat it is a required instrument under the Regulation and is therefore required to be lodged through a ELN unless an exemption applies. For more information refer to Parts [62-6010], [11-5320] and [11-5610] as well as the Titles Queensland website.

Because the Electronic Lodgment Network Operators (ELNOs) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and exemptions is maintained on the Titles Queensland website rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the Titles Queensland website for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[14-7110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the Regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the Titles Queensland Website.

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a Form 14 - Withdrawal of Caveat) and a list of these exclusions can be found on the Titles Queensland Website and are updated from time to time as the functionality of each instrument changes .

[14-7115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For further information refer to Part [62-6040].

[14-8000] Fees

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

[14-9000] Cross References and Further Reading

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)

[14-9050] Notes in text

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.

Titles QUEENSLAND

Part 15 – Request for Amalgamation

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021

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Part 15 – Request for Amalgamation[1,2]

[15-0000] General Law

There are two relevant types of amalgamations:

- amalgamation of lots; and
- amalgamation of interests held by tenants in common.

Amalgamation of Lots

[15-0010] Adjoining Lots Amalgamated into One Indefeasible Title

Section 39(1) of the L*and Title Act 1994* enables the Registrar to create a single indefeasible title for two or more lots having the same registered owner. However, the Registrar must be satisfied that special circumstances make it appropriate to have the one indefeasible title (s. 39(2) of the Land Title Act). The Registrar is expressly authorised to act under s. 39 where the lots either share a common boundary or have a boundary that adjoins the same part of a road or watercourse (s. 39(3) of the Land Title Act).

[15-0020] to [15-0030] deleted

[15-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994*

Refer to [0-8100].

[15-2000] Practice

Amalgamation of Lots

[15-2000] Adjoining Lots Amalgamated into One Indefeasible Title

Section 39(2) of the *Land Title Act 1994* provides for two or more lots to have a single indefeasible title if the Registrar of Titles considers this to be appropriate. The intent of the section is to allow the Registrar latitude in unusual circumstances and the section will be used only where it is considered necessary for efficient registry operations.

In keeping with this rationale, it is not intended that this option will be available to registered owners.

For the issue of indefeasible titles for lots created on a plan of amalgamation see part 21 – Plans and Associated documents, esp. [21-2300].

[15-2010] deleted

[15-2020] Amalgamation of Interests Held by Tenants in Common in Separate Titles

Where separate titles have been created and one tenant in common acquires the interest of another, the following documentation should be lodged:

For a fee simple title:

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

- Form 15 – Request to Amalgamate.

Those parts of Item 7 of the Form 15 – Request to Amalgamate which are not applicable to this type of amalgamation must be ruled through.

It should be noted that the consolidation of shares already held by a tenant in common on existing titles should be the subject of a Form 14 – General Request.

[15-4000] Forms

[15-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Water Act 2000

REQUEST TO AMALGAMATE

FORM 15 Version 4

Dealing Number

OFFICE USE ONLY

Lodger (Name, address, E-mail & phone number)
SMITH & CO
SOLICITORS
38 ANN STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3227 5943

Lodger Code
902

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 Titles Queensland website.

1. Lot on Plan Description	Title Reference
LOT 17 ON RP817618	50035826

2. Applicant

JOHN VICTOR COOK and JANE ALEX COOK

3. How land/shares in item 1 is held

1/4 SHARE AS JOINT TENANTS INTER-SE

4. Instrument by which land to be amalgamated was acquired

Dealing Type TRANSFER FROM PETER SMALL TO JOHN VICTOR COOK AND JANE ALEX COOK AS JOINT TENANTS..... Dated 5 SEPTEMBER, 2007 .....

Dealing No. 700901236. ..... Share acquired 1/4.....

5. Lot on Plan Description of land acquired	Title Reference
LOT 17 ON RP817618	10035127

6. Amalgamated Lot on Plan description	Title Reference (if amalgamation of shares)
LOT 17 ON RP817618	10035126
	10035127

7. Request/Execution by applicant

It is requested that:

~~*The lots described in item 1 and item 5 be amalgamated and an indefeasible title be created for the land described in item 6.~~

OR

*The shares of the applicant specified in item 3 and item 4 be amalgamated and an indefeasible title be created for

1/2 SHARE AS JOINT TENANTS INTER-SE .....

for the land described in item 6.

*delete if not applicable
#state share and tenancy

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

H I Newton
.....signature
HENRY ISAAC NEWTON
.....full name
SOLICITOR
.....qualification

Witnessing Officer

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

11/9/2007
Execution Date

J V Cook
J A Cook
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Guide to Completion of Form 15

[15-4010] Item 1

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

[15-4020] Item 2

Insert full name of the registered owner.

[15-4030] Item 3

Insert tenancy and or interests of land or shares if more than one applicant.

[15-4040] Item 4

Insert particulars of the instrument by which the lot or share was acquired. In the case of a share, identify the share acquired.

[15-4050] Item 5

See Item 1 above.

If amalgamation is in accordance with a new plan of survey then insert the new plan description.

[15-4060] Item 6

Insert title references from Items 1 and 5 for amalgamation of shares and new amalgamated 'Lot… on Plan…' reference. Identify share as applicable.

[15-4070] Item 7

Complete where indicated and delete sentence that is not applicable. Execute as required.

[15-6000] deleted

[15-7000] Case Law

Nil.

[15-8000] Fees

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

[15-9000] Cross References and Further Reading

Part 18 – General Consent

Part 21 – Plans and Associated Documents

[15-9050] Notes in text

Note [1] – This part does not apply to water allocations.

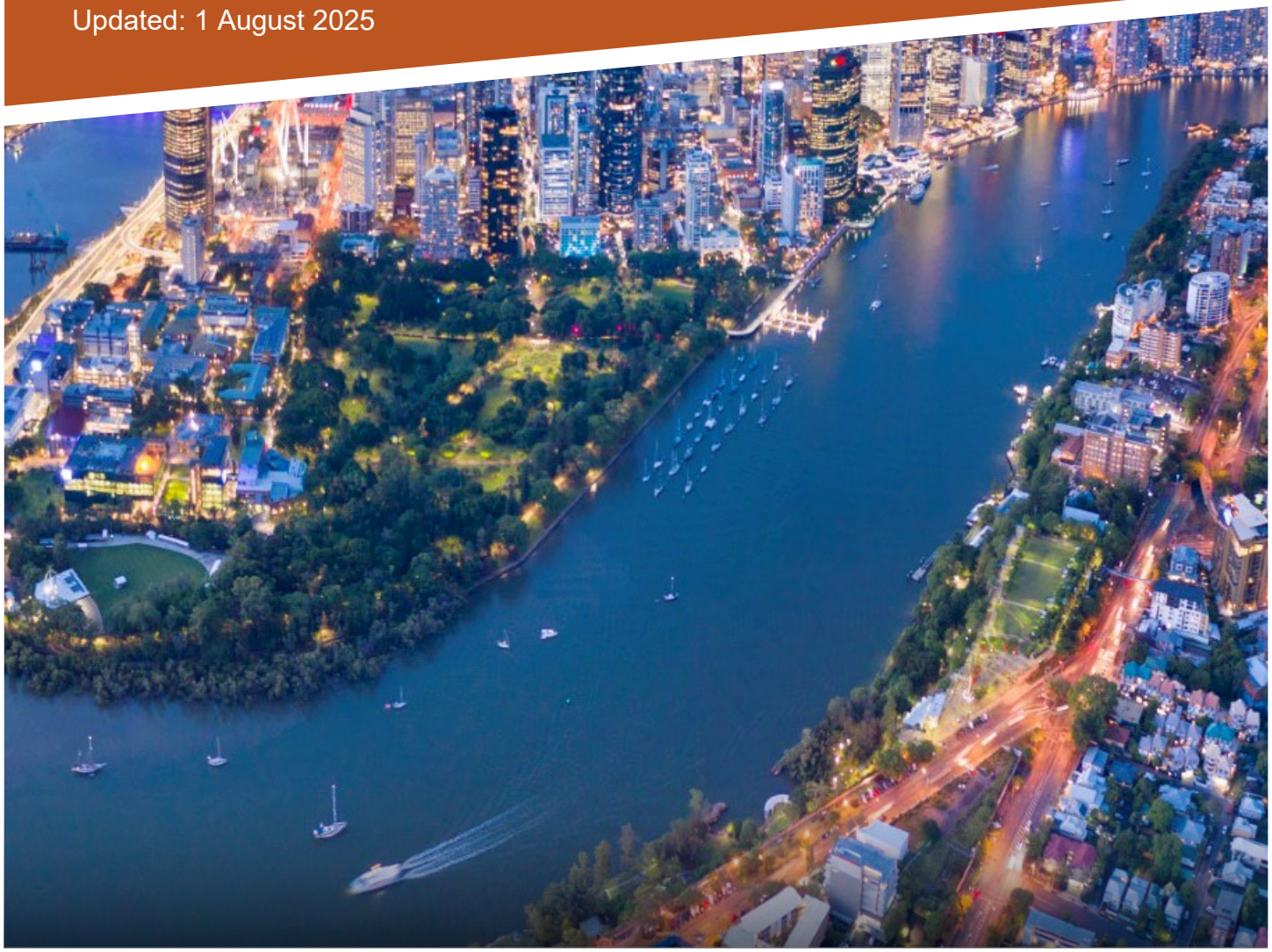
Note [2] – This part does not apply to State land.

Titles QUEENSLAND

Part 16 – Request to Register Power of Attorney or Revocation of Power of Attorney

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025



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Part 16 – Request to Register Power of Attorney or Revocation of Power of Attorney

[16-0000] General Law

The *Powers of Attorney Act 1998* was proclaimed to commence on 1 June 1998. This Act consolidated the law about general powers of attorney and enduring powers of attorney and also provides for advance health directives.

Chapter 9 Part 5 (ss. 181 and 182) of the Powers of Attorney Act, repealed Part 9 (Powers of Attorney) of the *Property Law Act 1974.* The *Property Law Act 1974* has since been repealed in is entirety. Nonetheless, s. 163 of the Powers of Attorney Act clarifies that every power of attorney made under the repealed *Property Law Act 1974* prior to 1 June 1998 is a power of attorney under the Powers of Attorney Act.

Any power of attorney executed prior to 1 June 1998 and made pursuant to the *Property Law Act 1974* must comply with the provisions of the *Property Law Act 1974* in force at the time of its execution to be registered in the Power of Attorney Register.

A power of attorney is an authority in writing given by one or more persons or corporations (the 'principal' or 'donor') to another or others (the 'attorney' or 'donee') to act in his/her/its/their name and on his/her/its/their behalf in dealings with third parties. The power of attorney may or may not be restricted in some way.

A power of attorney may subsequently be revoked (except in circumstances where it is made irrevocable in accordance with s. 10 of the Powers of Attorney Act) either expressly by the principal or on the happening of an event or occurrence. In the case of 'general' powers of attorney, one such event is the incapacity of the principal(s). 'Enduring' powers of attorney are not revoked by the incapacity of the principal (s. 32(2) of the Powers of Attorney Act). However, powers of attorney, other than irrevocable powers of attorney, are revoked on the death of the principal(s) (ss. 19 and 51 of the Powers of Attorney Act).

If an attorney dies, the power of attorney is revoked to the extent it gives power to that attorney (ss. 24 and 58 of the Powers of Attorney Act). Section 59A of the Powers of Attorney Act commenced from 21 April 2000 and provides that where joint attorneys have been appointed, the power for one or more of the attorney's may be revoked provided that at least one attorney remains.

However, this provision only applies to enduring powers of attorney. If only one of joint attorneys remains after the death or disqualification of another/others he/she may exercise the powers. If two or more joint attorneys remain, they must exercise the powers jointly.

Prior to 21 April 2000, s. 68 of the Powers of Attorney Act provided for the revocation of one or more joint attorneys. This provision applied to any power of attorney, provided that the revocation instrument has been executed during the period from 1 June 1998 to and including 20 April 2000. If only one of joint attorneys remains after the death or disqualification of another/others he/she may exercise the powers. If two or more joint attorneys remain, they must exercise the powers jointly.

Sections 132 and 133 of the *Land Title Act 1994* provide for the registration of powers of attorney, and for the subsequent registration of instruments or documents executed by an attorney under a power of attorney. The provisions recognise that restrictions may be placed on an attorney's powers under a power of attorney.

The provisions include a requirement for the Registrar to keep a register of powers of attorney known as the 'Power of Attorney Register'. The provisions also prescribe how the Registrar registers a power of attorney. The provisions do not discern between 'general' and 'enduring' powers of attorney.

Section 134 of the Land Title Act details the effect of registering powers of attorney and revocations. Section 135 of the Land Title Act provides for registration of a revocation of any registered power of attorney.

Section 383 of the *Land Act 1994* provides that a power of attorney registered under the Land Title Act is also taken to be a power of attorney registered for that Act.

[16-0010] General Rules Relating to Powers of Attorney

An attorney for a financial matter may only enter into a conflict transaction if the principal or a court of competent jurisdiction has authorised the transaction, conflict transactions of that type or conflict transactions generally (s. 73(1) of the *Powers of Attorney Act 1998*). A conflict transaction is defined as a transaction in which there may be conflict, or which results in conflict, between—

a. the duty of an attorney towards the principal; and

b. either—

   i. the interests of the attorney, or a relation, business associate or close friend of the attorney; or

   ii. another duty of the attorney.

The principal (if they still have capacity) or the Supreme Court (and the Queensland Civil and Administrative Tribunal for an enduring power of attorney) can retrospectively authorise an unauthorised conflict transaction for a financial matter (ss. 73(2) and 118(3) of the Powers of Attorney Act).

Attorneys also cannot act on behalf of the principal in dealings with themselves in their personal capacities unless expressly authorised by and with informed consent of the principal (*Tobin v Broadbent* (1947) 75 CLR 378).

An instrument or document executed by an attorney may only be registered if the power of attorney is registered in the registry (s. 132 of the *Land Title Act 1994*).

Powers of attorney should have the powers clearly expressed. General words do not confer a general power but confer such additional authority necessary to carry out any specified powers expressly conferred by the power of attorney.

It is possible for the principal to ratify acts done by an attorney, even retrospectively. A ratification clause which provides for a principal to ratify and confirm acts done by an attorney does not extend the authority given by the power of attorney and cannot be relied on to justify a transaction not otherwise expressly authorised.

An attorney may be appointed retrospectively. For example, an instrument that has been signed by an attorney on behalf of a principal may be dated prior to the power of attorney. However, the power of attorney document would need to include a ratification clause authorising the attorney's actions. For the purposes of registering instruments or documents in the registry, the ratification may be specific as to the instrument or document or general, for example, to sell any land owned by the principal in the State. The dealing number of the power of attorney would need to be inserted in the instrument or document following registration of the power of attorney.

Generally, attorneys are not authorised to make gifts or donations. Notwithstanding that authority to make a gift or donation is provided in addition to any other powers, unless there is a court order to the contrary, an attorney for financial matters may only make a gift or donation if the gift or donation is:

- of the nature the principal made when the principal had capacity; or
- of the nature the principal might reasonably be expected to make; and
- the value of the gift or donation is not more than what is reasonable having regard to all the circumstances and in particular, the principal's financial circumstances.

The attorney or a charity with which the attorney has a connection is not precluded from receiving a gift or donation mentioned above.

A trustee may appoint the only other co-trustee of a trust to act as their attorney if:

- the co-trustee is a statutory corporation under the *Trustee Companies Act 1968*. That is, there must be at least two trustees acting, unless one is a trustee company; or
- there is specific authority in the trust document allowing the trustees to appoint the only other co-trustee as their attorney.

A trustee cannot appoint the only other co-trustee of a trust to act as their attorney if relying on s. 56 of the *Trusts Act 1973.*

An attorney may only delegate administrative actions, powers or duties to another person if there is express authority in the power of attorney. If authorised by the power of attorney, an attorney can, by a substitutionary power of attorney, appoint substitutes to act in his/her stead for part or all of the duties (see [16-0160]).

[16-0020] Capacity of Principal

The principal must have legal capacity to delegate to an attorney and must not be under any duress, disability, lacking mental capacity or younger than 18 years of age. A minor, therefore, cannot delegate powers to an attorney.

Prior to 1 March 1975 a person under the age of 21 years had not attained the age of majority and could not execute documents on their own behalf. After 1 March 1975, a person of the age of 18 years is considered to have attained majority (*Age of Majority Act 1974* repealed by the *Statute Law Revision (No 2) Act 1995*). These provisions are now contained in Part 6 of the *Law Reform Act 1995*. Any power of attorney executed after 1 March 1975 by a person 18 years or older (in the absence of any evidence that the person was not otherwise legally incapable) is legal and capable of registration.

If an enduring power of attorney is only to begin on the incapacitation of the principal, and the principal has lost capacity and is unable to conduct their financial affairs, a letter from a registered medical practitioner (on the practitioner's letterhead) stating that the principal has lost capacity and is unable to conduct their financial affairs must be deposited with the Form 16 – Request to Register Power of Attorney when initially lodged.

If the principal has capacity at the time of lodgement of the power of attorney and subsequently loses capacity, evidence, as stated above, should be deposited with all dealings executed under the power of attorney.

[16-0030] deleted

[16-0040] Prisoners

The Public Trustee is the manager of the estate of any person:

- serving a prison sentence of three or more years, or
- subject to an indefinite sentence within the meaning of part 10 of the *Penalties and Sentences Act 1992*, or
- detained pursuant to part 3 of the *Criminal Law Amendment Act 1945*

(for the purposes of this part, an 'affected prisoner').

The consent of the Public Trustee is not required for the grant of a power of attorney, unless the document being registered is a power of attorney contained within a deed or other transaction (such as a lease or mortgage). Consent will however be required before an attorney acting on behalf of an affected prisoner alienates or charges property or makes a contract (section 95 of the *Public Trustee Act 1978*). See [61-3130].

A letter from the lodging solicitor advising the term of the sentence should be deposited with the relevant dealing. If the party is an affected prisoner, a statutory declaration from the Public Trustee stating that it has no objection to the attorney acting for the principal must be deposited with the relevant dealing. Alternatively, the Public Trustee may consent to the relevant dealing, in its preferred form, or by letter, or in a Form 18 – General Consent.

[16-0050] Dual Capacity Powers

A principal, acting in two or more capacities, can appoint an attorney in respect of those various capacities in the one power of attorney. For example:

In a Form 1 (under the *Powers of Attorney Act 1998*) and at Item 1 in a Form 16 – Request to Register Power of Attorney (under the *Land Title Act 1994*) it would be stated as follows:

> 'John Doe (both in his personal capacity and as director of ABC Pty Ltd)'; or
>
> 'John Doe (both in his personal capacity and as trustee for the John Doe Family Trust)'; or
>
> 'John Doe Pty Ltd (both in its personal capacity and as trustee for the John Doe Family Trust)'.

Refer to [16-2030] for the specific requirements that apply to a Form 16 – Request to Register Power of Attorney lodged to record a principal in the principal's capacity as trustee.

Request to record principal in less than all of the capacities in the power of attorney

Where:

- a power of attorney is granted by the principal in two or more capacities (e.g. in personal capacity and as trustee); and
- Item 1 of the Form 16 – Request to Register Power of Attorney lodged to register the power of attorney requests that the principal be recorded in less than all the capacities in the power of attorney (e.g. personal capacity only);

a letter must be deposited to confirm that the intention is to record the principal in less than all the capacities in the power of attorney. If a letter is not deposited a requisition will be issued to confirm that the intention is to only record the principal in the capacities stated in Item 1 of the Form 16 – Request to Register Power of Attorney.

For example:

- A Form 16 – Request to Register Power of Attorney is lodged to register a power of attorney by which John Doe (both in his personal capacity and as trustee for the John Doe Family Trust) appoints Peter Smith as his attorney
- Item 1 of the Form 16 – Request to Register Power of Attorney only records John Doe in his personal capacity (i.e. "John Doe")

- A letter must be deposited to confirm that the intention is to only record John Doe in his personal capacity (and not also in his capacity as trustee of the John Doe Family Trust)

Please note that for the principal to execute an instrument or document under the power of attorney in another capacity that is not recorded (e.g. for John Doe to execute as trustee of the John Doe Family Trust), a further Form 16 – Request to Register Power of Attorney requesting that the principal be recorded in that other capacity would need to be lodged for registration along with the payment of the prescribed fee.

Trustee

[16-0060] Power under s. 56 of the *Trusts Act 1973*

Section 56 of the Trusts Act authorises a trustee who is absent from the State or is about to leave the State or become physically incapable, to appoint an attorney who is a Queensland resident. This can only apply to trustees who are natural persons, and not to corporate trustees.

This section applies even if the trust deed is silent on the point. The attorney has the same powers as the original trustee except for the power of delegation.

A power of attorney granted under s. 56 of the Trusts Act does not come into operation until the donor is actually out of the State or is physically incapable and is revoked upon his/her return or recovery.

Any instrument or document executed under this type of power of attorney requires a statutory declaration by the attorney stating that:

- the donor has left the State or is incapable; and
- that he/she has not returned or recovered; and
- that pursuant to s. 56(7) of the Trusts Act the power has come into operation.

A trustee cannot appoint the only other co-trustee of a trust to act as their attorney if relying on this section of the Trusts Act.

[16-0070] Statutory Trustee Company

Notwithstanding s. 56 of the *Trusts Act 1973* or the provisions of any particular trust deed, the Public Trustee and trustee companies under the *Trustee Companies Act 1968*, may appoint attorneys to transact on behalf of the particular trustee company in respect of trusts administered by it.

[16-0080] Corporation

A corporation may appoint a person or another corporation to act as its attorney.

A power of attorney by or to a corporation must include the corporation's ACN, ARBN or ABN (see part 50 – Corporations and Companies).

A power of attorney given by corporations and executed in a way permitted by law does not require a witness.

The power of attorney need not be registered in the registry for execution of an instrument or document by the attorney to bind the company, however, it must be registered in the registry to enable instruments or documents dealing with land to be registered.

[16-0090] Receiver/Manager

A receiver/manager of a company can execute instruments or documents on behalf of the company either with or without the company seal.

Section 420(2)(q) of the *Corporations Act 2001* (Cth) authorises a receiver/manager to appoint an agent to do business that he/she cannot do in person. Evidence of appointment of the receiver/manager by way of a current Australian Securities and Investments Commission (ASIC) certified copy of the appointment must be deposited with the power of attorney.

An attorney appointed by the company prior to the appointment of a receiver/manager may continue to execute instruments or documents on behalf of the company in relation to charged assets **only** with the consent of the receiver/manager. This consent may be given in a Form 18 – General Consent.

See part 50 – Corporations and Companies for further details on receiver/managers.

[16-0100] Liquidator

A liquidator executes instruments or documents in the name of the company and uses the company's common seal when necessary. Section 477(2)(k) of the *Corporations Act 2001* (Cth) authorises a liquidator to appoint an agent to do business that the liquidator is unable to do in person. Usual evidence of appointment by way of Australian Securities and Investments Commission (ASIC) certified copy of the appointment must be deposited with the power of attorney.

An attorney appointed by the company prior to the appointment of the liquidator may continue to execute instruments or documents on behalf of the company **only** with the consent of the liquidator. This consent may be given in a Form 18 – General Consent.

See part 50 – Corporations and Companies for further details on company liquidators.

[16-0110] Effect of Winding Up on Receiver

Under the *Corporations Act 2001* (Cth), a receiver of property of a corporation that is being wound up may, with the written approval of the corporation's liquidator or the approval of the court, carry on the corporation's business, either generally or as otherwise specified in the approval, and do whatever is necessarily incidental to carrying on the business under this provision (s. 420C of the Corporations Act (Cth)). The approval may be given in a Form 18 – General Consent.

Where this approval is not granted, the receiver's authority as agent of the company terminates. This does not, however, terminate the receiver's power to control and deal with property over which the receiver is appointed.

The receiver's authority as agent is limited to exercising the rights of the security holder as agent of the security holder and to deal with the property which is the subject of the charge. If necessary, the receiver may use the name of the company in the exercise of such rights.

[16-0120] Power of Attorney Granted by Way of Security – Irrevocable Powers

Where a power is expressed to be irrevocable, it must be in terms of s. 10 of the *Powers of Attorney Act 1998*. If the power is not in those terms, it may be requisitioned to have any reference to 'irrevocable' contained in the document removed.

Under s. 10 of the Powers of Attorney Act, an irrevocable power of attorney clause in a security, granted to secure a proprietary interest in a donor's asset together with the performance of an obligation owed to the donee (attorney), confers an authority to the security holder or donee. This continues regardless of the commencement of a winding up of a company or the death of the principal (donor).

[16-0130] Joint and Several Attorneys

Where a power of attorney has appointed two or more attorneys to act jointly, then both or all of the attorneys must act on behalf of the principal. Where two or more attorneys have been appointed jointly and severally (or 'jointly and/or severally'), then any one of the attorneys may act on behalf of the principal.

For a Queensland enduring power of attorney made on or after 30 November 2020 a principal may not appoint more than 4 joint attorneys for a matter (s. 43(3) of the *Powers of Attorney Act 1998*).

If a power of attorney appoints more than one attorney and fails to disclose whether the attorneys are to act jointly or severally, it is presumed that the attorneys are to act jointly, and the power will be examined and registered accordingly.

[16-0140] Successive Power of Attorney

A successive power of attorney is a power of attorney that:

- defines two or more attorneys that will be appointed successively (i.e. creates a chain of succession so that when the power of one attorney ends the power of the next attorney begins); and
- defines when the power of one attorney will end and the power of the following attorney in the chain of succession will begin (e.g. death, incapacity or another prescribed event).

Examples:

- Example 1 – A power of attorney appoints John Smith as attorney and provides that on the death or incapacity of John Smith then Mary Jones is appointed as attorney.

Chain of succession:

First named attorney	➔	Successive attorney
John Smith	Death/incapacity of first named attorney	Mary Jones

- Example 2 – A power of attorney appoints John Smith, Mary Jones and Peter Smith successively in the order named (**Note**: if more than one attorney is appointed 'successively' and the power does not specify 'in the order named', the Registrar will assume that they are appointed 'successively in the order named').

Chain of succession:

First named attorney	➔	Successive attorney 1	➔	Successive attorney 2
John Smith	Death/incapacity of first named attorney	Mary Jones	Death/incapacity of successive attorney 1	Peter Smith

A successive power of attorney is only effective as it relates to the attorney that currently has power in accordance with the terms of the power of attorney. For example, while the first named attorney still has power, the power of attorney is only effective as it relates to the first named attorney and any Form 16 lodged to record the power of attorney must only include the first named attorney in Item 2.

In addition to the general practice requirements, the following specific practice requirements apply to a Form 16 lodged to record a successive power of attorney:

- Item 2 – must only include the name of the attorney that currently has power*; and
- if the attorney listed in Item 2 is a successive attorney – evidence must be deposited with the Form 16 to demonstrate that the power of all of the previous attorneys in the chain of succession has ended (e.g. evidence of death, incapacity or another prescribed event).

* Unless the intention is to record the power of attorney for an attorney that previously executed a Titles Registry form under the power of attorney when they had power and subsequent to the execution their power ended. In this situation, a suitable explanation must be provided with the Form 16 and evidence must be deposited to show that the execution occurred prior to the attorney losing power.

Please note the following:

- a Form 16 to record the power of attorney for a successive attorney must still be lodged even if a previous Form 16 has been lodged to record the power of attorney for a previous attorney in the chain of succession; and
- there is no requirement to lodge a Form 16 to record the power of attorney for any of the previous attorneys in the chain of succession if they have not been previously recorded (i.e. only the Form 16 to record the power of attorney for the successive attorney and evidence to demonstrate that the power of all previous attorneys in the chain of succession has ended is required).

[16-0145] Alternative Attorney

Section 43(2)(d) of the *Powers of Attorney Act 1998* states that an alternative attorney may be appointed by a principal for a matter or all matters, so that a power is given to a particular attorney to act only in the circumstance stated in the enduring document.

Although the Powers of Attorney Act does not make specific reference to an alternative attorney in a general power of attorney, ss. 8 and 9 allow for a principal to specify a time or circumstance in which a power is exercisable.

An alternative attorney may act only temporarily unlike a successive attorney who is appointed permanently in the circumstances stated in the power of attorney, for example the prior attorney is unwilling or unable to act.

For an attorney to be an alternative attorney it must be identified that the appointment is a temporary appointment whilst the first named attorney is unable to act. Once the first named attorney can resume duty as the attorney for the principal, the powers of the alternative attorney cease.

A statutory declaration must be deposited with any dealing executed by an alternative attorney stating why the first named attorney is unable to act.

Item 2 of the Form 16 – Request to Register Power of Attorney must show the first named attorney and the alternative attorney and must state that the appointment is as an alternative attorney.

[16-0150] moved to [16-0175]

[16-0160] Substitutionary Power of Attorney

The general rule is that an attorney cannot delegate his/her powers or duties to another, in part or in whole, without the express authority of the principal. Therefore, if authorised by the power of attorney, the attorney can, by a substitutionary power of attorney, appoint a substitute to act in his/her stead, for part or all of the duties delegated to him/her by the power of attorney. In this case, the power of attorney granted by an attorney that nominates and appoints another person to be the attorney's substitute for specified purposes is registrable.

To record the substitutionary power of attorney, the Registrar requires the lodgement of a Form 16 – Request to Register the appointment of a substitute attorney together with the substitutionary power of attorney document.

Item 1 of the Form 16 – Request should show the principal in the capacity of attorney under the head power of attorney dealing number. Item 3 of the Form 16 – Request should state the clause in the head power of attorney document that authorises the appointment of the substitute attorney.

Refer to [61-3050] for the practice requirements when a substitute attorney is executing an instrument or document.

The *Powers of Attorney Act 1998* does not provide for the attorney to have power to appoint a substitute attorney under an enduring power of attorney.

[16-0170] Supplementary Power of Attorney

A principal can, by a power of attorney, appoint a person to be his/her attorney, and at a later date and by a separate power of attorney, appoint another person to act in addition to, or jointly with, the first attorney.

This is called a 'supplementary power of attorney' and the Power of Attorney Register is cross referenced with details of the supplementary power. An attorney, if authorised by the power, can also appoint supplementary attorneys to carry out part of the original duties as attorney for the principal.

Where an attorney with conferred power has appointed a substitute, it should always be first ascertained whether the authority is to appoint an additional (or supplementary) attorney to:

a. act 'under the attorney' in a supplementary capacity; or

b. make a substitutionary appointment 'in the attorney's stead'.

In the former case (a), the original attorney is to be regarded as still continuing in office, notwithstanding his/her appointment of a supplementary attorney. On the death of the original attorney or on his/her ceasing to hold office, the supplementary attorney will also terminate.

In the latter case (b), however, the appointment by the original attorney would prevent him/her acting in the position again. In effect, it creates his/her own retirement in favour of the substitute.

[16-0175] deleted

[16-0180] Power of Attorney Affecting State Tenure and Water Allocations

All powers of attorney registered in the Power of Attorney Register can be applied to dealings with either freehold land, State tenures or water allocations.

[16-0190] Interstate or International Power of Attorney

Interstate (including Australian territories) or international powers of attorney (including enduring powers of attorney) prepared and executed according to the laws of another state, territory or country may be registered in the power of attorney register under the *Land Title Act 1994*. However, the power of attorney must be valid under the laws of the relevant state, territory or country.

Refer to [16-2137] for specific practice requirements for interstate or international powers of attorney.

[16-0191] Queensland Powers of Attorney made outside Queensland

A person who is interstate or overseas can make a power of attorney under the *Powers of Attorney Act 1998* using a Form 1 (General Power of Attorney), Form 2 (Enduring Power of Attorney – Short Form) or Form 3 (Enduring Power of Attorney – Long Form).

However, the requirements under the Powers of Attorney Act and *Land Title Act 1994* must be complied with including applicable witnessing requirements (e.g. an eligible witness must hold a prescribed qualification such as a Queensland justice of the peace, an Australian lawyer or a notary public).

Refer to [16-2138] for specific practice requirements for Queensland powers of attorney made outside Queensland.

[16-0195] Certified Copy of Power of Attorney under the *Powers of Attorney Act 1998*

General Powers of Attorney

[16-0196] Section 14 *Powers of Attorney Act 1998*

Section 14 of the *Powers of Attorney Act 1998* provides that a general power of attorney may be proved by a copy of the power of attorney certified under the section (a "*section 14 certified copy*") but does not prevent a general power of attorney being proved in another way.

The Titles Registry will accept a copy of a general power of attorney as a *section 14 certified copy* if it meets the following requirements:

1. Each page of the copy must be on a single-sided A4 sheet of paper (for scanning purposes).
2. Each page, other than the last page, must be certified to the effect that the copy is a true and complete copy of the corresponding page of the original.
3. The last page must be certified to the effect that the copy is a true and complete copy of the original.
4. The certification must be by one of the following persons –
    a. the principal;
    b. a justice of the peace;
    c. a commissioner for declarations;
    d. a notary public;
    e. a lawyer (lawyer means an Australian lawyer within the meaning of the *Legal Profession Act 2007*—see the *Acts Interpretation Act 1954*, schedule 1);
    f. a trustee company under the *Trustee Companies Act 1968;*
    g. a stockbroker.
5. The certification must contain sufficient information to clearly identify the certifier and the position/qualification that makes them eligible to certify the copy (e.g. the Principal must legibly print their full name and "Principal", a Justice of the Peace (Qualified) must legibly print their full name or registration number and a lawyer must legibly print their full name and qualification).

Section 14(5) of the Powers of Attorney Act provides that if a copy of a power of attorney has been certified under section 14, the original power of attorney may also be proved by a copy, certified under section 14, of the certified copy (a *section 14 certified copy of a section 14 certified copy*).

Section 24L *Powers of Attorney Act 1998*

Section 24L of the Powers of Attorney Act applies to a general power of attorney that is proposed to be lodged or deposited in a registry for a purpose. If the general power of attorney or a counterpart of the general power of attorney is in the form of an electronic document, a printed copy of the general power of attorney or counterpart certified under s 24L(4) of the Powers of Attorney Act must be lodged or deposited in the registry.

The Titles Registry will accept a copy certified under s 24L(4) provided it meets the following requirements:

1. Each page of the copy must be on a single-sided A4 sheet of paper (for scanning purposes).
2. The last page must be certified to the effect that the copy is a true and complete copy of the original or counterpart.
3. The certification must be by one of the following persons –
    a. one of the signatories;
    b. a justice of the peace;
    c. a commissioner for declarations;
    d. a notary public;

e. a lawyer (lawyer means an Australian lawyer within the meaning of the *Legal Profession Act 2007*—see the *Acts Interpretation Act 1954,* schedule 1);

f. a trustee company under the *Trustee Companies Act 1968*;

g. a stockbroker.

4. The certification must contain sufficient information to clearly identify the certifier and the position/qualification that makes them eligible to certify the copy (e.g. the signatory must legibly print their full name and designation, if applicable, a Justice of the Peace (Qualified) must legibly print their full name or registration number and a lawyer must legibly print their full name and qualification).

[16-0198] Enduring Powers of Attorney

Certifications on or after 30 November 2020

Section 45 of the *Powers of Attorney Act 1998* (as amended by the *Guardianship and Administration and Other Legislation Amendment Act 2019*) provides that an enduring power of attorney may be proved by a copy of the power of attorney certified under the section (a "*section 45 certified copy*") but does not prevent an enduring power of attorney being proved in another way.

The Titles Registry will accept a copy of an enduring power of attorney as a *section 45 certified copy* if it meets the following requirements:

1. Each page of the copy must be on a single-sided A4 sheet of paper (for scanning purposes).
2. The certifier must have:
   a. either:
      i. certified each page of the copy; or
      ii. signed or initialled each page of the copy; and
   b. signed an appropriate certification clause on the face of the copy that:
      i. contains words to the effect that the document is a true and complete copy of the original;
      ii. contains sufficient information to clearly identify the certifier and the position/qualification that makes them eligible to certify the copy (e.g. the Principal must legibly print their full name and "Principal", a Justice of the Peace (Qualified) must legibly print their full name or registration number and a lawyer must legibly print their full name and qualification); and
      iii. is capable of being clearly and legibly reproduced when scanned into an image by the Titles Registry.

Example Certification Clauses:

This is to certify that this document is a true and complete copy of the original document.

Date
Signed
Full name
Position/Qualification

This is to certify that this [number of pages] page document (each page of which I have signed) is a true copy of the original [number of pages] page document that I have sighted.

Date
Signed
Full name
Position/Qualification

3. The certifier must be one of the following persons –
   a. the principal;
   b. a justice of the peace;
   c. a commissioner for declarations;
   d. a notary public;
   e. a lawyer (lawyer means an Australian lawyer within the meaning of the *Legal Profession Act 2007*—see the *Acts Interpretation Act 1954*, schedule 1);
   f. a trustee company under the *Trustee Companies Act 1968*;

g. a stockbroker.

Section 45(4) of the Powers of Attorney Act provides that if a copy of a power of attorney has been certified under section 45, the original power of attorney may also be proved by a copy, certified under section 45, of the certified copy (a *section 45 certified copy of a section 45 certified copy*). Each *section 45 certified copy* must comply with the section 45 requirements that applied on the date the certification was carried out.

Certifications prior to 30 November 2020

Any certified copy of an enduring power of attorney made prior to 30 November 2020 must comply with the requirements of the former section 45 of the *Powers of Attorney Act 1998* which are the same as those detailed above for the certification of a copy of a general power of attorney under section 14 of the *Powers of Attorney Act 1998*.

Section 45(4) of the Powers of Attorney Act provides that if a copy of a power of attorney has been certified under section 45, the original power of attorney may also be proved by a copy, certified under section 45, of the certified copy (a *section 45 certified copy of a section 45 certified copy*). Each *section 45 certified copy* must comply with the section 45 requirements that applied on the date the certification was carried out.

[16-0200] Restrictions in Power of Attorney

A principal may limit the powers given to an attorney by specifically defining the functions the attorney may perform. For example, attorneys who do not have the power to purchase land cannot sign transfers as transferee.

An enduring power of attorney under Chapter 3 of the *Powers of Attorney Act 1998* must be in or substantially comply with Form 2 or 3 under the Powers of Attorney Act.

[16-0210] Revocation of Power of Attorney

A power of attorney, other than an enduring power of attorney, may be revoked in accordance with the provisions of Chapter 2 Part 3 of the *Powers of Attorney Act 1998.*

An enduring power of attorney may be revoked in accordance with Chapter 3 Part 5 of the Powers of Attorney Act.

A Form 16 – Request to Register Revocation of Power of Attorney, with the necessary amendment to Item 3, is appropriate to register the revocation of a power of attorney, but is not the revocation itself.

A revocation cannot be registered in the registry if the power of attorney is not registered in the registry.

A principal that has complied with s. 16 or s. 46 of the Powers of Attorney Act may register a revocation of a registered power of attorney. The revocation of power of attorney in the appropriate form as approved in keeping with s. 161 of the Powers of Attorney Act together with a Form 16 – Request to Register Revocation of Power of Attorney (Form 16 under the *Land Title Act 1994*) must be lodged in the registry.

A Form 5 – Revocation of General Power of Attorney (approved in keeping with the Powers of Attorney Act) is appropriate to revoke any general power of attorney. A Form 6 – Revocation of an Enduring Power of Attorney (approved in keeping with the Powers of Attorney Act) is appropriate to revoke an enduring power of attorney. Evidence of revocation by operation of law is also acceptable. See also [16-0260] in relation to enduring powers of attorney.

The revocation of a general power of attorney may be in the form of a deed made by the principal. The deed of revocation is deposited with the Form 16 – Request to Register Revocation of Power of Attorney (under the Land Title Act).

If a revocation of a power of attorney is executed in another state or country and the laws of that state or country provide specific requirements for the execution of a revocation, the execution must be undertaken in accordance with those laws.

The date of revocation of a power of attorney is recorded in the Power of Attorney Register to notify interested parties of the time the attorney's power ended. Any substitutionary power of attorney is also revoked from that time.

If a power of attorney is lodged, and the registration of that power of attorney would have the effect of revoking a previously registered power of attorney, then it is not sufficient to lodge only the new power of attorney. Instead, two instruments must be lodged; the first being a Form 16 – Request to Register Revocation of Power of Attorney (to revoke the previously registered power of attorney), and the second, being a Form 16 – Request to Register Power of Attorney (to register the new power of attorney). A lodgement fee will apply to both instruments.

In circumstances where a Form 16 – Request to Register Power of Attorney is lodged and the power of attorney references (by dealing number or otherwise), a previously registered power of attorney, and that previously registered power of attorney has not been revoked, or, a Form 16 – Request to Register Revocation of Power of Attorney was lodged

contemporaneously to revoke it, a letter must be included with the lodgement advising the Registrar of this fact, so that the Form 16 – Request to Register Power of Attorney is not examined in isolation.

If the lodger considers that a revocation of a previously registered power of attorney is not a requirement for the registration of a new power of attorney, when lodging a Form 16 – Request to Register Power of Attorney, then a letter must be included with the lodgement explaining this position to the Registrar.

If more than one power of attorney is being revoked, separate revocations are required for each power of attorney. Separate lodgement fees are payable for revocation of each power of attorney.

[16-0220] Revocation of Joint and Several Principals

Where two or more principals severally appoint an attorney, it is possible for only one principal to revoke his/her power of attorney.

[16-0230] Revocation of Joint and Several Attorneys

Where two or more attorneys have been appointed jointly or jointly and/or severally the power given to one or more of them may be revoked separately.

[16-0240] Revocation of Substituted Attorney

The principal of an original power of attorney can revoke the power of attorney so far as it relates to a substituted attorney. Revocation of the original power of attorney is sufficient for the revocation of the substitutionary power of attorney.

[16-0250] Revocation of a Power of Attorney Granted by a Corporation

If a corporation has given a power of attorney to any person and an official manager is subsequently appointed, the power of attorney will cease to operate from the date that the official manager is appointed, unless the official manager directs that the power of attorney is to continue in force (see also [16-0090]).

[16-0260] Revocation by Operation of Law

Generally speaking, a power of attorney is revoked upon the (a) death or (b) loss of capacity of the principal. The exceptions are:

a. where the power of attorney is stated to be irrevocable pursuant to s. 10 of the *Powers of Attorney Act 1998*; and

b. enduring powers of attorney pursuant to Chapter 3 Part 5 of the Powers of Attorney Act, although an enduring power of attorney **is** revoked by the death of the principal.

An enduring power of attorney is revoked in the circumstances set out in Chapter 3 Part 5 of the Powers of Attorney Act or s. 135 of the *Land Title Act 1994.*

Some of the key circumstances include:

a. A later enduring document (s. 50 of the Powers of Attorney Act)

b. The principal marrying someone other than the attorney (s. 52 of the Powers of Attorney Act)

c. The principal divorcing the attorney (s. 53 of the Powers of Attorney Act)

d. According to the terms of the enduring document (s. 54 of the Powers of Attorney Act)

e. The attorney becomes a person with impaired capacity (s. 56 of the Powers of Attorney Act)

f. Death of the attorney (s. 58 of the Powers of Attorney Act)

In the case of revocation pursuant to an order of the court, a copy of the court order is required to be lodged. Where revocation is due to the bankruptcy of the principal or attorney, a copy of the extract from the National Personal Insolvency Index is required to be lodged. Where revocation is due to the winding up, dissolution or appointment of a receiver or administrator to a corporate attorney, a copy of the appointment of liquidator, receiver or administrator is required to be lodged. Where the revocation results from the death of either a joint tenant principal or a sole principal, an office copy of the certificate of death is required to be lodged.

The above evidence should be deposited with a Form 16 – Request to Register Revocation of Power of Attorney when lodged for registration in the titles registry. See [60-1030] for information about depositing supporting documentation.

[16-0270] deleted

[16-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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.

Land Act 1994

Section 383 of the Land Act provides that a donee under a power of attorney registered in the powers of attorney register under the *Land Title Act 1994* may deal with any interest in land under the Land Act as authorised by the principal (donor) pursuant to the relevant power of attorney and the Land Act.

Section 383(3) of the Land Act prohibits a trustee of trust land from authorising another person under a power of attorney to deal with an interest in trust land that may be dealt with by the trustee. Trust land in this part would refer to reserves, deeds of grant in trust and similar land held for community purposes.

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].

[16-2000] Practice

NOTE! From this point on and for simplicity, 'donees' will only be referred to as 'attorneys' and 'donors' will only be referred to as 'principals'.

Registration of Power of Attorney

[16-2000] General Registration Requirements

The *Powers of Attorney Act 1998* was proclaimed on 1 June 1998. This Act consolidated the law about general powers of attorney and enduring powers of attorney and also provides for advance health directives.

The Powers of Attorney Act does not prevent a person from executing and registering what is referred to as a common law form of **general** power of attorney. However, for these powers of attorney to be registered they must be executed under the provisions of s. 161 and s. 162 of the *Land Title Act 1994*.

The table below shows the forms that have been approved under the Powers of Attorney Act for use when making or revoking powers of attorney and may assist in determining how any of the forms may be registered.

FORM	PURPOSE	REGISTER – LAND TITLE ACT
1	General Power of Attorney	Yes
2	Enduring Power of Attorney – Short Form (same attorney(s) for financial and personal matters)	Yes, if financial matter included
3	Enduring Powers of Attorney – Long Form (different attorneys for financial and personal matters)	Yes, if financial matters included
4	Advance Health Directive	No
5	Revocation of General Power of Attorney	If p/a registered
6	Revocation of Enduring Power of Attorney	If p/a registered
7	Interpreter's/Translator's Statement	Only with power
8	Additional page (for use with an Enduring Power of Attorney or Advance Health Directive)	Only with power
9	Enduring power of attorney explanatory guide	No guide only

All powers of attorney lodged for registration under the Land Title Act are registered in the Power of Attorney Register in the Automated Titles System.

A power of attorney may confer on the attorney(s) authority of a general nature or it may authorise only specific actions and these may not relate to land. If there is no power for an attorney to deal with land or an interest in land under the Land Title Act, the power of attorney cannot be registered in the Power of Attorney Register.

If a printed power of attorney form specifically sets out the powers of the attorney and has additional powers typed in, the additional powers will be read in addition to the printed powers. For example:

If the following clause is added to a pre-printed power of attorney:

> 'I hereby specifically declare that my attorney can execute transfer documentation for the sale of my property'

then the implication is **not**:

> 'I hereby specifically declare that my attorney can **only** execute transfer documentation for the sale of my property'.

Any power of attorney that authorises an attorney to deal with an interest in land may be registered in the Power of Attorney Register.

A power of attorney registered in the Power of Attorney Register may be quoted as authority for execution of an instrument or document to be registered under the Land Title Act or the *Land Act 1994.*

A Form 16 is not a power of attorney or revocation of power of attorney but a request to register a power of attorney or a revocation of power attorney. A completed Form 16 must accompany any power of attorney, including a power of attorney contained in a lease, mortgage or agreement, or a revocation of a power of attorney to be registered in the Power of Attorney Register.

Form 16 – Request to Register must be signed by the person making the request, for example the principal or attorney, or the solicitor for the principal or attorney. A witness to the signature is not required.

[16-2010] Duty

There is no duty notation required on a power of attorney executed after 1 November 1989. Powers of attorney executed prior to 1 November 1989 should be referred to the Queensland Revenue Office for duty payment.

[16-2015] Lodgement

Section 133 of the *Land Title Act 1994* provides for either of the following to be deposited with a Form 16 – Request to Register Power of Attorney:

- The original power of attorney; or
- a copy of the power of attorney certified under s. 14 (general) or s. 45 (enduring) of the *Powers of Attorney Act 1998.*

A copy is retained in the registry after registration and the deposited original power of attorney or certified copy is returned to the lodger.

For the requirements of certifying a power of attorney under s. 14 or s. 45 of the Powers of Attorney Act see [16-0195].

[16-2020] Power of Attorney under s. 56 of the *Trusts Act 1973*

The power given should include a reference to s. 56 of the Trusts Act, if applicable, and to the 'estate' being administered as is appropriate to the specific case.

This section does not apply to corporate trustees.

A power of attorney under this section cannot be exercised until the principal (trustee) is out of the State or is incapable by reason of physical infirmity. It can no longer be exercised once the principal (trustee) returns to the State or recovers.

It is a requirement under s. 56(7) of the Trusts Act that the attorney prepare and lodge a statutory declaration with any document executed under the power of attorney to the effect that the principal has left the State or is physically incapable and that under s. 56(5) of the Trusts Act, the power of attorney has therefore come into operation. For example, a statutory declaration to the following effect is acceptable:

1. [Principal name] of [address] did execute power of attorney Dealing Number ## to me prior to departing from the State of Queensland on or about [date].
2. I am the attorney appointed and referred to in that power of attorney and reside in Queensland.
3. [Principal name] has not returned to Queensland at the time of making this declaration.
4. I further declare that pursuant to s. 56(5) of the Trusts Act 1973 the power of attorney has come into operation.
5. I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge, and I have stated the source of that information and grounds for the belief.
6. I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

[16-2030] Power to Appoint an Attorney under the *Trusts Act 1973* or under a trust instrument

Trustees (including corporate trustees) can appoint an attorney:

- for certain purposes under the *Trusts Act 1973* if there is no restriction contained within the Trusts Act or the trust instrument appointing the trustee; and/or
- under a power provided by the trust instrument (e.g. a trust deed or will) appointing the trustee (s. 4(4) of the Trusts Act).

In addition to the other general practice requirements, the following specific practice requirements apply to a Form 16 – Request to Register Power of Attorney lodged to record the principal in the principal's capacity as trustee:

- Item 1 – must specifically state that the trustee 'as trustee/personal representative of [name of trust/deceased]' is granting the power;
- Item 3 – must state the paragraph/clause in the trust instrument (e.g. trust deed or will) or the section of the *Trusts Act 1973* authorising the appointment of the attorney; and
- a copy of the original trust instrument must be deposited with the power of attorney (see [51-2043] about the deposit of a trust document and [60-1030] for information about depositing supporting documentation).

[16-2040] Joint and Several Principals or Attorneys

In a general power of attorney 2 or more principals may jointly appoint an attorney, in which case the attorney can only act for both or all of the principals jointly. A power given jointly by two or more people is revoked upon the death or loss of legal capacity of any one of the principals. In cases where powers of attorney fail to disclose how the multiple principals hold their interests, they will be assumed to be and will be registered as granting the power jointly.

Where two or more principals jointly and severally (or jointly and/or severally) appoint an attorney or multiple attorneys jointly and severally (or jointly and/or severally) to act, then the attorney may act for any or all of the principals. It is possible to register the power from only one principal to one attorney.

For an enduring power of attorney, the *Powers of Attorney Act 1998* and the Queensland enduring power of attorney forms (Form 2 and Form 3) do not make provision for multiple principals to jointly and/or severally appoint an attorney.

[16-2050] Registration of Power of Attorney Clause in Mortgage or Other Instrument or Document

By a specific clause in most leases, mortgages, etc, it is usual for the lessee or mortgagor to appoint the lessor or mortgagee as their attorney. While these appointments are usually granted in the event of default under the terms and conditions, this is not always the case.

Exercise of these powers is confined to the land referred to in the lease or mortgage, unless otherwise specified in the instrument or document.

Where the power of attorney clause is only able to be invoked upon default of some kind, evidence of such default must be deposited at the time of lodgement of the power of attorney.

For example, the following clause is effective to grant an immediate power of attorney under s. 132 of the *Land Title Act 1994:*

> '… and to secure payment to you of any amounts outstanding whether debt, interest or costs, I charge all my property, both real and personal, present and future, with the amount of my indebtedness until discharged, such indebtedness to include all matters referred to in Clause [number] hereof and I hereby appoint as my duly constituted attorney your manager for the State in which the said debt was payable…'.

A power of attorney clause in a mortgage that has been discharged may only be registered if the mortgagor has not been discharged from personal covenants under the mortgage. A power of attorney clause of this nature and one in an unregistered short term lease, an instrument or document that has not been registered in the registry or certain deeds and agreements is capable of registration as a power of attorney.

In order to register a power of attorney clause, the following documentation must be produced with the registry Form 16 – Request to Register Power of Attorney:

a. a copy of the registered instrument or document obtained from the Titles Registry (which need not be a certified copy); or
b. an unregistered, executed copy of the registered instrument or document (e.g. an unregistered duplicate or triplicate); or
c. an original executed deed or agreement (e.g. a mortgage debenture containing a power of attorney clause).

In all cases the documentation produced will be returned to the lodger after registration (s. 133(3) of the Land Title Act).

If default is a pre-requisite of the power of attorney, evidence of default (i.e. a declaration as to default having occurred and service of notices on the defaulting proprietor(s)) and a copy of the notice(s) must be deposited. In these instances, the date of default is the date of the power of attorney. If default is not a pre-requisite, the date of the document that contains the power of attorney clause or event specified is the date of the power of attorney.

[16-2060] Error in Power of Attorney

If an attorney executes an instrument or document and a minor difference in the name of the principal or the attorney is detected (e.g. a typographical error), a declaration of identity is required.

Types of Power of Attorney

[16-2063] Form 1 under s. 11 of the *Powers of Attorney Act 1998*

A Form 1 – General Power of attorney (non-enduring) (under the Powers of Attorney Act) operates to confer on attorneys (acting jointly or severally if more than one), authority to do anything that an Attorney can lawfully do on behalf of a principal or it may contain terms or information about exercising the power (s. 8 of the Powers of Attorney Act). A general power of attorney must be in the approved form (s. 11 of the Powers of Attorney Act), however, strict compliance with the form is not necessary and substantial compliance is sufficient (s. 48A of the *Acts Interpretation Act 1954*).

These are capable of being registered in the Power of Attorney Register provided they do not specifically exclude the attorney from dealing with land owned by the principal.

[16-2066] Forms 2 and 3 under s. 44 of the *Powers of Attorney Act 1998*

A Form 2 (short form) or Form 3 (long form) – Enduring Power of Attorney (under the Powers of Attorney Act) operates to confer on the attorney authority to do, on behalf of the principal, anything that the principal may lawfully authorise an attorney to do. However, enduring powers of attorney can only be registered in the Power of Attorney Register if they contain powers in relation to financial matters and do not exclude dealings with both interests in land or water allocations owned by the principal.

These powers of attorney continue to operate and have full force and effect even if the principal becomes incapable. However, the attorney's authority ceases on the death of the principal.

Forms 2 and 3 – Enduring Powers of Attorney, may give a general authority, a specific authority or a general and specific authority with restrictions or conditions, without affecting its enduring status. An enduring power of attorney must be in the approved form. If a power of attorney is not in substantial compliance with Form 2 or 3, it will be ineffective as an **enduring** power of attorney in Queensland (see [16-0190]).

Section 44(3)(b) of the Powers of Attorney Act states that an enduring document must—

a. be signed—
   i. by the principal; or
   ii. if the principal instructs—for the principal and in the principal's presence, by an eligible signer; and
b. be signed and dated by an eligible witness.

Section 44(4) states that if an enduring document is signed by the principal, it must include a certificate signed by the witness. This section sets out that the eligible witness is required to sign and date an enduring power of attorney in both the Statement of Understanding and the Certificate of Witness clauses.

[16-2070] to [16-2090] deleted

[16-2100] Form 13 or Form 14 under the *Property Law Act 1974*

A Form 13 – (General Power of Attorney) or Form 14 – (Enduring Power of Attorney) under the *Property Law Act 1974* may be registered in the Power of Attorney Register if executed prior to 1 June 1998.

[16-2110] and [16-2120] deleted

[16-2130] Power of Attorney under Common Law

No form is prescribed for a common law power of attorney. However, every power of attorney, to be registered in the registry, must be presented for lodgement with a Form 16 – Request to Register Power of Attorney.

[16-2135] deleted

[16-2137] Interstate or international power of attorney

Interstate (including Australian territories) and international powers of attorney (including enduring powers of attorney) prepared and executed according to the laws of another state, territory or country may be registered in the power of attorney register under the *Land Title Act 1994*. However, the power of attorney must be valid under the laws of the relevant state, territory or country.

A power of attorney prepared and executed according to the laws of another state, territory or country (the "applicable jurisdiction" of the power of attorney) must be accompanied by evidence of compliance with the laws of the applicable jurisdiction of the power of attorney in the form of either:

a. a notation, memorial or other evidence to show that the power has been recorded in:
   i. the applicable jurisdiction; or
   ii. another Australian jurisdiction (i.e. New South Wales, Victoria, South Australia, Western Australia, Tasmania, Australian Capital Territory or Northern Territory); or
b. a statement in writing by a solicitor or the attorney confirming that the power of attorney complies with the laws of the applicable jurisdiction, including any execution and witnessing requirements.

A power of attorney that has been witnessed outside Australia must be accompanied by evidence of genuine and legitimate execution by the principal in the form of:

a. a notation, memorial or other evidence to show that the power has been recorded in another Australian jurisdiction (i.e. New South Wales, Victoria, South Australia, Western Australia, Tasmania, Australian Capital Territory or Northern Territory); or

b. a statement in writing by an Australian solicitor stating that they have made enquiries and have no reason to believe that the power of attorney has not been genuinely and legitimately executed by the principal; or

c. if the execution has been witnessed by an overseas witness that also holds a qualification as a legal practitioner in that overseas jurisdiction – a statement in writing by the witness stating that they have made enquiries and have no reason to believe that the power of attorney has not been genuinely and legitimately executed by the principal; or

d. a witness certification completed by the witness in accordance with [61 2500].

For Australian and foreign corporations, refer to [16-2150], [16-2160] and Part 50 – Corporations and Companies (in particular [50-0140] (foreign corporations) and [50-2000]) for information about execution and practice requirements.

If a power of attorney or any supporting documentation is written in a foreign language, a suitable English translation must be deposited (see [60-1020]).

[16-2138] Queensland Powers of Attorney made outside Queensland

A person who is interstate or overseas can make a power of attorney under the *Powers of Attorney Act 1998* using a Form 1 (General Power of Attorney), Form 2 (Enduring Power of Attorney – Short Form) or Form 3 (Enduring Power of Attorney – Long Form).

However, the requirements under the Powers of Attorney Act and *Land Title Act 1994* must be complied with including applicable witnessing requirements (e.g. for an enduring power of attorney an eligible witness must hold a prescribed qualification such as a Queensland justice of the peace, an Australian lawyer or a notary public).

A Queensland power of attorney that has been witnessed outside Australia must be accompanied by evidence of genuine and legitimate execution by the principal in the form of:

a. a notation, memorial or other evidence to show that the power has been recorded in another Australian jurisdiction (i.e. New South Wales, Victoria, South Australia, Western Australia, Tasmania, Australian Capital Territory or Northern Territory); or

b. a statement in writing by a solicitor stating that the solicitor has made enquiries and has no reason to believe that the power of attorney has not been genuinely and legitimately executed by the principal; or

c. if the execution has been witnessed by a witness that also holds a qualification as a legal practitioner – a statement in writing by the witness stating that the witness has made enquiries and has no reason to believe that the power of attorney has not been genuinely and legitimately executed by the principal; or

d. a witness certification completed by the witness in accordance with [61-2500].

For Australian and foreign corporations, refer to [16-2150], [16-2160] and Part 50 – Corporations and Companies (in particular [50-0140] (foreign corporations) and [50-2000]) for information about execution and practice requirements.

Execution of Power of Attorney

[16-2140] Individual

Execution of powers of attorney is governed by ss. 47 and 51 of the *Property Law Act 2023* for individuals and ss. 47 and 52 of the Property Law Act for corporations.

Note: A principal may place his/her mark on the power of attorney where, for example, the principal does not have the physical strength to make the signature. A marksman clause is required (see Part 61 – Witnessing and Execution of Instrument or Documents, esp. [61-3040]).

In the case of physical incapacity, it is possible also for another person (apart from the principal) to execute the power at the direction of the principal. For example, where a principal is unable to physically sign the power of attorney, the following execution would be acceptable:

> '**SIGNED SEALED AND DELIVERED** by **LEE ROBERT ERNEST** at the direction of **PHYLLIS MURIEL** and in the presence of **PHYLLIS MURIEL** on the grounds that **PHYLLIS MURIEL** was unable to execute this document personally by reason of infirmity and physical incapacity, **LEE ROBERT ERNEST** having read the contents of this document to **PHYLLIS MURIEL** who appeared to understand the same and the nature and effect thereof.
>
> *L R Ernest*
>
> ---
>
> Lee Robert Ernest
>
> *P Smith*
>
> ---
>
> Paul Smith
> (A Justice of the Peace)'

[16-2150] Corporation

A power of attorney given by a corporation may be executed either with or without the common seal provided the execution is in a way permitted by law.

If a corporation subsequently changes its name, a Request to Update power of attorney is required to be lodged (see [16-2190]).

It is possible for two or more corporations or a corporation and a natural person to appoint a common attorney in one instrument.

Where several corporations appoint a common attorney and registration is required in respect of less than all the principals, the Form 16 – Request to Register must specify which of the powers requires registration.

[16-2160] Attestation

Every power of attorney lodged in the registry must be witnessed in accordance with:

a. ss. 161 and 162 of the *Land Title Act 1994*, or

b. the requirements for execution of powers of attorney of the state or country to which the form relates.

The exception to this is in the case of a corporation and these powers of attorney are sufficiently attested if executed in a way permitted by law.

[16-2170] Execution of Instrument by Attorney

See part 61, esp. [61-3050].

[16-2180] Revocation of Power of Attorney

Any dealing executed under a power of attorney after registration of the revocation of the power cannot be registered (see s. 134(4) of the *Land Title Act 1994*). The Registrar may register a dealing executed under the power of attorney where the execution was before the time of registration of the revocation, even if the dealing was lodged after registration of the revocation. It is crucial that the time of execution of the dealing for which registration is sought precedes the time of registration of the revocation. The time of lodgement of the dealing and the time of lodgement of the revocation are immaterial.

[16-2190] Update of a Registered Power of Attorney

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. Updating the power of attorney will facilitate prompt registration of later transactions signed under the power of attorney. See part 14, esp. [14-2800].

[16-4000] Forms

[16-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

REQUEST TO REGISTER POWER OF ATTORNEY/ REVOCATION OF POWER OF ATTORNEY

FORM 16 Version 4

Dealing Number

OFFICE USE ONLY

Lodger (Name, address, E-mail & phone number)
LINCON & LEE
SOLICITORS
48 TURBOT STREET
BRISBANE QLD 4000
mail@linconlee.com.au
(07) 3227 4562

Lodger Code
725

Privacy Statement
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1. Principal (Donor)

Given names	Surname/Company name and number
IVOR DENIS	DREAME
SALLY ENID	DREAME

~~* and as Trustee/Responsible Entity for~~

* jointly and/or severally

*delete if not applicable

2. Attorney (Donee)

Given names	Surname/Company name and number
RICHARD LEO	MURRAY

~~*jointly and/or severally~~

*delete if not applicable

3. Request

It is requested that you register:

*Power of Attorney produced with this request

~~*Power of Attorney Clause no. ……. in Dealing no. .....~~

~~*Power of Attorney Clause no. ……. in Document dated ..... produced with this request~~

~~*Power of Attorney Pursuant to Section ..... (name of legislation)~~

~~*the attached Revocation of Power of Attorney Dealing no. . .....~~

*delete if not applicable

4. Execution

R B Lee
ROBERT BRUCE LEE

9/10/2017
Execution Date

.....
~~**Applicant's or**~~ **Solicitor's Signature**

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

SAMPLE

Guide to Completion of Form 16

[16-4010] Item 1

Insert the full name of the principal (donor) and either:

‘as Trustee/Responsible Entity for …’; or if more than one

‘jointly’; or

‘severally; or

‘jointly and severally’

whichever is applicable.

[16-4020] Item 2

Insert the full name of the attorney (donee) and if more than one, either:

‘jointly’; or

‘severally; or

‘jointly and severally’; or

as a majority; or

any two jointly.

whichever is applicable.

[16-4030] Item 3

Delete the statement that is not applicable. If the power of attorney is only partially revoked, then set out the details in this panel.

[16-4040] Item 4

Execute as required. No witness is required to the execution of the Form 16.

[16-6000] deleted

[16-7000] Case Law

[16-7000] *Tobin v Broadbent* (1947) 75 CLR 378

However widely a power of attorney is expressed, it should not be construed as authorising the attorney to deal with the property of the principal for the attorney's own benefit, unless it is expressed that the attorney is specifically authorised to do so.

[16-8000] Fees

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

[16-9000] Cross References and Further Reading

Part 50 – Corporations and Companies

Part 51 – Trusts

Part 60 – Miscellaneous

Part 61 – Witnessing and Execution of Instruments or Documents

Halsbury's Laws of Australia, Volume 1, Title 15, Agency

[16-9100] Notes in text

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.

Titles QUEENSLAND

Part 18 – General Consent

LAND TITLE PRACTICE MANUAL

Updated: 28 August 2024

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Part 18 – General Consent

[18-0000] General Law

Form 18 – General Consent is provided specifically for the purpose of recording consents to instruments or documents by parties not directly involved in a transaction. The relevant part of the manual should be consulted to clarify circumstances where consent may be required.

A Form 18A – Registered Owners/Lessees Consent to Survey Plan is exclusively used for the consent of the registered owner or lessee to a survey plan.

A Form 18B – Planning Body Approval of Survey Plan is exclusively used for the approval of the planning body to a survey plan.

A Form 18C – Planning Body Community Management Statement Notation is exclusively used by the planning body to provide a community management statement notation.

The following paragraphs identify common examples where consent is required.

Lease

Mortgagee's Consent

[18-0010] Grant of Lease

See part 7 – Lease [7-0040] and [7-2030].

[18-0020] Amendment

See part 7 – Lease [7-0040] and [7-2030] and part 13 – Amendment [13-0010] and [13-2000].

[18-0030] Surrender

See part 8 – Surrender of Lease [8-0030] and [8-2000].

[18-0040] Sublessee's Consent

See part 8 – Surrender of Lease [8-0030] and [8-2000].

Local Government's Approval

[18-0050] Lease of Part of Land[1]

See part 7 – Lease [7-0050].

[18-0060] and [18-0070] deleted

Easement

[18-0080] Lessee's/Mortgagee's Consent[1]

See part 10 – Surrender of Easement [10-2000].

[18-0090] Local Government's Approval[1]

See part 9 – Easement [9-2080].

[18-0100] Lessee's Consent[1]

See part 9 – Easement [9-2082].

See part 10 – Surrender of Easement [10-2000].

Building Management Statement

[18-0110] Mortgagee's Consent[1]

See part 34 – Building Management Statement [34-2000].

[18-0120] and [18-0160] deleted

Subdivision or Amalgamation of a Water Allocation[2, 3]

[18-0170] Mortgagee's Consent

See part 49 – Water Allocations [14-2950] and [14-2960].

High-density Development Easement[1, 2]

[18-0180] Lessee's Consent

See part 39 – High-density Development Easement [39-2020].

Surrender of High-density Development Easement[1, 2]

[18-0190] Lessee's/Mortgagee's Consent

See part 40 – Surrender of High-density Development Easement [40-2000].

[18-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[18-2000] Practice

Where a consent or approval is required pursuant to the *Land Title Act 1994* or another Act it must be given on a Form 18 – General Consent except where the form has appropriate provision or another practice is permitted.

A Form 18 – General Consent cannot be lodged on its own. It must be attached to, form part of and be deposited with the instrument or document that is being consented to.

The Registrar does not enforce the contractual arrangements of individuals, therefore if a dealing creating an interest is registered without obtaining the necessary consent required by the contract, the parties are at the risk of the interest being defeated by the party who is entitled to the consent.

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 (Form 18A) (see [21-2220]).

Where an approval to a plan of subdivision is required to be given by a planning body, a Form 18B – Planning Body Approval of Survey Plan (Form 18B) is the appropriate form (see [21 2130]).

A Form 18A or Form 18B cannot be lodged on its own. It must be attached to, form part of and be deposited with a survey plan.

Where a planning body community management statement notation is required for a community management statement, a Form 18C – Planning Body Community Management Statement Notation is the appropriate form (see [14 0120], [14-2600], [45 2200] and [45 2220])[1,2].

A Form 18C cannot be lodged on its own. It must be attached to, form part of and be deposited with a Form 14 – Request to record a community management statement (along with the community management statement)[1,2].

[18-2010] to [18-2050] deleted

Forms

[18-4000] General Guide to Completion of Forms

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

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

GENERAL CONSENT

FORM 18 Version 5

1. Lot on Plan Description | **Title Reference**

LOT 75 ON RP20478 | 16494203

---

2. Instrument/document being consented to

Instrument/document type SURRENDER OF EASEMENT

Dated 17/10/2007

Names of parties EVELYN ALICE WAUGH and ROBERT JOHN WAUGH

---

3. Instrument/document under which consent required

Instrument/document type MORTGAGE

Dealing No. 700000203

Name of consenting party SUNPAC FINANCE PTY LTD ACN 123 456 789

---

4. Execution by consenting party

The party identified in item 3 consents to the registration of the instrument/document identified in item 2.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

.....signature		*A P Lincoln* Sunpac Finance Pty Ltd by its duly constituted attorney Allan Peter Lincoln under Power of Attorney 700000222
.....full name		
.....qualification	20/10/2007	.....
Witnessing Officer (Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 e.g. Legal Practitioner, JP, C Dec)	**Execution Date**	**Consenting Party's Signature**

SAMPLE

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For more information see the Titles Queensland website.

REGISTERED OWNERS/LESSEES CONSENT TO SURVEY PLAN

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

FORM 18A Version 1

1. Survey Plan being consented to

Survey Plan Number SP333333

Registered Owners/Lessees (names in full) Roger John Taylor and Robyn Joy Taylor

2. Consent by Registered Owner/Lessee

*As registered owner/s of this land, I/we agree to this plan and dedicate the Public Use Land as shown on this plan in accordance with Section 50 of the Land Title Act 1994.

~~*As lessee/s of this land, I/we agree to this plan.~~

*(rule through or delete whichever is not applicable)

Roger Taylor
Robyn Taylor

.....
Registered Owner/Lessee Signature/s

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For more information see the Titles Queensland website.

SAMPLE

PLANNING BODY APPROVAL OF SURVEY PLAN

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

FORM 18B Version 1

1. Survey Plan being approved

Survey Plan Number SP333333

Name of Planning Body BIG CITY COUNCIL

2. Approval by Planning Body

BIG CITY COUNCIL approves this plan in accordance with the:
[insert name of Planning Body]

PLANNING ACT 2016
[insert applicable approving legislation]

PETER JONES
MAYOR
BIG CITY COUNCIL
Peter Jones

01 / 05 / 2020
Approval Date

.....
Planning Body Authority
(including designations of signatories)

Planning Body Reference Number : 123XYZ

3. Planning Body Approval exemption

Insert appropriate exemption clause and authorisation.

N/A

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For more information see the Titles Queensland website.

SAMPLE

PLANNING BODY COMMUNITY MANAGEMENT STATEMENT NOTATION

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FORM 18C Version 1

1. Name of community titles scheme

BRIGHTON VILLA COMMUNITY TITLES SCHEME

2. Reference to survey plan to be lodged with statement (if applicable)

SP444444

3. Planning body community management statement notation

I Hope signed

IAN HOPE – CHIEF EXECUTIVE OFFICER name and designation

BRISBANE CITY COUNCIL name of planning body

Planning Body Reference Number: 123ZYX

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For more information see the Titles Queensland website.

SAMPLE

Guide to Completion of Form 18

[18-4010] Item 1

Freehold Description[1, 2]

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

Water Allocation Description[2, 3]

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

State Tenure Description[1, 3]

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

[18-4020] Item 2

Insert type and date of instrument or document to which the consent is to be bound and the full names of both parties involved in the matter.

[18-4030] Item 3

Insert the type and dealing number of the instrument or document under which the consent is required (if applicable). Insert the full name of the consenting party.

[18-4040] Item 4

Execute as required.

[18-4050] Duty

A duty notation is not required

[18-6000] deleted

Guide to Completion of Form 18A[1]

[18-4060] Item 1

Survey Plan being consented to

Survey Plan Number

Insert the number of the survey plan being consented to.

Registered Owners/Lessees

Insert the full name and trust capacity (if applicable) of each registered owner/lessee. For a corporation the name and ACN or ARBN must be shown (see [21-2220]).

[18-4070] Item 2

Consent by Registered Owner/Lessee

The clause that is not applicable should be ruled through or otherwise deleted.

All registered owners/lessees must execute as required. An electronic signature is acceptable provided the signature is an electronic representation of the signatory's actual signature.

Where the body corporate for a community titles scheme is required to execute a Form 18A, the execution must be done in accordance with the relevant regulation module for the scheme. For further information see [45-2060].

Guide to Completion of Form 18B[1]

[18-4080] Item 1

Survey Plan being approved

Survey Plan Number

Insert the number of the survey plan being approved.

Name of Planning Body

Insert the name of the Planning Body giving approval to the survey plan.

[18-4090] Item 2

Approval by Planning Body

Where an approval to a plan of subdivision is required to be given by a planning body, Item 2 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. An electronic signature by the planning body is acceptable, provided the signature is an electronic representation of the signatory's actual signature.

Completion of the Planning Body Reference Number is optional. It can be completed if required by the Planning Body.

[18-4100] Item 3

Planning Body Approval Exemption

Where a plan is exempt from Planning Body approval this item must be completed. It must be signed by an appropriately authorised person, citing the relevant statutory authority for the exemption (See [21-2130]).

Guide to Completion of Form 18C[1, 2]

[18-4200] Item 1

Insert the name of the community titles scheme for the CMS being noted.

[18-4210] Item 2

If there is a related survey plan to be lodged with the CMS – insert the survey plan number.

Alternatively, insert 'N/A' or 'not applicable'.

[18-4220] Item 3

This item must be signed by an authorised officer/delegate of the planning body. An electronic signature by the planning body is acceptable, provided the signature is an electronic representation of the signatory's actual signature.

The officer's/delegate's full name and designation must be included.

Insert the name of the planning body where indicated.

Completion of the Planning Body Reference Number is optional. It can be completed if required by the Planning Body.

Case Law

Nil

[18-7000] to [18-7020] deleted

[18-8000] Fees

No fees are payable for the lodgement of a Form 18 – General Consent.

[18-9000] Cross References and Further Reading

Part 2 – Mortgage (National Mortgage Form)

Part 7 – Lease

Part 9 – Easement

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 21 – Plans and Associated Documents

Part 49 – Water Allocations

[18-9050] Notes in text

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

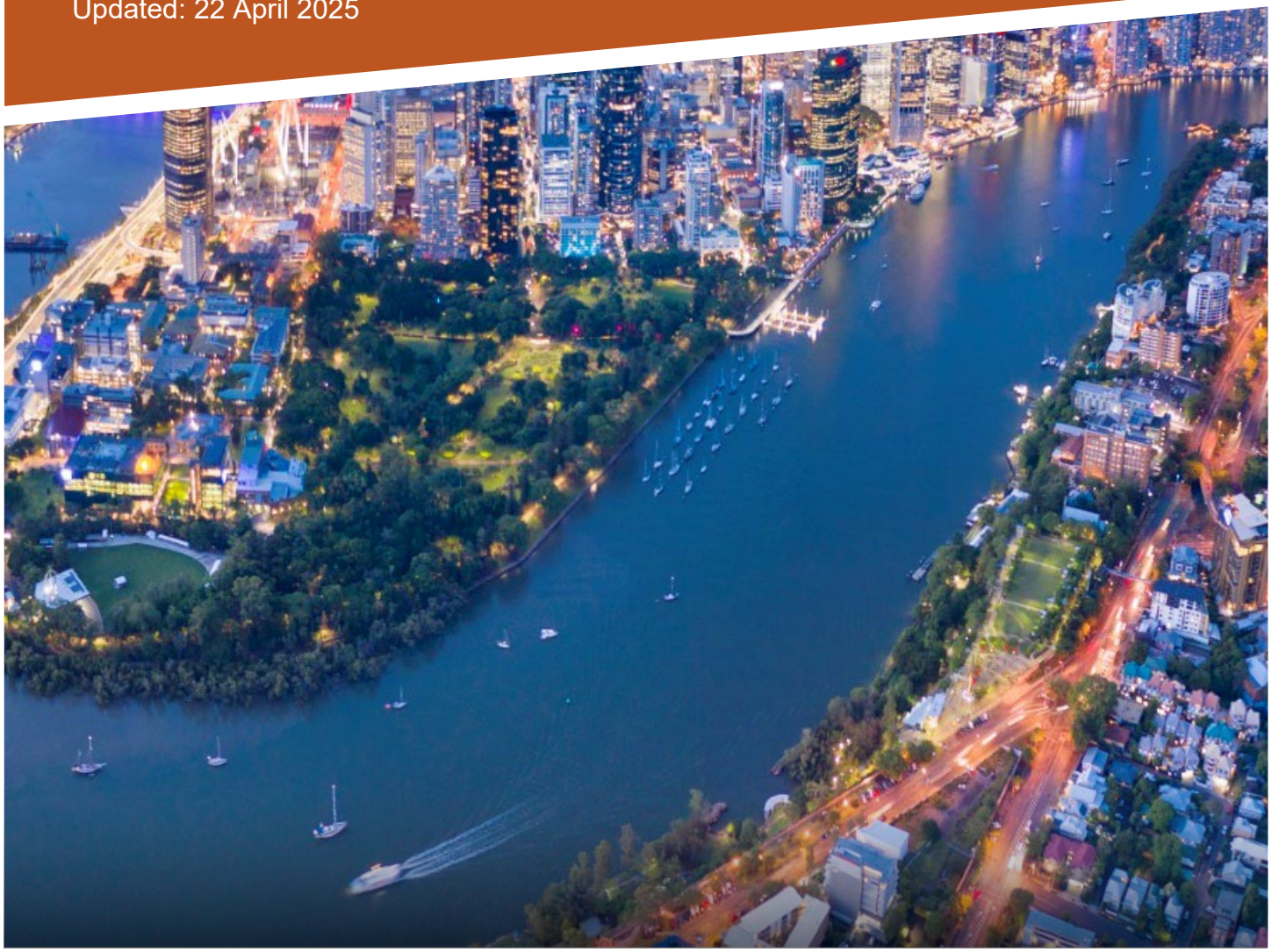
Note[3] – This numbered section, paragraph or statement does not apply to freehold land.

Titles QUEENSLAND

Part 20 – Schedule, Enlarged Panel, Additional Page, Declaration or Standard Terms Document

LAND TITLE PRACTICE MANUAL

Updated: 22 April 2025



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[20-0000] General Law

[20-0000] Schedule

No law is applicable.

[20-0010] Enlarged Panel

No law is applicable.

[20-0020] Additional Page

No law is applicable.

[20-0030] Declaration

The *Oaths Act 1867 (Qld)* or the applicable law of the State or country in which the declaration is made are relevant here.

[20-0040] deleted

[20-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2, 3]

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.

[20-2000] Practice

[20-2000] General

A Form 20 cannot be lodged on its own. It must be attached to another appropriate form.

One Form 20 can be used for any number of purposes. For example, an Enlarged Panel and a Declaration may appear on the same Form 20.

[20-2010] Schedule

Please note that different requirements apply in relation to the use of a *Form 20 – Schedule with the National Mortgage Form*. For the requirements when using the *National Mortgage Form* please refer to Part 2 – Mortgage (National Mortgage Form) esp. [2-4010].

Schedules are generally used to set out provisions or covenants and conditions for instruments or documents such as mortgages, easements or leases.

If used as a schedule, the Form 20 must repeat the relevant item number and name, e.g. 'Item 6 Execution', refer to at least one relevant title reference in the top centre of the page and show consecutive page numbering on the top right hand corner, e.g. 'Page 3 of 5'.

[20-2015] Identity/Witnessing Certification

Refer to Part 61 - Witnessing and Execution of Instruments or Documents esp. [61-2500] and [61-2540].

[20-2016] Trust Details Form

Refer to Part 1 – Transfer esp. [1-2380] to [1-2430] and Part 51 – Trusts esp. [51-4100].

[20-2017] Responsible Entity Details Form

Refer to Part 51 – Trusts esp. [51-2105] and [51-4000].

[20-2018] Body Corporate and Community Management (BCCM) Execution/Relevant Certificate

Refer to Part 45 – Community Title Schemes esp. [45-2060] and [45-2085].

[20-2019] Lease Declaration

Refer to Part 7 – Leases esp. [7-4500] to [7-4550].

[20-2020] Enlarged Panel

Please note that different requirements apply in relation to the use of a *Form 20 – Enlarged Panel* with the *National Mortgage Form*. For the requirements when using the *National Mortgage Form* please refer to Part 2 – Mortgage (National Mortgage Form) esp. [2-4010].

A *Form 20 – Enlarged Panel* must **only** be used when there is insufficient space to contain the necessary information in a panel in a form.

A Form 20 may be used for execution where there is insufficient space on the face of a form. For example, where the form is being executed by:

- a greater number of parties than is provided for by the form; or
- a corporation or an attorney where the space provided on the form is not sufficient for a multi-line attestation clause and the required signatures.

To clarify, where there is sufficient space for all parties to execute on the face of the form, a Form 20 should not be used for execution. Where there is insufficient space for all parties to sign on the face of the form, the spaces provided on the face of the form must be used and the remaining executions must be completed on a *Form 20 – Enlarged Panel*. The words 'see Enlarged Panel' should be included adjacent to the execution/s on the face of the form to reflect that additional executions have been completed on the Form 20 – Enlarged Panel.

Where an instrument or document is lodged with an execution or executions on a Form 20 and there was sufficient space for all parties to execute on the face of the form, the instrument or document will be requisitioned to seek an explanation as to why the Form 20 was used.

A Form 20 may also be required in order to include all of the information required in another panel. For example, Item 2 of a *Form 1 – Transfer*, the description of the land or water allocation, may not provide sufficient space to insert all of the

descriptions of the lots involved, so on the Form 1, Item 2 would be completed with 'see Enlarged Panel'. The *Form 20 – Enlarged Panel* would then contain the relevant panel heading of the Form 1 and set out the descriptions of the lots involved.

To assist timely registration of an instrument or document a form should not include, in the relevant item, more than 20 title references. However, in extenuating circumstances or when it is not practical, a person may apply in writing to the Registrar seeking relaxation.

A Form 20 can contain more than one enlarged panel. As is the situation for schedules, a Form 20 used for one or more enlarged panels must refer to at least one relevant title reference in the top centre of the page, show consecutive page numbering in the top right-hand corner and repeat the relevant item number and name.

[20-2030] Additional Page

Where a schedule or an enlarged panel exceeds one page a *Form 20 – Additional Page* is to be used for the additional pages.

The additional page must repeat the relevant item number and name, refer to at least one relevant title reference in the top centre and show consecutive page numbering on the top right-hand corner.

[20-2040] Declaration

Statutory declarations that are required as essential or supporting evidence for an instrument or a document should generally be prepared on a *Form 20 – Declaration*. A Statutory Declaration (Queensland) can also be made using the appropriate form published by the Department of Justice and Attorney General.

Only statutory declarations that have been signed on paper in the physical presence of an authorised witness are able to be deposited with Titles Registry forms pursuant to sections 16C(6) and 31K(2) of the *Oaths Act 1867* (Qld).

Where a statutory declaration is signed in the physical presence of a witness, an authorised witness means:

- a justice of the peace (JP);
- a commissioner for declarations (Cdec);
- a notary public;
- a lawyer;
- a conveyancer, or another person authorised to administer an oath, under the law of the State, the Commonwealth or another State; or
- another person prescribed by regulation.

If a declaration is required from more than one person as supporting or essential evidence, separate declarations must be completed and deposited.

[20-2050] – [20-2080] deleted

[20-2090] Standard Terms Document

See [14-2160].

[20-4000] Forms

[20-4000] General Guide to Completion of Forms

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

Title Reference [12345201]

ENLARGED PANEL

Item 2 Lot on Plan Description	**Title Reference**
Lot 1 on RP812345	12345201
Lot 5 on RP856304	14235102
Lot 3 on RP804563	16323051
Lot 4 on RP804563	16323052
Lot 5 on RP804563	16323053
Lot 7 on RP804563	16323055

SAMPLE

Title Reference [Insert Title Reference]

Oaths Act 1867

STATUTORY DECLARATION

I, Insert Full Name, of Insert Address, in the **Insert State or Territory** solemnly and sincerely declare that:

1. …
2. …
3. …
4. …

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1867.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that*[1]:

~~A. This declaration was made in the form of an electronic document.~~

~~B. This declaration was electronically signed.~~

~~C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*~~

D. This Declaration was physically signed in the physical presence of the witness.

…… **Signature**	**/ /** **Execution Date**	…… **Declarant's Signature**

……
Full Name

……
Type of Witness*[2]

……
Name of Law Practice /
Witness's Place of Employment*[3]

The footnotes are to assist in the completion of the form and should be deleted once complete.

*[1]Only statutory declarations that have been signed on paper in the physical presence of an authorised witness are able to be deposited with Titles Registry forms pursuant to sections 16C(6) and 31K(2) of the Oaths Act 1867 (Qld).

*[2]Insert the witness's capacity that makes them eligible to witness the statutory declaration. For example, Australian legal practitioner, lawyer, justice of the peace, commissioner for declarations, notary public, government legal officer etc. Refer to section 16B of the Oaths Act 1867 for more information.

*[3]If the Witness is not a justice of the peace or a commissioner for declarations, insert the name of the law practice for the Australian legal practitioner or the name of the government department of the government legal officer. Strike through if not applicable e.g., if it is witnessed by a justice of the peace or a commissioner for declarations. Refer to section 13E(2) of the Oaths Act 1867 for more information.

¶[20-6000] deleted

[20-7000] Case Law

[20-7000] Documents

In *Re Westpac Banking Corporation* [1987] 1 Qd R 300, it was decided that a registered document can contain covenants and conditions as well as other provisions which could not be classified as covenants and conditions.

The provisions of any registered document which are incorporated into another instrument, whether they be covenants and conditions or other types of provisions, will be deemed to be set out in full in that instrument.

[20-8000] Fees

No fees are payable for the lodgement of a Form 20.

[20-9000] Cross References and Further Reading

For further assistance in relation to preparation of statutory declarations refer to the relevant chapter for the Form in question:

Part 1 – Transfer

Part 2 – Mortgage (National Mortgage Form)

Part 5, 5A, 6 – Transmission Applications

Part 7 – Lease/Sub-lease

Part 9 – Easement

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 14 – General Request

Part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice

Part 60 - Miscellaneous

[20-6000] deleted

Titles QUEENSLAND

Part 21 – Plans and Associated Documents

LAND TITLE PRACTICE MANUAL

Updated: 9 December 2024

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Part 21 – Plans and Associated Documents[1]

[21-0000] General Law

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.

[21-0010] Definitions

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

[21-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

Practice

[21-2000] Plan of Survey

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.

[21-2010] Preparation of Plan

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).

A plan of survey in paper form must be printed on paper that is international sheet size A3 and of a density at least 80gm to a square metre.

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

[21-2020] Format

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'.

[21-2030] Standard Format Plan

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.

[21-2040] Building Format Plan

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.

[21-2050] Volumetric Format Plan

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.

[21-2060] Explanatory Format Plan

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.

[21-2070] Plan of Subdivision

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/Lessees 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 the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development to address the issue of the Road Licence prior to lodgement of the plan.

[21-2080] Plan of Survey for Easement

When is a plan of survey required?

Note: this section about when a plan of survey is required does not apply to high-density development easements under Part 6 Division 4AA of the *Land Title Act 1994*.

Section 83 of the *Land Title Act 1994* requires that, for an easement 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 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.

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).

When is Planning Body approval required?

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* and must have the approval of the planning body concerned, when the implementing easement instrument is lodged.

Notwithstanding that the easement is for another purpose in addition to access, the registered plan of survey will still require the approval of the planning body.

In the majority of cases, planning body approval is required for each plan of survey 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.

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.

What form should the planning body approval take?

Where the plan of survey, depicting the easement, is unregistered at the time of lodgement of the easement instrument, planning body approval must be lodged with the plan of survey and:

- for plans of survey prepared using Form 21B Version 2, must be endorsed on Form 18B – Planning Body Approval of Survey Plan; or
- for plans of survey prepared using the previous Form 21B Version 1, must be endorsed on either:
  - Form 21B Version 1 in Item 2; or
  - Form 18B – Planning Body Approval of Survey Plan.

Where the plan of survey, depicting a proposed easement, has already been registered at the time of lodgement of the easement instrument, planning body approval must be lodged with the easement instrument in Form 18 – General Consent. The below table sets out the requirements for planning body approval to be deposited based on the circumstances:

SCENARIO	DEALINGS IN LODGEMENT	FORM REQUIRED	OTHER INFORMATION
Scenario 1: Plan creates new lots and depicts a Proposed Easement	• Survey Plan	Form 18B Planning Body Approval deposited with plan	When the Form 9 Easement is lodged later and the purpose of the easement is access to a lot from a road, a Form 18 General Consent from the relevant Planning Body is required to be deposited. The Form 18 is required notwithstanding a Form 18B Planning Body Approval may have been deposited with the preceding Survey Plan.
Scenario 2: Plan depicts a Proposed Easement only (no new lots are created on the plan)	• Survey Plan	No planning body approval is required to register the plan	When the Form 9 Easement is lodged later and the purpose of the easement is access to a lot from a road, a Form 18 General Consent from the relevant Planning Body is required to be deposited. The Form 18 is required notwithstanding a Form 18B Planning Body Approval may have been deposited with the preceding Survey Plan.
Scenario 3: Plan depicts an Easement for Access to a lot from a road and Form 9 Easement is lodged to follow plan	• Survey Plan • Easement	Form 18B Planning Body Approval is required to be deposited with Survey Plan	There is no requirement for a Form 18 General Consent from the Planning Body to be deposited with the Form 9 Easement.
Scenario 4: Easement for Access to a lot from a road where easement was depicted as "proposed" on previously registered plan	• Easement	Form 18 General Consent from Planning Body to be deposited with Form 9 Easement	The Form 18 General Consent must be deposited, regardless of whether the Form 18B Planning Body Approval was deposited with the previously registered Survey Plan.
Scenario 5: Easement for Access and Services (where	• Easement	No planning body approval required (where access relates	Planning Body approval is not required in situations where there is a specific clause in the grant stating that the access rights are

SCENARIO	DEALINGS IN LODGEMENT	FORM REQUIRED	OTHER INFORMATION
access relates to accessing the Services only)		to accessing the services only)	being used in conjunction with the provision of the services. Where the grant states that the access relates to access to a road, planning body approval on a Form 18 General Consent is required.

In cases where an easement gives access to a lot from a constructed road, but the parties consider that planning body approval is not required, sufficient evidence must be deposited with the easement and Part 3 of Form 18B – Planning Body Approval of Survey Plan must be completed.

General

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 plan must be accompanied by a duly completed Form 18A Registered Owners/Lessees Consent to Survey Plan.

Lodgement fees for a plan are payable.

[21-2090] Plan of Survey for Lease

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].

[21-2100] Plan of Survey for Profit a prendre

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.

[21-2110] Plan of Survey for Covenant

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.

[21-2115] Plan of Survey for Carbon Abatement Interest

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.

[21-2120] Plan of Survey for Resumption

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]).

[21-2130] Approval by Planning Body

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:

1. 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
2. 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
3. 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
4. the acquisition of land for water infrastructure; or

5. a lot that is, or includes, airport land, strategic port land or Brisbane core port land; or
6. a plan lodged under the *Acquisition of Land Act 1967* section 12A, as a result of a reconfiguration stated in paragraph (1) 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 relodged 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

[21-2140] Coastal Management

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

[21-2160] Application made prior to 20 October 2003

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 by way of a duly completed Form 18B.

[21-2170] Application made after 20 October 2003

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.

[21-2180] Access

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.

[21-2190] Reservation for a Public Purpose under s. 23 of the *Land Act 1994*

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 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.

[21-2200] Agreement under the *Local Government (Planning and Environment) Act 1990* or the *Local Government Act 1936*

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

[21-2220] Consent by the Registered Owner/Lessee of a State lease

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

[21-2230] Consent of Mortgagee, Lessee, Covenantee or Grantee of an Easement, Carbon Abatement Interest or of a Profit a Prendre

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.

[21-2235] Consent of other parties

Nature Conservation Act 1992

Section 50(1)(k) of the *Land Title Act 1994* and Section 290J(1)(l)(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 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.

Wet Tropics World Heritage Protection and Management Act 1993

Section 50(1)(l) 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) that affects fee simple land in the wet tropics area under the Wet Tropics World Heritage Protection and Management Act, must be consented to by the executive director of the Wet Tropics Management Authority. Land within

the wet tropics area is identified by the recording of an administrative advice, Wet Tropics Notice, on the relevant title/s. The consent must be on a Form 18 – General Consent. See [52-0170] for further information about a Wet Tropics Notice.

[21-2240] and [21-2250] deleted

[21-2260] Fees

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.

[21-2270] Public Use Land

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 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 Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development 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 Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development 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.

[21-2280] Public Use Land other than Road

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.

[21-2290] Public Use Land – Road

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.

[21-2300] Creation of Indefeasible Title[2]

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.

[21-2310] Transfer to Local Government in Fee Simple[2]

See [1-2580] for information on preparation of a transfer to a local government in fee simple.

[21-2320] Transfer to Local Government as Trustee[2]

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.

[21-2330] Realignment of Lot Boundaries

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

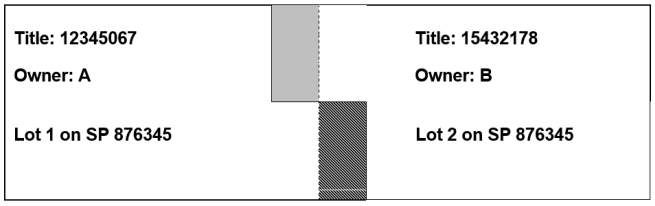
Title: 12345067 **Owner: A** **Lot 7 on SP 800543** **Mortgage to XYZ Bank**	**Title: 15432178** **Owner: B** **Lot 8 on SP 800543** **Mortgage to ABC Bank**

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



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

[21-4000] General Guide to Completion of Forms

For general requirements for completion of forms see part 59 – Forms, esp. [59-2000].

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

PLAN COVER SHEET

FORM 21Z Version 3

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 Titles Queensland website.

Print one-sided only

Lodger (Name, postal address, E-mail & phone number)
THE SURVEYORS
210 ELIZABETH ST
BRISBANE QLD 4000
mail@coatessullivan.com.au
(07) 5555 9999

Lodger Code
320

1. Plan Number
SP333333

Title References
16560051

2. No of New Lots
4

No of Public Use Lots
0

No of Secondary Interests (e.g. Easements)
1

3. Directive Worksheet **OFFICE USE ONLY**

Encumbrances:

Lots:

Associated Dealings:

Plan Examination Checklist	
Dealing Notes	
Form 18 Mortgagee Consent	
Form 18A Registered Owner	
Form 18B Planning Body Approval	
Fees checked	
Plan amendments to original and certified by Surveyor	
All requisitions complete	
Data entry	
New Title directives	

Public Use Land	Park	Road

Examination/Requisition Notes

SAMPLE

Land Title Act 1994 ; Land Act 1994
Form 21 Version 4

SURVEY PLAN

Sheet	of

0 50|m 100|mm 150|mm State copyright reserved.

LOCAL GOVERNMENT: LOCALITY:	Scale:
	Format:
Meridian:	Survey Records

Land Title Act 1994 ; Land Act 1994
Form 21B Version 2

(Dealing No.)

WARNING : Folded or Mutilated Plans will not be accepted.
Plans may be rolled.
Information may not be placed in the outer margins.

Sheet | of

4. Lodged by

(Include address, phone number, email, reference, and Lodger Code)

1. 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 :

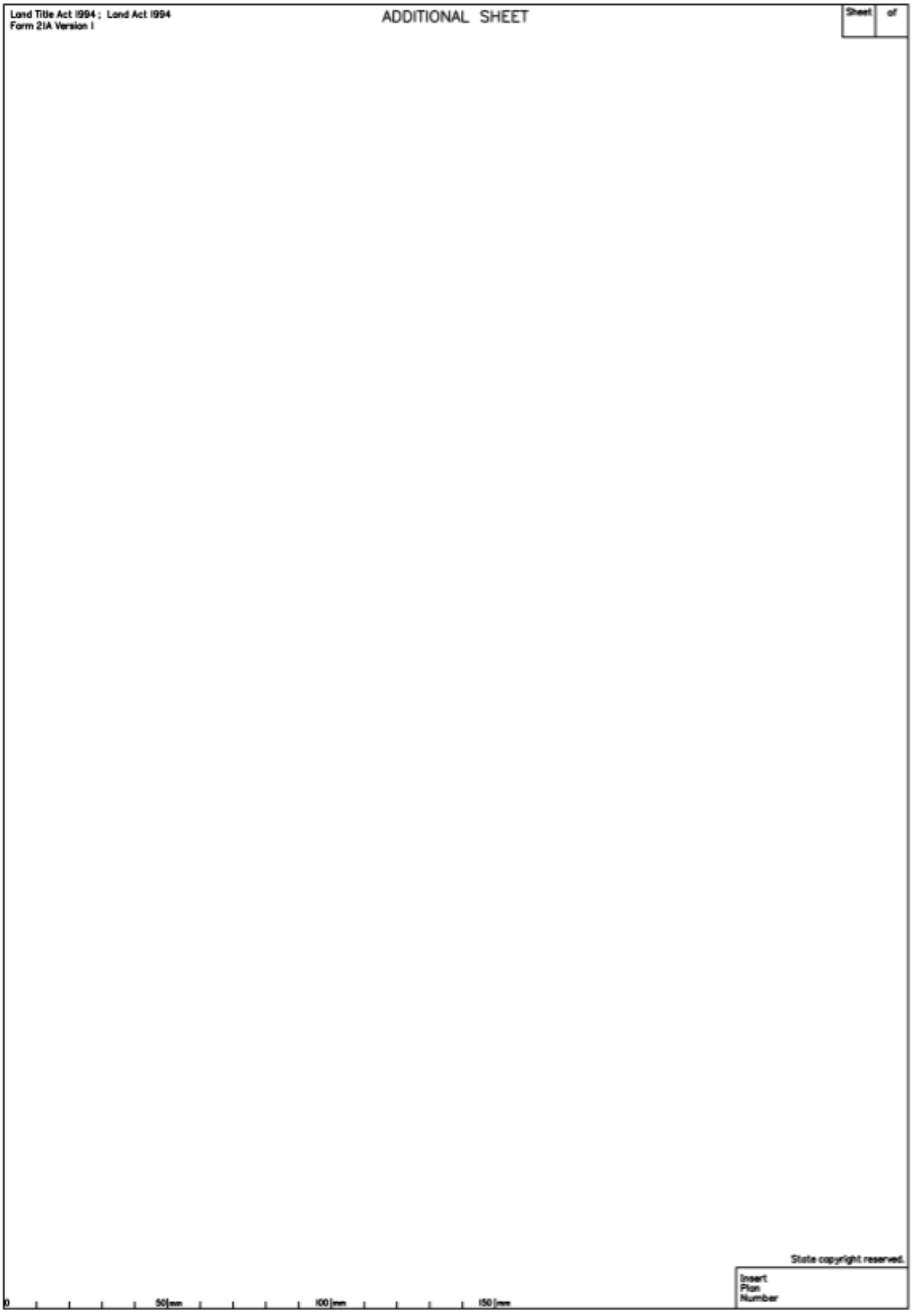
6. Building Format Plans only.
I certify that :
* As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or road;
* Part of the building shown on this plan encroaches onto adjoining * lots and road

.....
Cadastral Surveyor/Director* Date
*delete words not required

7. Lodgement Fees :

Survey Deposit	$.....
Lodgement	$.....
.....New Titles	$.....
Photocopy	$.....
Postage	$.....
TOTAL	$.....

8. Insert Plan Number


Land Title Act 1994 ; Land Act 1994
Form 21A Version 1
ADDITIONAL SHEET
Sheet
of
State copyright reserved.
Insert
Plan
Number
0
50 mm
100 mm
150 mm

[21-4010] Guide to Completion of Forms 21Z/21/21A/21B

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:

(Completed by the Lodger)

The name, postal 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:

(Completed by the Lodger)

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

(Completed by the Lodger)

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.

A plan of survey in paper form must be printed on paper that is international sheet size A3 and of a density at least 80gm to a square metre.

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, postal 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:

(Optional - If completed, it must be by the Surveyor otherwise item can be ruled through or left blank)

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

[21-7000] *Rock v Todeschino* [1983] Qd R 356

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

[21-8000] Fees

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

[21-9000] Cross References and Further Reading

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

[21-9050] Notes in text

Note [1] – This part is not applicable to water allocations.

Note [2] – This numbered section, paragraph or statement does not apply State Land.

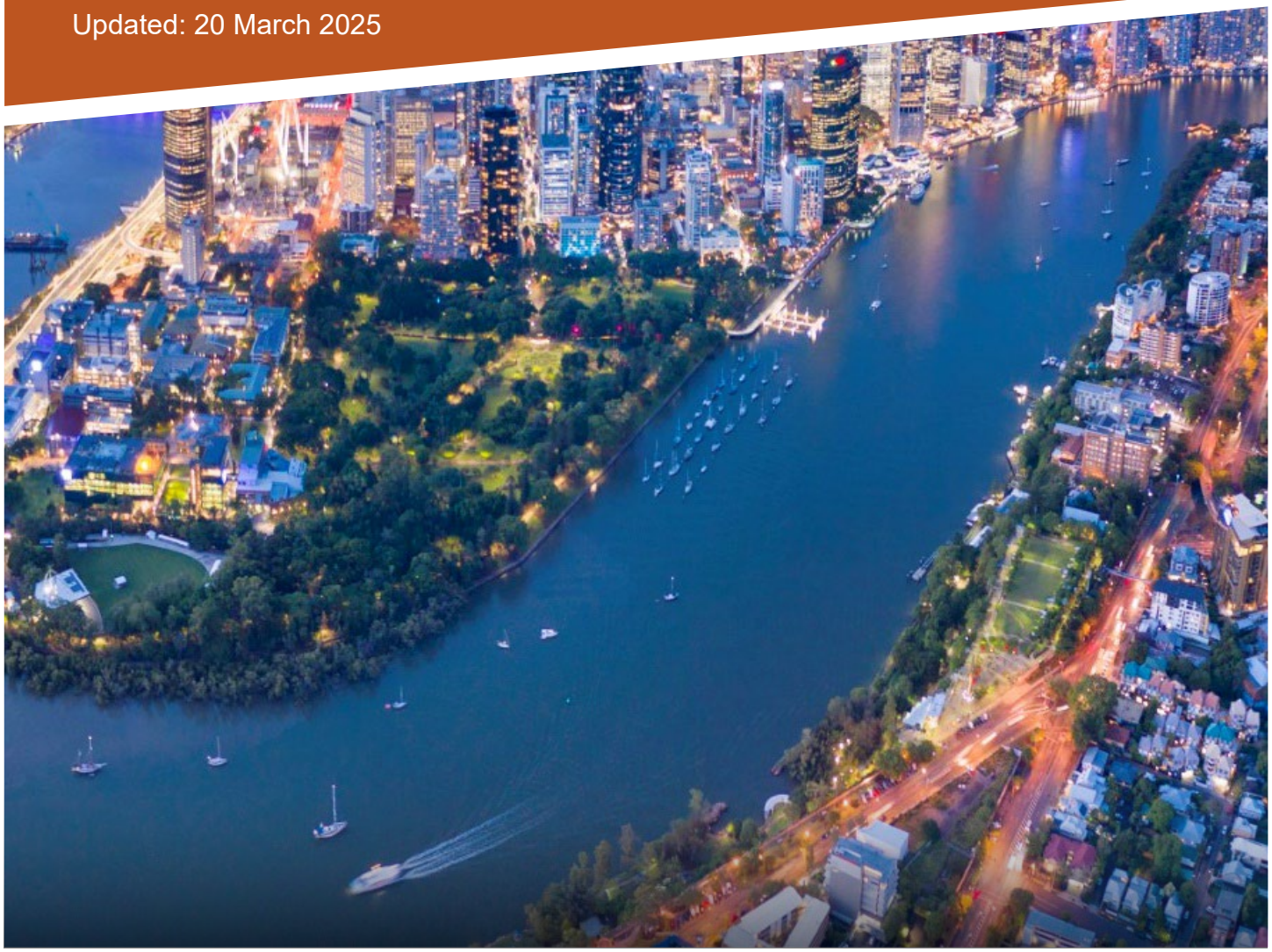
Note [3] – This numbered section, paragraph or statement does not apply to freehold land.

Titles QUEENSLAND

Part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice

LAND TITLE PRACTICE MANUAL

Updated: 20 March 2025



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Part 23 – Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice[2]

[23-0000] General Law

Part 7A of the *Land Title Act 1994* creates a procedure for deposit in the registry of a priority notice. A priority notice seeks to reserve the priority of instruments that are to be lodged that affect a lot or an interest in a lot.

The most common use of a priority notice is to reserve priority for a transfer and/or a mortgage intended to be lodged in relation to a lot over any instruments not specified in the priority notice lodged in relation to the same lot during the currency of the priority notice.

A priority notice, once entered, alerts all interested parties who perform a title search to the fact that lodgement of the instrument(s) listed in the notice is intended.

[23-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[23-2000] Practice

[23-2000] Requirements of Priority Notice

A priority notice must:

- be prepared using a *Priority Notice Form*;
- state the name of the person who is or will be a party to an instrument that is to be lodged and will affect the lot or an interest in the lot (the ***applicant***);
- be signed by or for the ***applicant***; and
- sufficiently describe:
  - the lot(s)/water allocation(s) affected by the instrument which the ***applicant*** is or will be a party to; and
  - each instrument to be lodged to which the notice relates (the ***Transaction Instruments***) including the instrument which the ***applicant*** is or will be a party to; and
- state the order in which the ***Transaction Instruments*** are intended to be lodged.

[23-2010] When Priority Notice can be deposited

A priority notice may only be deposited in the circumstances set out below.

1. In relation to freehold land.
2. In relation to a water allocation.
3. By or for an ***applicant*** (a person who is or will be a party to an instrument that is to be lodged that will affect the lot(s)/water allocation(s) or an interest in the lot(s)/water allocation(s)).
4. For ***Transaction Instruments*** including the instrument the ***applicant*** is or will be a party to.

[23-2020] Operation and Effect of Priority Notice

A priority notice operates from the time of deposit until the earlier of:

- the time when the priority notice lapses which is:
  - the time when all the ***Transaction Instruments*** specified in the notice have been registered in the order stated in the notice (see *Priority Notice Form Transaction Instruments Panel*); or
  - if an extension request has **not** been deposited: the day that is 60 days after the notice was deposited; or
  - if an extension request (*Extension of Priority Notice Form*) has been deposited: the day that is 90 days after the notice was deposited; or
- the time when the priority notice is:
  - withdrawn by the ***applicant*** (*Withdrawal of Priority Notice Form*); or
  - removed on order of the Supreme Court; or
  - cancelled by the Registrar.

While current, a priority notice prevents registration of any instruments affecting the lot/water allocation or an interest in the lot/water allocation other than:

- an instrument the lodgement of which the ***applicant*** has consented to. The consent must be in a *Form 18 – General Consent*, deposited with the instrument;
- an instrument of transfer or release of mortgage executed by a mortgagee whose interest was registered before the notice was deposited;
- an instrument lodged before the priority notice was deposited;
- a ***Transaction Instrument*** if it is lodged in the order stated in the priority notice (see *Priority Notice Form Transaction Instruments Panel*);
- a caveat;
- another instrument that, if registered, would not affect an interest the subject of the notice; and
- an instrument listed as a ***Transaction Instrument*** in an earlier priority notice if the earlier priority notice has not lapsed or been withdrawn, removed or cancelled.

[23-2025] Extension of Priority Notice

The 60 day currency period of a priority notice can be extended by 30 days (to a currency period of 90 days) by depositing an extension request to extend the notice. Only one extension request may be deposited for a priority notice.

An extension request must:

- be prepared using an *Extension of Priority Notice Form*;
- be signed by or for the ***applicant*** for whom the priority notice was deposited; and
- be deposited while the priority notice is current.

[23-2030] Lodged Instruments that are not *Transaction Instruments*

If an instrument is lodged ('A') and it is prevented from being registered by the earlier deposit of a priority notice, it will be requisitioned, advising that a priority notice has been deposited.

If the ***Transaction Instruments*** referred to in the priority notice (see Priority Notice Form *Transaction Instruments Panel*) are subsequently lodged within the currency period, the first instrument (A) will be requisitioned for withdrawal within 14

days. If the first instrument (A) is not withdrawn within that 14 day period, it will be withdrawn by the Registrar (s. 147 of the *Land Title Act 1994*). In a situation where the first instrument (A) would be capable of registration after the ***Transaction Instruments*** referred to in the priority notice are registered, it will be withdrawn and re-entered to follow them.

The result is that competing instruments are taken to have been lodged after the ***Transaction Instruments*** detailed in the *Transaction Instruments Panel* whilst the notice is still current.

For example:

1. A Priority Notice is deposited on 20 February and details a Transfer between the registered owner (Atkins) and Brown (the Purchaser/***applicant***) as a ***Transaction Instrument*** in the Priority Notice Form *Transaction Instruments Panel*. It is allocated a dealing number as an administrative advice and recorded in the relevant register.
2. A Transfer between the registered owner (Atkins) and Johns (a competing instrument not listed as a ***Transaction Instrument*** in the *Transaction Instruments Panel* in the priority notice) is lodged on 3 March (i.e. during the 60 day currency period of the priority notice), allocated the dealing number of XXX099093, yet prevented from being registered by the priority notice.
3. The transfer from Atkins to Brown (the ***Transaction Instrument*** specified in the *Transaction Instruments Panel* in the priority notice) is lodged on 14 April (i.e. during the 60 day currency period of the priority notice) and allocated dealing number XXX768952.

In accordance with Part 7A of the Land Title Act, the transfer from Atkins to Brown (the ***Transaction Instrument*** specified in the *Transaction Instruments Panel* in the priority notice) must register first and the transfer between Atkins and Johns will be taken to have been lodged immediately after the Transfer from Atkins to Brown (s. 148 of the Land Title Act).

To give effect to section 148(1) of the Land Title Act the Registrar is empowered (under s. 147(1) of the Land Title Act) to withdraw the Transfer from Atkins to Johns.

However, prior to that withdrawal, the Registrar is required to notify the person who lodged the transfer of the intended withdrawal 14 days prior to the action (s. 147(2) of the Land Title Act).

After withdrawal, the withdrawn instrument will be considered so as to determine whether it would be capable of registration after the ***Transaction Instruments*** detailed in the *Transaction Instruments Panel* in the priority notice have registered. If it is, it will be re-entered to follow them and taken to have been lodged immediately after the lodgement of the ***Transaction Instruments*** detailed in the *Transaction Instruments Panel* in the priority notice. (s. 148 of the Land Title Act). In the above scenario the transfer from Atkins to Johns cannot be registered and the transfer will be rejected.

[23-2040] Recording Priority Notice

A priority notice will be entered into the Automated Titles System (ATS) as an administrative advice.

A priority notice notation will appear on a title search from the time of its deposit with a status of 'current' for 60 days (or 90 days if an extension request has been deposited) unless all of the ***Transaction Instruments*** specified in the notice are lodged or the notice is withdrawn, removed or cancelled. A lapsed priority notice may appear on a title search with a status of 'current' for up to a month following its lapsing until it is automatically removed from the title. This assists registry staff administering provisions of Part 7A of the Land Title Act.

[23-2050] Withdrawing Priority Notice

A priority notice may be withdrawn by depositing a request to withdraw the notice.

The request must:

- be prepared using a *Withdrawal of Priority Notice Form* (the approved form); and
- be signed by or for the ***applicant*** for whom the priority notice was deposited.

[23-2060] Removing Priority Notice

If the Supreme Court makes an order to remove a priority notice under s. 144 of the *Land Title Act 1994*, that order must be lodged in the registry with a *Form 14 – General Request* that the priority notice be removed. This Form 14 will attract normal lodgement fees. The ***applicant*** does not have to be notified of this order or of an application made to the Supreme Court for the order.

[23-2070] Cancelling Priority Notice

The Registrar may cancel a priority notice if a *Form 14 – General Request* to cancel the notice is deposited outlining the basis for cancellation and the Registrar is satisfied that it is unlikely the ***Transaction Instruments*** listed in the *Transaction Instruments Panel* in the notice will be lodged before the notice lapses (s. 145 of the *Land Title Act 1994*). The *Form 14 – General Request* must be accompanied by a *Form 20 – Declaration* supporting the cancellation of the priority notice and any relevant documentary evidence. For information about depositing supporting documentation see [60-1030]. Normal lodgement fees apply.

Before cancelling a priority notice under s. 145 of the Land Title Act, the Registrar must give written notice to the ***applicant*** of the Registrar's intention to cancel the priority notice at least seven days prior to cancelling the priority notice.

Notice of the Registrar's intention to cancel a priority notice required to be given under s. 145 of the *Land Title Act 1994* will be properly served if left at or sent to the address stated in the *Lodger Details Panel* for the person who deposited the notice (the lodger).

[23-2080] Minor Corrections

The Registrar may make a minor correction to a priority notice if a written request is received and the Registrar is satisfied that the correction is minor (s. 149 *Land Title Act 1994*).

The written request must be:

- in the form of a letter or e-mail addressed to the Registrar; and
- must be sent by or on behalf of the ***applicant*** for whom the priority notice was deposited.

Minor corrections would include incorrect spelling of names. However, changes of names, details of ***Transaction Instruments*** and lots/water allocations are not considered minor corrections. For example, a minor correction might be the incorrect spelling of 'Jon' rather than 'John" but would not include the name 'James' rather than 'John'.

[23-4000] Forms

[23-4000] General Guide to Completion of Forms

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

Example 1 – Priority Notice for a Release of Mortgage, Transfer and Mortgage

Priority Notice Form version 1

Lodger Details

Lodger Code	
Name	SMITH & HAYES
Address	10 MARY STREET BRISBANE QLD 4000
Lodger Box	123
Phone	(07) 3227 5055
Email	info@smithhayes.com.au
Reference	SMITH:ABC

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PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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Title Reference	Lot on Plan Description
16172222	LOT 2 ON RP3467

Applicant

Name JOHN THOMAS CLARE

Transaction Instruments

Order

Document Type	RELEASE OF MORTGAGE
Dealing No.	MORTGAGE NO. 714818456
Title Reference	16172222
Document Type	TRANSFER
Party Receiving	JOHN THOMAS CLARE
Title Reference	16172222
Document Type	MORTGAGE
Party Receiving	SUNPAC FINANCE PTY LTD
Title Reference	16172222

The recording of this Priority Notice is requested.

SAMPLE

Applicant Execution

Executed on behalf of	JOHN THOMAS CLARE
Signer Name	PETER PAUL JAMES
Signer Role	SOLICITOR
Signature	*P P James*
Execution Date	10 / 10 / 2017

SAMPLE

Example 1A – Priority Notice for a Release of Mortgage, Transfer and Mortgage

Priority Notice Form version 1

Lodger Details

Lodger Code	
Name	SMITH & HAYES
Address	10 MARY STREET BRISBANE QLD 4000
Lodger Box	123
Phone	(07) 3227 5055
Email	info@smithhayes.com.au
Reference	SMITH:ABC

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PRIORITY NOTICE

Jurisdiction QUEENSLAND

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Title Reference	Lot on Plan Description
16172222	LOT 1 ON RP123456 LOT 2 ON RP123456
53215684	LOT 40 ON SP256245 LOT 41 ON SP256245

Applicant

Name	ABC PTY LTD
ACN	204745692
Name	RHINO PTY LTD
ACN	104545692

Transaction Instruments

Order

Document Type	RELEASE OF MORTGAGE
Dealing No.	MORTGAGE NO. 714818456
Title Reference	16172222
Title Reference	53215684
Document Type	TRANSFER
Party Receiving	ABC PTY LTD
Capacity	AS TRUSTEE
Party Receiving	RHINO PTY LTD
Capacity	AS TRUSTEE
Title Reference	16172222
Title Reference	53215684

SAMPLE

Document Type	MORTGAGE
Party Receiving	SUNPAC FINANCE PTY LTD
Title Reference	16172222
Title Reference	53215684

The recording of this Priority Notice is requested.

Applicant Execution

Executed on behalf of ABC PTY LTD

Signer Name PETER PAUL JAMES

Signer Role SOLICITOR

Signature *P P James*

Execution Date 10 / 10 / 2017

Executed on behalf of RHINO PTY LTD

Signer Name PETER PAUL JAMES

Signer Role SOLICITOR

Signature *P P James*

Execution Date 10 / 10 / 2017

SAMPLE

Example 2 – Priority Notice for a Lease

Priority Notice Form version 1

Lodger Details

Lodger Code	
Name	BIG CITY LAW
Address	100 QUEEN STREET BRISBANE QLD 4000
Lodger Box	321
Phone	(07) 3220 1000
Email	info@bigcity.com.au
Reference	DOBBY:ABC

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PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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Title Reference	**Lot on Plan Description**
11223078	LOT 1 ON SP102568

Applicant

Name	BARGAIN BUYS PTY LTD
ACN	321654987

Transaction Instruments

Order

Document Type	LEASE
Party Receiving	BARGAIN BUYS PTY LTD
Title Reference	11223078
Part Land?	Y
Part Description	LEASE A ON SP345684 IN LOT 1 ON SP102568

The recording of this Priority Notice is requested.

Applicant Execution

Executed on behalf of BARGAIN BUYS PTY LTD

Signer Name HAROLD ARTHUR JAMES

Signer Role SOLICITOR

Signature *H A James*

Execution Date 10 / 10 / 2017

SAMPLE

General Guide to Completion of *Priority Notice Form*

For more detailed instructions on the completion of the *Priority Notice Form* Panels and how to add or delete Fields within the Panels in Microsoft Word – refer to the *Guide to completion – Priority Notice Form* available from the Titles Queensland Forms web page.

[23-4010] Lodger Details

Complete with the Lodger Details.

The combination of details must contain the minimum information necessary for positive identification and contact by mail, electronic mail and telephone.

If the Lodger Code Field is completed, there is no need to complete the Name Field, Address Field, Lodger Box Field, Phone Field or Email Field.

If the Lodger Code Field is not completed, the following fields should be completed:

1. The Name Field with the name of the lodger;
2. The Address Field with the postal address of the lodger;
3. The Lodger Box Field with the lodger box reference (if applicable);
4. The Phone Field with the telephone number of the lodger;
5. The Email Field with the email address of the lodger.

The Reference Field can be completed with the lodger's internal reference for the matter. This data is not required or used by the Titles Registry.

[23-4020] Jurisdiction

The Jurisdiction must always state QUEENSLAND.

[23-4030] Title Reference/Lot on Plan Description

Freehold Land Description[1]

Complete with the Title Reference(s) over which the priority notice will be deposited and insert all of the Lot on Plan Descriptions for each Title Reference. The Lot on Plan Description 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.

Example:

Title Reference	Lot on Plan Description
11223078	Lot 27 on RP204939
52223988	Lot 1 on SP123456 Lot 2 on SP123456

Water Allocation Description[3]

Complete with the Title Reference(s) over which the priority notice will be deposited and insert the relevant description for each Water Allocation. 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.

Example:

Title Reference	Lot on Plan Description
46012345	WA 27 ON AP7900

[23-4040] Applicant

For an individual – insert the full legal name of the individual in the Name Field. The ACN Field and ARBN Field can be left blank or deleted.

For an organisation – insert the legal name of the organisation in the Name Field. For a company or entity registered under the *Corporations Act 2001* (Cth) the legal name is the name that is shown on an ASIC search in the Current Organisation Details:

Current Company Extract

ASIC Company Pty Ltd
ACN 000 000 123

Organisation Details		Document Number
Current Organisation Details		
Name:	ASIC Company Pty Ltd	000 000 123
ACN:	000 000 123	
ABN:	11 000 000 123	
Registered in:	Victoria	
Registration date:	01/01/2011	
Next review date:	01/01/2011	
Name start date:	01/01/2011	
Previous state number:	BN0000123	
Status:	Registered	
Company type:	Australian proprietary company	
Class:	Limited by shares	
Subclass:	Proprietary company	

If the organisation has an ACN or ARBN this must be inserted in either the ACN Field or ARBN Field as applicable. If an ACN Field or ARBN Field is not required, it can be left blank or deleted.

[23-4050] Transaction Instruments

List the ***Transaction Instruments*** that will be lodged in the order in which they will be lodged.

For detailed instructions and requirements refer to the *Guide to completion – Priority Notice Form* available from the Titles Queensland Forms web page.

Where a Party Receiving will be recorded on the transaction instrument to be lodged in a capacity other than their personal capacity (e.g. as Trustee) the relevant capacity must be inserted in the Capacity Field for the Party Receiving (see Example 1A).

[23-4070] Applicant Execution

The form must be executed by the ***applicant****(s)* or a legal practitioner on behalf of the ***applicant****(s)*. Refer to the *Guide to completion – Priority Notice Form* available from the Titles Queensland Forms web page for execution examples.

For a company ***applicant*** executing the Priority Notice, the ACN or ARBN does not need to be included in the company name in the *Applicant Execution Panel* if it has been included in the *Applicant Panel*.

Example 1A – Extension of Priority Notice

Extension of Priority Notice Form version 1

Lodger Details

Lodger Code	
Name	SMITH & HAYES
Address	10 MARY STREET BRISBANE QLD 4000
Lodger Box	123
Phone	(07) 3227 5055
Email	info@smithhayes.com.au
Reference	SMITH:ABC

For Office Use Only

THE BACK OF THIS FORM MUST NOT BE USED

EXTENSION OF PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference	Lot on Plan Description
16172222	LOT 2 ON RP3467

Priority Notice Number 712345678

The extension of this Priority Notice is requested.

Applicant Execution

Executed on behalf of	JOHN THOMAS CLARE
Signer Name	PETER PAUL JAMES
Signer Role	SOLICITOR
Signature	*P P James*
Execution Date	10 / 10 / 2017

SAMPLE

Guide to Completion of Extension of Priority Notice Form

[23-5010] Lodger Details

Complete with the Lodger Details.

[23-5020] Jurisdiction

The Jurisdiction must always state QUEENSLAND.

[23-5030] Title Reference/Lot on Plan Description

Complete with the Title Reference(s) over which the priority notice was deposited and insert all of the Lot on Plan Descriptions or Water Allocation description for each Title Reference.

[23-5040] Priority Notice Number

Insert the dealing number of the Priority Notice to be extended.

[23-5070] Applicant Execution

The form must be executed by the ***applicant***(s) or a legal practitioner on behalf of the ***applicant***(s).

Example 1B – Withdrawal of Priority Notice

Withdrawal of Priority Notice Form version 1

Lodger Details

Lodger Code	
Name	SMITH & HAYES
Address	10 MARY STREET BRISBANE QLD 4000
Lodger Box	123
Phone	(07) 3227 5055
Email	info@smithhayes.com.au
Reference	SMITH:ABC

For Office Use Only

THE BACK OF THIS FORM MUST NOT BE USED

WITHDRAWAL OF PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference	Lot on Plan Description
16172222	LOT 2 ON RP3467

Priority Notice Number 712345678

The withdrawal of this Priority Notice is requested.

Applicant Execution

Executed on behalf of	JOHN THOMAS CLARE
Signer Name	PETER PAUL JAMES
Signer Role	SOLICITOR
Signature	*P P James*
Execution Date	10 / 10 / 2017

SAMPLE

Guide to Completion of Withdrawal of Priority Notice Form

[23-6010] Lodger Details

Complete with the Lodger Details.

[23-6020] Jurisdiction

The Jurisdiction must always state QUEENSLAND.

[23-6030] Title Reference/Lot on Plan Description

Complete with the Title Reference(s) over which the priority notice was deposited and insert all of the Lot on Plan Descriptions or Water Allocation description for each Title Reference.

[23-6040] Priority Notice Number

Insert the dealing number of the Priority Notice to be withdrawn.

[23-6070] Applicant Execution

The form must be executed by the ***applicant***(s) or a legal practitioner on behalf of the ***applicant***(s).

[23-7000] eConveyancing

[23-7010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the *Land Title Act 1994* (Qld), and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[23-7100] Scope Restrictions

Refer to the Titles Queensland website for the list of transactions currently available through eConveyancing.

[23-7105] Electronic Conveyancing Mandate

The eConveyancing mandate commenced on 20 February 2023 and applies to all industry professionals who are eligible to become subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to Corporate Entities who are lodging a required instrument.

The mandate, introduced by the *Land Title Regulation 2022* provides that certain types of Titles instruments, known as required instruments, must be lodged through an Electronic Lodgment Network (ELN). For more information, refer to Part [62-6000] – eConveyancing Mandate.

The Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice Forms are required instruments under the Regulation and are therefore required to be lodged through a ELN unless an exemption applies.

Because the Electronic Lodgment Network Operators (ELNOs) regularly update their functionality in conjunction with Titles Queensland, and the Queensland Revenue Office (QRO), a current list of required instruments and their inclusions and

exemptions is maintained on the Titles Queensland website rather than in the Land Title Practice Manual to ensure the information is as current and accurate as possible.

ELN Subscribers should therefore refer to the Titles Queensland website for the list of required instruments to be lodged through eConveyancing as well as any exemptions that may apply. Specifically, ELN Subscribers should confirm that the instrument is not exempt and is included in the mandate before attempting to lodge the instrument by way of eConveyancing.

[23-7110] Exemptions to Required Instruments

There are two categories of exemptions that may apply to required instruments, these are general exemptions, and instrument specific exemptions.

The general exemptions to the mandate are those which are contained in the Regulation and apply to all instruments required to be lodged through eConveyancing. These general exclusions can be found in Part [62-6022] of the Manual and on the Titles Queensland website.

Instrument specific exemptions are those exclusions which apply only to a specific instrument (for example a Priority Notice, Extension of Priority Notice or Withdrawal of Priority Notice) and a list of these exclusions can be found on the Titles Queensland website and are updated from time to time as the functionality of each instrument changes.

[23-7115] When an Exemption Applies

In circumstances where an exemption applies, an Exemption Request Form (ERF) should be completed. For Further information refer to Part [62-6040].

[23-7200] Prescribed Requirements

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.

There are not currently any prescribed requirements for a Priority Notice Form (electronic), Extension of Priority Notice Form (electronic) or Withdrawal of Priority Notice Form (electronic).

[23-7300] Attachments

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a Priority Notice Form (electronic), Extension of Priority Notice Form (electronic) or Withdrawal of Priority Notice Form (electronic).

[23-7400] Execution and Certification

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

[23-7600] Electronic Forms

[23-7610] Approved Electronic Forms

A Priority Notice Form, Extension of Priority Notice Form or Withdrawal of Priority Notice Form that is an Electronic Conveyancing Document (an eConveyancing Priority Notice form) 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 Priority Notice form must be digitally signed by or for each ***applicant*** as required by the approved form and Participation Rules.

Representations of the electronic forms approved by the Registrar under s. 7 of the Electronic Conveyancing National Law (Queensland) are shown below.

Lodger Details

Lodger Code
Name
Address

Lodger Box
Phone
Email
Reference

PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference **Lot on Plan Description**

Applicant

Name
ACN/ARBN

Transaction Instruments

Order

1 Document Type
Dealing No.
Party Receiving
Title Reference
Part Land?
Land Description
Part Description

2 Document Type
Dealing No.
Party Receiving
Title Reference
Part Land?
Land Description
Part Description

The recording of this Priority Notice is requested.

I certify that:
Signed by:

For
On behalf of
Dated:

This is a representation of the instrument that was electronically lodged

Lodger Details

Lodger Code
Name
Address

Lodger Box
Phone
Email
Reference

EXTENSION OF PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference **Lot on Plan Description**

Priority Notice Number

The extension of this Priority Notice is requested.

I certify that:

Signed by:

For
On behalf of
Dated:

This is a representation of the instrument that was electronically lodged

Lodger Details

Lodger Code
Name
Address

Lodger Box
Phone
Email
Reference

WITHDRAWAL OF PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference **Lot on Plan Description**

Priority Notice Number

The withdrawal of this Priority Notice is requested.

I certify that:

Signed by:

For
On behalf of
Dated:

This is a representation of the instrument that was electronically lodged

[23-7620] Electronic Form Examples

Priority Notice Form (electronic) version 1

Lodger Details

Lodger Code	
Name	SMITH & HAYES
Address	10 MARY STREET BRISBANE QLD 4000
Lodger Box	
Phone	
Email	
Reference	ABC: 123

871234567
PX PNN
07/01/2021 09:01:13

PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference	Lot on Plan Description
16172222	LOT 2 ON RP3467

Applicant

Name JOHN THOMAS CLARE

Transaction Instruments

Order		
1	Document Type	Release of Mortgage
	Dealing No.	714818456
	Title Reference	16172222
	Part Land?	N
2	Document Type	Transfer
	Party Receiving	JOHN THOMAS CLARE AS TRUSTEE
	Title Reference	16172222
	Part Land?	N
3	Document Type	Mortgage
	Party Receiving	SUNPAC FINANCE PTY LTD
	Title Reference	16172222
	Part Land?	N

The recording of this Priority Notice is requested.

I certify that:

1. The Certifier has retained the evidence supporting this Registry Instrument or Document.
2. 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 Paul James
For SMITH & HAYES
On behalf of JOHN THOMAS CLARE
Dated: 07/01/2021

SAMPLE

This is a representation of the instrument that was electronically lodged

[23-7700] Electronic Form Notes for Completion – Priority Notice Form

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

PANEL	NOTES
Transaction Instruments	**Party Receiving as Trustee** Where a Party Receiving will be recorded on the transaction instrument to be lodged as a Trustee, the Trustee capacity must be selected for the relevant Party Receiving. Example: **Transaction Instruments** Order 1 Document Type: Transfer Party Receiving: JOHN THOMAS CLARE AS TRUSTEE Title Reference: 16172222 Part Land?: N

Electronic Form Example 2 – Extension of Priority Notice Form

Extension of Priority Notice Form (electronic) version 1

Lodger Details

Lodger Code
Name SMITH & HAYES
Address 10 MARY STREET BRISBANE
QLD 4000
Lodger Box
Phone
Email
Reference ABC: 123

871235567
SY PNE
28/01/2021 10:01:13

EXTENSION OF PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference	**Lot on Plan Description**
16172222	LOT 2 ON RP3467

Priority Notice Number 871234567

The extension of this Priority Notice is requested.

I certify that:

1. The Certifier has retained the evidence supporting this Registry Instrument or Document.
2. 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 Paul James
For SMITH & HAYES
On behalf of JOHN THOMAS CLARE
Dated: 28/01/2021

SAMPLE

This is a representation of the instrument that was electronically lodged

[23-7710] Electronic Form Notes for Completion – *Extension of Priority Notice Form*

Nil.

Withdrawal of Priority Notice Form (electronic) version 1

Lodger Details

Lodger Code
Name SMITH & HAYES
Address 10 MARY STREET BRISBANE QLD 4000
Lodger Box
Phone
Email
Reference ABC: 123

871236567
PX PNW
02/02/2021 11:01:13

WITHDRAWAL OF PRIORITY NOTICE

Jurisdiction QUEENSLAND

Privacy Collection Statement

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

Title Reference	**Lot on Plan Description**
16172222	LOT 2 ON RP3467

Priority Notice Number 871234567

The withdrawal of this Priority Notice is requested.

I certify that:

1. The Certifier has retained the evidence supporting this Registry Instrument or Document.
2. 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 Paul James
For SMITH & HAYES
On behalf of JOHN THOMAS CLARE
Dated: 02/02/2021

SAMPLE

This is a representation of the instrument that was electronically lodged

[23-7720] Electronic Form Notes for Completion – *Withdrawal of Priority Notice Form*

Nil.

[23-8000] Fees

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

[23-9000] Cross References and Further Reading

Part 1 — Transfer

Part 2 — Mortgage (National Mortgage Form)

Part 3 — Release of Mortgage

Part 4 — Request to Record Death

Part 5, 5A, 6 — Transmission Applications

Part 7 — Lease

Part 8 — Surrender of Lease

Part 9 — Easement

Part 10 — Surrender of Easement

Part 14 — General Request

Part 18 — General Consent

Part 49 — Water Allocations

Part 50 — Corporations and Companies

Part 51 — Trusts

Part 62 — eConveyancing

[23-9050] Notes in text

Note[1] – This numbered section, paragraph or statement does not apply to water allocations.

Note[2] – This part does not apply to State land.

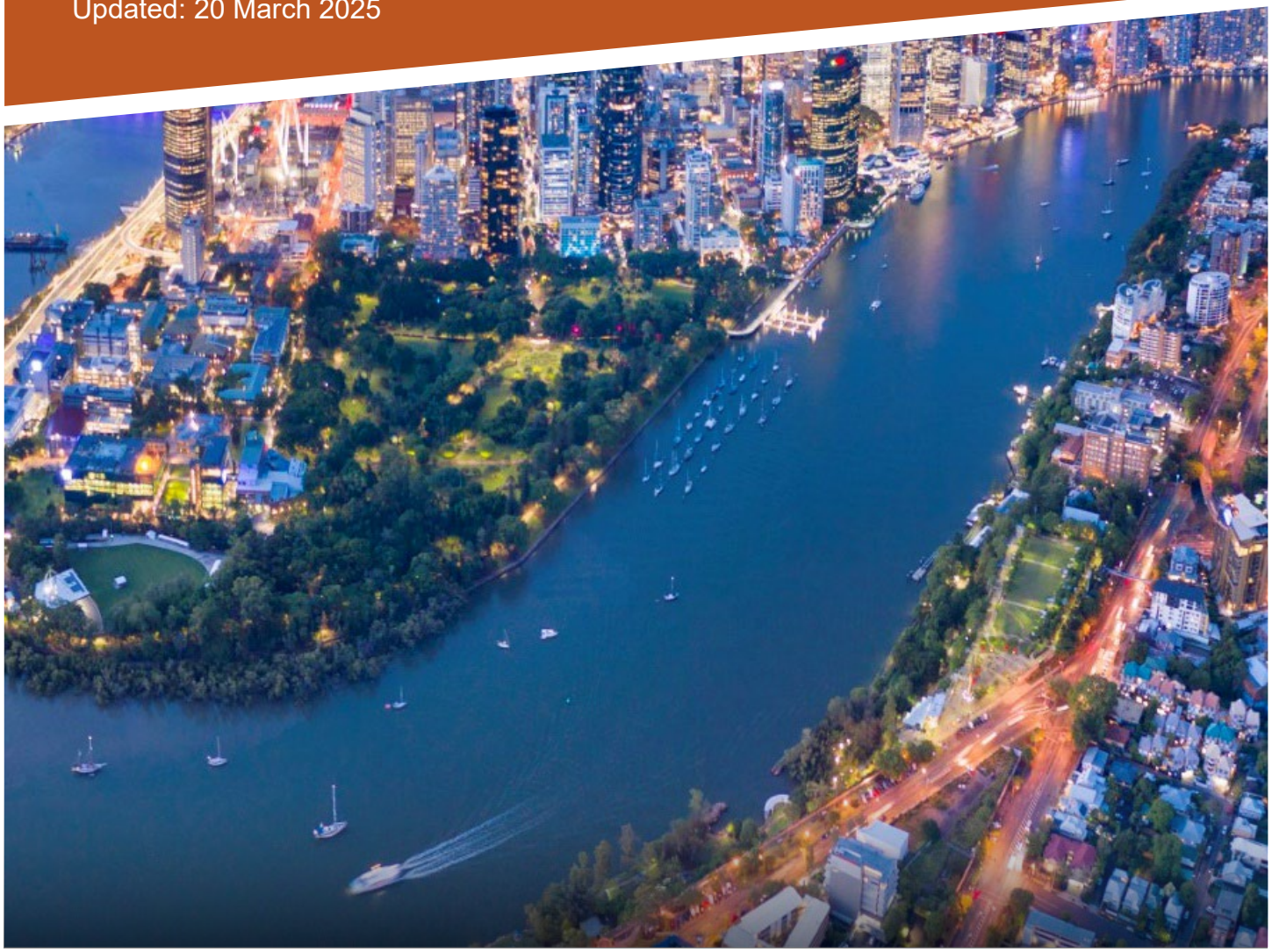
Note[3] – This numbered section, paragraph or statement does not apply to freehold land.

Titles QUEENSLAND

Part 24 – Property Information (Transfer) and Property Information (Transmission Application)

LAND TITLE PRACTICE MANUAL

Updated: 20 March 2025



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Part 24 – Property Information (Transfer) and Property Information (Transmission Application)

[24-0000] General Law

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:

- Queensland Revenue Office (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 Department – to monitor compliance with legislative requirements relating to smoke alarms
- State Valuation Service (Department of Natural Resources and Mines, Manufacturing, and Regional and Rural Development) – to update information held on the valuation and sales database
- Land Administration & Acquisition – to update information in the Land Tenure Ledger
- Water Management (Department of Local Government, Water and Volunteers) – 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.

[24-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[24-2010] Practice

[24-2000] deleted

[24-2010] Lodgement

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:

- land 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*)[1]; or
- a water allocation.

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[1,3].

A 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[2].

Version 2 of Forms 1 or 6 will be accepted with a Form 100 – Common Form, provided both were executed before 31 December 1995[1,3]. 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

[24-2030] Supply of Correct or Additional Information

State Valuation Service staff 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 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 into 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.

[24-4000] Forms

[24-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY **PROPERTY INFORMATION (TRANSFER)** **FORM 24** Version 8

(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]

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

SAMPLE

1. Transferee

(a) Given names & surname or Company & ACN/ABN	(b) Date of birth (dd/mm/yyyy)	(c) Residential or business address after possession
ANN MAREE FRASER	23/5/1965	6 HOWSON ST, MT GRAVATT 4122
JOHN ANDREW FRASER	15/6/1962	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 and the *Duties Act 2001*.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:

Plant & machinery	[ ]	Vacant land	[ ]
Livestock	[ ]	Dwelling	[X]
Crops	[ ]	Multi-unit	[ ]
Existing right	[ ]	Flats	[ ]
Movable chattels	[ ]	Guest house / Private hotel	[ ]
Water licence	[ ]	Farming	[ ]
Interim water allocation	[ ]	Industrial	[ ]
Other:	[ ]	Commercial	[ ]
		Other:	[ ]

(d) Current land use

(e) Water allocation - **N/A** [X] OR complete below

(i) Is water allocation unsupplemented?
NO [ ] **YES** [ ] ➢ complete (ii) below

(ii) Reference number of the water allocation dealing certificate - unsupplemented

(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) 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 Queensland Revenue Office- ..... ➢ 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

SAMPLE

[24-4010] Guide to Completion of Form 24

The information on the Form 24 is required by the following agencies:

- Queensland Revenue Office.
- Electrical Safety Office to monitor compliance with legislative requirements relating to electrical safety switches.
- Queensland Fire Department to monitor compliance with legislative requirements relating to smoke alarms.
- Department of Natural Resources and Mines, Manufacturing, and Regional and Rural Development to update information held on the valuation and sales database.
- Department of Local Government, Water and Volunteers to update information held on water management systems.
- Local Government for local authority rate records.

Each agency is only provided with information relevant to their area of responsibility.

General Notes

- Two versions of this form are available –
  - The electronic version which has embedded fields and can be completed in Microsoft Word or Adobe Acrobat before printing (Word version hint – if an embedded field expands, enter a space in it to reduce its width); and
  - The printed version which has visible broken lines. It must be printed and then completed by hand.
- A completed 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 the 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. If using an Enlarged Panel for extra space, the following guidance may assist:
  - In the relevant item of the Form 24, insert the words 'See Enlarged Panel' only.
  - Insert the details where more space is needed into the Form 20 – Enlarged Panel, as it appears on the Form 24. Note: 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.

[24-4020] Item 1

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 Queensland Revenue Office 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 Queensland Revenue Office 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?**

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).
- 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 Queensland Revenue Office 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 Queensland Revenue Office.

[24-4030] Item 2

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 Queensland Revenue Office.

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 Management, Department of Local Government, Water and Volunteers.

[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.

[24-4040] Item 3

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.

[24-4050] Item 4

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 contact 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 *Land Title Act 1994* or s. 322A of *Land Act 1994*	SEVERANCE OF TCY
Pursuant to terms of a will (no mention of valuable consideration)	WILL		

For more information contact the Queensland Revenue Office.

b. Water Allocation

- See 4(a) above.
- For more information about water allocations refer to water management publications available online.

[24-4060] Item 5

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

Vacant Land:

Property/Land without visible improvement, e.g. structures.

Dwelling:

House used for single unit residential habitation usually by a family unit.

Multi-unit:

A structure which has been registered as:

a. a Building Unit or Group Title under the *Building Unit and Group Titles Act*, or
b. a community title scheme under the *Body Corporate and Community Management Act 1997*.

The structure may be used for residential, industrial, commercial or mixed purposes.

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 *Building Units and Group Titles Act,* or
b. a community title scheme under the *Body Corporate and Community Management Act 1997*.

Guest House/Private Hotel:

An accommodation building where room only or room and meals are provided and having shared facilities (not a motel).

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.

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.

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.

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.

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 Management, Department of Local Government, Water and Volunteers.

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 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 January 2022 the required number of smoke alarm/s that comply with Australian Standard 3786-2014 have been installed in the domestic dwelling. Requirements in relation to smoke alarms for domestic dwellings are set out in Part 5A of the *Building Fire Safety Regulation 2008*.
- 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 Department.

[24-4070] Item 6

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 Queensland Revenue Office.

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 Queensland Revenue Office.

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 Queensland Revenue Office.

- For residential property only, the Queensland Revenue Office 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 Queensland Revenue Office.

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 Queensland Revenue Office. 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 Queensland Revenue Office.

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 Queensland Revenue Office full details of the other transactions.
   - If there are no other transactions relating to this property transfer, mark **NO** [ ].

For more information contact the Queensland Revenue Office.

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 <http://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 <http://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 Queensland Revenue Office via a secure online form. A paper-based form will be available to non-Australian transferors without email access.

For more information, contact the Queensland Revenue Office.

QUEENSLAND TITLES REGISTRY **FORM 24A** Version 3

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

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.

Official use only

1. Deceased's last residential address

25 BLACKWOOD STREET, STAFFORD QLD 4053

2. Applicant

(a) Given names & surname or Company & ACN/ABN	(b) Date of birth (dd/mm/yyyy)	(c) Residential or business address after possession
JOHN EDWARD SIMPSON	15/6/1960	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* and the *Duties Act 2001.*

(f) Does applicant ordinarily reside in Australia? **N/A** [ ] **NO** [ ] **YES** [X]

3. Property details

(a) Land / Water allocation description

(b) Property address

Lot	Plan type & no.	Street no.	Street name	Suburb/Town/Locality	Postcode
12	RP343922	25	BLACKWOOD STREET	STAFFORD	4053

(c) Property transferred includes

Plant & machinery	[ ]	Vacant land	[ ]
Livestock	[ ]	Dwelling	[X]
Crops	[ ]	Multi-unit	[ ]
Existing right	[ ]	Flats	[ ]
Movable chattels	[ ]	Guest house / Private hotel	[ ]
Water licence	[ ]	Farming	[ ]
Interim water allocation	[ ]	Industrial	[ ]
	[ ]	Commercial	[ ]
Other (specify above)			[ ]

(d) Current land use

Other (specify above)

(e) Water allocation - **N/A** [X] OR complete below

(i) Is water allocation unsupplemented? **NO** [ ] **YES** [ ] ➢ complete (ii) below

(ii) Reference number of the water allocation dealing certificate - unsupplemented

(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.

SAMPLE

[24-4080] Guide to Completion of Form 24A

The information on the Form 24A is required by the following agencies:

- Queensland Revenue Office.
- Electrical Safety Office to monitor compliance with legislative requirements relating to electrical safety switches.
- Queensland Fire Department to monitor compliance with legislative requirements relating to smoke alarms.
- Department of Natural Resources and Mines, Manufacturing, and Regional and Rural Development to update information held on the valuation and sales database.
- Department of Local Government, Water and Volunteers to update information held on water management systems.
- Local Government for 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 which has embedded fields and can be completed in Microsoft Word or Adobe Acrobat before printing (Word version hint – if an embedded field expands, enter a space in it to reduce its width); and
  - The printed version which has visible broken lines. It must be printed and then completed by hand.
- A completed 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. If using an Enlarged Panel for extra space, the following guidance may assist:
  - In the relevant item of the Form 24A, insert the words 'See Enlarged Panel' only.
  - Insert the details where more space is needed into the Form 20 – Enlarged Panel, as it appears on the Form 24. Note: 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].

[24-4090] Item 1

Deceased's last residential address – Must be completed

- Insert the last residential address of the deceased.

[24-4100] Item 2

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 Queensland Revenue Office 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 solicitor's 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 Queensland Revenue Office 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).
  - 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 Queensland Revenue Office 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.

[24-4110] Item 3

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

Vacant Land:

Property/Land without visible improvement, e.g. structures.

Dwelling:

House used for single unit residential habitation usually by a family unit.

Multi-unit:

A structure which has been registered as:

a. a Building Unit or Group Title under the *Building Unit and Group Titles Act*, or

b. a community title scheme under the *Body Corporate and Community Management Act 1997*.

The structure may be used for residential, industrial, commercial or mixed purposes.

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 *Building Units and Group Titles Act*, or

b. a community title scheme under the *Body Corporate and Community Management Act 1997*.

Guest House/Private Hotel:

An accommodation building where room only or room and meals are provided and having shared facilities (not a motel).

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.

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.

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.

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.

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 Management, Department of Local Government, Water and Volunteers.

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 January 2022 the required number of smoke alarm/s that comply with Australian Standard 3786-2014 have been installed in the domestic dwelling. Requirements in relation to smoke alarms for domestic dwellings are set out in Part 5A of the *Building Fire Safety Regulation 2008*
- 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 Department.

[24-4120] Contact Details for Further Information

AGENCY	CONTACT DETAILS
Queensland Revenue Office	**Queensland Revenue Office**: Phone 1300 300 734 www.treasury.qld.gov.au
Department of Natural Resources and Mines, Manufacturing, and Regional and Rural Development	**State Valuation Service**: *For all enquiries related to information required for the valuation roll, contact your local office of the Department of Natural Resources and Mines, Manufacturing, and Regional and Rural Development and ask to speak to a Valuations Administration Officer.* Department of Natural Resources and Mines, Manufacturing, and Regional and Rural Development
Titles Queensland	**Titles Queensland**: Phone (07) 3497 3479 www.titlesqld.com.au
Electrical Safety Office	**Electrical Safety Office**: Phone 1300 362 128 Electrical Safety Office
Queensland Fire Department	**Queensland Fire Department:** Phone 13 QGOV (13 74 68) Smoke alarms | Queensland Fire Department
Department of Local Government, Water and Volunteers	**Water Allocations**: Phone 13 QGOV (13 74 68) Contact | Department of Local Government, Water and Volunteers

[24-5000] eConveyancing

[24-5010] Electronic Conveyancing and Electronic Conveyancing Document

Electronic Conveyancing (or eConveyancing) is the term used to refer to the electronic preparation, lodgment, processing and registration of instruments and other documents (Electronic Conveyancing Documents) in accordance with the *Land Title Act 1994* (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[24-5100] Scope Restrictions

Refer to the Titles Queensland eConveyancing web page for the list of transactions currently available through eConveyancing.

[24-5200] Prescribed Requirements – Form 24 (electronic)

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	*FOREIGN PERSON* TYPE AS DEFINED IN THE *DUTIES ACT 2001* (QLD)	FORM 24 QUESTION 1 (F)	FORM 25 (ELECTRONIC) COMPLETION
Natural Person	1. *foreign individual* only	Yes	Complete as normal for a *foreign individual* using the foreign country of the *foreign individual*.
	2. trust of a *foreign trust* only:		
	a. where the trust interests are wholly held by a foreign beneficiary or beneficiaries from one country only	Yes	Complete as if completing for a *foreign individual* but insert the foreign country of the foreign beneficiary/beneficiaries.
	b. trustee of a *foreign trust* 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. *foreign individual* **AND** trustee of a *foreign trust*	Yes	Complete as normal for a *foreign individual* using the foreign country of the *foreign individual*
Corporation	1. *foreign corporation* only	Yes	Complete as normal using the foreign country of incorporation or the percentages and countries of foreign shareholders.
	2. trustee of a *foreign trust* only	Yes	Complete as if completing for a *foreign corporation* but instead of entering the percentages and countries of foreign shareholders, enter the percentages and countries of the foreign beneficiaries of the trust.
	3. *foreign corporation* **AND** trustee of a *foreign trust*	Yes	Complete as normal for a *foreign corporation* using the foreign country of incorporation or the percentages and countries of foreign shareholders.

[24-5300] Attachments – Form 24 (electronic)

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a Form 24 (electronic).

[24-5400] Execution and Certification

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

[24-5600] Electronic Form

[24-5610] Approved Electronic Form

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:

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

PROPERTY INFORMATION (TRANSFER)

PART B - Transferor to complete

Title 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

Lot	Plan type & no.

(b) Property address

Street no.	Street name	Suburb/Town/ Locality	Postcode

(c) Property transferred includes:

Plant & machinery	[ ]
Livestock	[ ]
Crops	[ ]
Existing right	[ ]
Moveable chattels	[ ]
Water licence	[ ]
Interim water allocation	[ ]
Other:	[ ]

(d) Current land use

Vacant land	[ ]
Dwelling	[ ]
Multi-unit	[ ]
Flats	[ ]
Guest house / Private hotel	[ ]
Farming	[ ]
Industrial	[ ]
Commercial	[ ]
Other	[ ]

(e) Water allocation - **N/A [ ]**

(i) Is water allocation unsupplemented?
NO [ ] YES [ ]

(ii) Reference number of the water allocation dealing certificate - unsupplemented

(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 [ ]**

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.

(d) State the degree of relationship or association and supply evidence of value to Queensland Revenue Office

(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:

[24-5620] Electronic Form Example

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 of
ANN MAREE FRASER
JOHN ANDREW FRASER
Dated: 21/01/2021

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.

SAMPLE

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

Cash	$549,000.00
Vendor Terms	$0.00
Assumption of liabilities	$0.00
Other	$0.00
Total	$549,000.00

(b) Water Allocation - **N/A [X]**

Cash	
Vendor Terms	
Assumption of liabilities	
Other	
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:

Plant & machinery	[ ]
Livestock	[ ]
Crops	[ ]
Existing right	[ ]
Moveable chattels	[ ]
Water licence	[ ]
Interim water allocation	[ ]
Other:	[ ]

(d) Current land use

Vacant land	[ ]
Dwelling	[X]
Multi-unit	[ ]
Flats	[ ]
Guest house / Private hotel	[ ]
Farming	[ ]
Industrial	[ ]
Commercial	[ ]
Other	[ ]

(e) Water allocation - **N/A [X]**

(i) Is water allocation unsupplemented? **NO [ ] YES [ ]**

(ii) Reference number of the water allocation dealing certificate - unsupplemented

(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 Queensland Revenue Office

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.

SAMPLE

(e)	Is the consideration less than the unencumbered value of the property included in this transaction?	NO [X]	YES [ ]
(f)	Does this transaction form part of an arrangement that includes other dutiable transactions?	NO [X]	YES [ ]
(g)	Is GST payable on this transaction?	NO [ ]	YES [X]
(h)	Is the transaction under the margin scheme?	NO [ ]	YES [X]
(i)	Is any transferor a non-Australian entity?	NO [X]	YES [ ]

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

SAMPLE

[24-5700] Electronic Form Notes for Completion

Refer to the table below for notes for the completion of a Form 24 (electronic).

ITEM	NOTES
Item 1(f)	For Subscribers that are completing the Form 24 (electronic) for a *foreign person* that is a trustee of a *foreign trust* – refer to Prescribed Requirement 25-001 (see [24 5200] and also Part 25 esp. [25 5000]).
	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.

[24-9000] Cross References and Further Reading

Part 25 – Foreign Ownership Information

Part 62 – eConveyancing

[24-9050] Notes in text

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.

Titles QUEENSLAND

Part 25 – Foreign Ownership Information

LAND TITLE PRACTICE MANUAL

Updated: 20 March 2025

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Part 25 – Foreign Ownership Information[1]

General Law

[25-0000] Foreign Ownership of Land Register

The Foreign Ownership of Land Register is a public register of land in Queensland held by foreign persons as defined in the *Foreign Ownership of Land Register Act 1988*, which references the definition of 'foreign person' in the *Duties Act 2001*.

Each of the following is a 'foreign person':

- a foreign individual;
- a foreign corporation; and
- a trustee of a foreign trust.

[25-0010] Notification of Foreign Ownership

Foreign persons who acquire an interest in land must lodge a notification of foreign ownership within 90 days of the acquisition (s. 18 of the *Foreign Ownership of Land Register Act 1988*).

The Foreign Ownership of Land Register Act requires a notification to be provided if a foreign person disposes of an interest in land (s. 18A of the Foreign Ownership of Land Register Act). The lodgement and registration of the instrument or document that disposes of the interest (e.g. a Form 1 – Transfer) is sufficient to meet this notification requirement and no additional notification is required (the relevant register is updated automatically by the Automated Titles System).

If a person or entity that holds an interest in land has subsequently become and is, as at 30 June in any year, a foreign person, a notification must be provided by 30 September of the same year (s. 20 of the Foreign Ownership of Land Register Act).

If a foreign person that holds an interest in land has ceased to be foreign as at 30 June in any year, a notification must be provided by 30 September of the same year (s. 19 of the Foreign Ownership of Land Register Act).

[25-0020] Exemptions from Notification

The following persons are exempt from the requirements of notification:

- a personal representative of a deceased person is not required to lodge a notification of ownership in respect of the interest in land vested in him/her as personal representative (s. 18(2) of the *Foreign Ownership of Land Register Act 1988*); and
- a person beneficially entitled to an interest in land because of the death of a person is not required to lodge a notification of ownership until all documents resulting in the interest vesting in the person have been lodged (s. 18(3) of the Foreign Ownership of Land Register Act).

[25-0030] Foreign Person Acquiring an Interest in Land

An obligation to notify is triggered upon a 'foreign person' 'acquiring' an 'interest in land'. These terms are defined in schedule 1 of the *Foreign Ownership of Land Register Act 1988* and (by reference) in the *Duties Act 2001*.

Each of the following is a 'Foreign person':

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).

   A 'trust interest' is a person's interest as a beneficiary of a trust (other than a life interest). For a discretionary trust, only a taker in default of an appointment by the trustee can have a trust interest. Also, for a trust that is a superannuation fund, a member of the fund has a trust interest in the fund (s. 57 Duties Act).

Further information about some of the definitions above is available in Public Rulings made by the Commissioner of Queensland Revenue Office which can be accessed from the Resources page on the Queensland Treasury website. See s. 238 of the Duties Act regarding 'related persons'.

'Interest in land' includes an estate or interest:

- in land and any improvements on the land;
- in a licence or permit granted under the *Land Act 1994;*
- in a miners homestead as defined in the *Land Act 1994*.

However, 'interest in land' does not include:

- a security interest in land;
- an estate or interest in an easement over land;
- the estate or interest of a lessee of freehold land or a sublessee of leasehold land where the term of a lease or a sublease, as the case may be, including those available under all options to renew, does not exceed 25 years;
- an estate or interest in minerals, crude oil, natural gas, petroleum or petroleum deposits;
- certain authority relating to land granted under the *Mineral Resources Act 1989*, the *Coal Mining Safety and Health Act 1999*, the *Geothermal Energy Act 2010*, the *Greenhouse Gas Storage Act 2009*, the *Petroleum Act 1923*, the *Petroleum and Gas (Production and Safety) Act 2004* or the *Petroleum (Submerged Lands) Act 1982*;
- an agreement given force by an Act of Parliament for development of mineral deposits;
- a carbon abatement interest under the Land Act or Land Title Act;
- a covenant under the Land Act or Land Title Act;
- a plantation licence under the *Forestry Act 1959*; or
- a profit a prendre under the Land Act or Land Title Act.

'Acquired' is widely defined to include obtaining, gaining, receiving or acquiring by purchase, exchange, lease, will, devolution, operation of law, grant, gift or enforcement of a security.

[25-0035] Person holding an interest in land becoming a foreign person

If a person or entity that holds an interest in land has subsequently become and is, as at 30 June in any year, a foreign person, a notification must be provided by 30 September of the same year unless a notification has already been provided (s. 20 of the *Foreign Ownership of Land Register Act 1988*).

The notification must be provided by way of a Form 25 – Foreign Ownership Information.

[25-0036] Person holding an interest in land ceasing to be a foreign person

If a foreign person that holds an interest in land has ceased to be foreign as at 30 June in any year, a notification must be provided by 30 September of the same year unless a notification has already been provided (s. 19 of the *Foreign Ownership of Land Register Act 1988*).

The notification must be provided by way of a letter containing the information detailed in [25 2300].

[25-0040] Penalties for Non-Compliance

Sections 24 and 25 of the *Foreign Ownership of Land Register Act 1988* prescribe penalties for non-compliance or giving false or misleading information.

[25-2000] Practice

[25-2100] Notifications for Foreign Persons Acquiring an Interest in Land

A notification for a foreign person (foreign individual, foreign corporation or trustee of a foreign trust) acquiring an interest in land pursuant to s. 18(1) of the *Foreign Ownership of Land Register Act 1988* must be provided using a Form 25 – Foreign Ownership Information.

Where applicable, the Form 25 must accompany one of the following instrument or document types that transfers or creates the interest in land being acquired by the foreign person:

- Form 1 – Transfer* (attached to the Form 24 – Property Information (Transfer));
- Form 6 – Transmission Application to a devisee/legatee* (attached to the Form 24A – Property Information (Transmission Application)); or
- Form 7 – Lease of freehold land or sub-lease of State leasehold land. #

* for freehold land, State leasehold land or a lease of freehold land/sub-lease of State leasehold land where the term (including any available options) exceeds 25 years.

\# where the term (including any available options) exceeds 25 years.

For a Form 1 or Form 6, the Form 25 must be attached to the accompanying Form 24 or Form 24A.

If the Form 25 cannot otherwise be provided with an instrument or document, it must be provided by post or e-mail to info@titlesqld.com.au (a scanned digital copy of the signed Form 25 is acceptable). The covering letter or e-mail should state that the Form 25 is being provided as a notification of ownership pursuant to s. 18(1) of the *Foreign Ownership of Land Register Act 1988*.

Images of the Form 25 are not available to the public.

Refer to the following example forms provided below in [25-4000]:

- Example 1 – foreign individual;
- Example 2 – foreign corporation (incorporated outside Australia);
- Example 3 – foreign corporation (incorporated within Australia – wholly foreign controlled);
- Example 4 – foreign corporation (incorporated within Australia – partly foreign controlled);
- Example 5 – Trustee of a Foreign Trust where the trust is wholly foreign (the trustee is a natural person that is not a foreign individual); and
- Example 6 – Trustee of a Foreign Trust where the trust is partly foreign (the trustee is a company that is not a foreign corporation).

[25-2200] Notification for person or entity holding an interest in land becoming a foreign person

A notification of ownership under s. 20 of the *Foreign Ownership of Land Register Act 1988* for a person or entity holding an interest in land that subsequently becomes a foreign person is to be provided using a Form 25 – Foreign Ownership Information.

The Form 25 must be sent by post or e-mail to info@titlesqld.com.au (a scanned digital copy of the signed Form 25 is acceptable). Any covering letter or e-mail should state that the notification letter is being provided as a notification of ownership pursuant to s. 20 of the *Foreign Ownership of Land Register Act 1988*.

[25-2300] Notification for person or entity holding an interest in land ceasing to be a foreign person

A notification under s. 19 of the *Foreign Ownership of Land Register Act 1988* for a person or entity holding an interest in land that ceases to be a foreign person must be provided by way of a notification letter containing the following information:

- a statement that the letter is a notification pursuant to s. 19(2) of the *Foreign Ownership of Land Register Act 1988*;
- the lot on plan description/s of the land in which the person/entity holds an interest; and
- a declaration that the individual/corporation is no longer a foreign person.

The notification letter must be signed by the individual/corporation that has ceased to be a foreign person or a person authorised to sign on behalf of the individual/corporation (e.g. a solicitor or a person authorised to sign on behalf of a corporation).

The notification letter can be provided by post or e-mail to info@titlesqld.com.au (a scanned digital copy of the notification letter is acceptable). Any covering letter or e-mail should state that the notification letter is being provided as a notification pursuant to s. 19(2) of the *Foreign Ownership of Land Register Act 1988.*

Example:

This letter is a notification pursuant to s. 19(2) of the *Foreign Ownership of Land Register Act 1988*.

1. Property Details

Lot on Plan Description/s

I declare that _____ is no longer a foreign person.

[25-2400] Electronic Conveyancing Prescribed Requirements moved to [25-5200] and renamed Prescribed Requirements – Form 25 (electronic)

Forms

[25-4000] General Guide to Completion of Forms

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

Example 1 – Foreign Individual

QUEENSLAND TITLES REGISTRY **FOREIGN OWNERSHIP INFORMATION** **FORM 25** Version 5

Foreign Ownership of Land Register Act 1988 Page 1 of 1

This form is only required to be completed by or on behalf of a *foreign person* (a *foreign individual*, *foreign corporation* or trustee of a *foreign trust* – see the *Foreign Ownership of Land Register Act 1988* (the Act) and the *Duties Act 2001*).

Please note: a *foreign individual* does not include a person that has permanent residency status in Australia.

Refer to the Queensland Treasury Public Rulings for more information and guidance on *foreign corporations* and *foreign trusts* as defined in the *Duties Act 2001*.

Official use only

Where applicable, this form must accompany:

- Form 1 - Transfer (of freehold, State leasehold or applicable lease/sub-lease) and Form 24 - Property Information (Transfer); or
- Form 6 - Transmission Application to a devisee/legatee (for freehold, State leasehold or applicable lease/sub-lease) and Form 24A - Property Information (Transmission Application); or
- Form 7 – Lease of freehold or sub-lease of State leasehold where the term (including any available options) exceeds 25 years.

Details to be completed by or on behalf of the foreign person: **Mark applicable [ ] with 'X'**

Where there is insufficient space in an item, use a Form 20 (Enlarged Panel).

1. Lot on Plan Description

LOT 11 ON RP893999

2. Foreign person details

[X] Individual **OR** **[ ]** Corporation/Trustee of foreign trust Wholly Foreign **OR** **[ ]** Corporation/Trustee of foreign trust Partly Foreign

Foreign Country: SINGAPORE

Foreign Country:

OR If more than one foreign country, complete details for each country below. Please note the percentages must total 100%.

% Foreign	Country of Foreign Shareholders/Beneficiaries

% Foreign:

Complete details for each country applicable below. Please note the combined total of the percentages below must equal that of the percentage above.

% Foreign	Country of Foreign Shareholders/Beneficiaries

3. Declaration

I declare that: IRAWAN BIN SALIM

[Full name of foreign individual, foreign corporation or trustee of a foreign trust]

is a foreign person within the meaning of the Act; the particulars contained in this form are to the best of my knowledge true and correct; and if applicable, I am authorised to make this declaration on behalf of the foreign person.

M L Brady	MICHAEL LAWRENCE BRADY SOLICITOR	01/07/2020
Signature	**Full name** **(and qualification or office if relevant)**	**Execution Date**

***Contact details of declarant:**
e.g. e-mail address or phone number

mlbrady@bradylocallawyers.com.au
(07) 3025 1525

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 Titles Queensland website. *The contact details of the declarant will only be used by the Department for the specific purpose of contacting the declarant if further information or clarification is required.

SAMPLE

Example 2 – Foreign Corporation (incorporated outside Australia)

QUEENSLAND TITLES REGISTRY **FOREIGN OWNERSHIP INFORMATION** **FORM 25** Version 5

Foreign Ownership of Land Register Act 1988 Page 1 of 1

This form is only required to be completed by or on behalf of a *foreign person* (a *foreign individual*, *foreign corporation* or trustee of a *foreign trust* – see the *Foreign Ownership of Land Register Act 1988* (the Act) and the *Duties Act 2001*).

Please note: a *foreign individual* does not include a person that has permanent residency status in Australia.

Refer to the Queensland Treasury Public Rulings for more information and guidance on *foreign corporations* and *foreign trusts* as defined in the *Duties Act 2001*.

Official use only

Where applicable, this form must accompany:

- Form 1 - Transfer (of freehold, State leasehold or applicable lease/sub-lease) and Form 24 - Property Information (Transfer); or
- Form 6 - Transmission Application to a devisee/legatee (for freehold, State leasehold or applicable lease/sub-lease) and Form 24A - Property Information (Transmission Application); or
- Form 7 – Lease of freehold or sub-lease of State leasehold where the term (including any available options) exceeds 25 years.

Details to be completed by or on behalf of the foreign person: **Mark applicable [ ] with 'X'**

Where there is insufficient space in an item, use a Form 20 (Enlarged Panel).

1. Lot on Plan Description

LOT 11 ON RP893999

2. Foreign person details

[ ] Individual **OR** [X] Corporation/Trustee of foreign trust Wholly Foreign **OR** [ ] Corporation/Trustee of foreign trust Partly Foreign

Foreign Country: .....

Foreign Country: SINGAPORE

OR If more than one foreign country, complete details for each country below. Please note the percentages must total 100%.

% Foreign	Country of Foreign Shareholders/Beneficiaries

% Foreign: .....

Complete details for each country applicable below. Please note the combined total of the percentages below must equal that of the percentage above.

% Foreign	Country of Foreign Shareholders/Beneficiaries

3. Declaration

I declare that: OVERSEAS INVESTMENT CORPORATION ARBN 123 456 789

[Full name of foreign individual, foreign corporation or trustee of a foreign trust]

is a foreign person within the meaning of the Act; the particulars contained in this form are to the best of my knowledge true and correct; and if applicable, I am authorised to make this declaration on behalf of the foreign person.

M L Brady	MICHAEL LAWRENCE BRADY SOLICITOR	01/07/2020
Signature	**Full name** **(and qualification or office if relevant)**	**Execution Date**

***Contact details of declarant:** mlbrady@bradylocallawyers.com.au

e.g. e-mail address or phone number (07) 3025 1525

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SAMPLE

Example 3 – Foreign Corporation (incorporated within Australia – wholly foreign controlled)

QUEENSLAND TITLES REGISTRY

FOREIGN OWNERSHIP INFORMATION

FORM 25 Version 5

Foreign Ownership of Land Register Act 1988

This form is only required to be completed by or on behalf of a *foreign person* (a *foreign individual*, *foreign corporation* or trustee of a *foreign trust* – see the *Foreign Ownership of Land Register Act 1988* (the Act) and the *Duties Act 2001*).

Please note: a *foreign individual* does not include a person that has permanent residency status in Australia.

Refer to the Queensland Treasury Public Rulings for more information and guidance on *foreign corporations* and *foreign trusts* as defined in the *Duties Act 2001*.

Official use only

Where applicable, this form must accompany:

- Form 1 - Transfer (of freehold, State leasehold or applicable lease/sub-lease) and Form 24 - Property Information (Transfer); or
- Form 6 - Transmission Application to a devisee/legatee (for freehold, State leasehold or applicable lease/sub-lease) and Form 24A - Property Information (Transmission Application); or
- Form 7 – Lease of freehold or sub-lease of State leasehold where the term (including any available options) exceeds 25 years.

Details to be completed by or on behalf of the foreign person: **Mark applicable [ ] with 'X'**

Where there is insufficient space in an item, use a Form 20 (Enlarged Panel).

1. Lot on Plan Description

LOT 11 ON RP893999

2. Foreign person details

[ ] Individual **OR** [X] Corporation/Trustee of foreign trust Wholly Foreign **OR** [ ] Corporation/Trustee of foreign trust Partly Foreign

Foreign Country: ……

Foreign Country: ……

OR If more than one foreign country, complete details for each country below. Please note the percentages must total 100%.

% Foreign	Country of Foreign Shareholders/Beneficiaries
40%	SPAIN
60%	GERMANY

% Foreign: ……

Complete details for each country applicable below. Please note the combined total of the percentages below must equal that of the percentage above.

% Foreign	Country of Foreign Shareholders/Beneficiaries

3. Declaration

I declare that: LOCAL INVESTMENT VEHICLE 1 PTY LTD ACN 123 456 789

[Full name of foreign individual, foreign corporation or trustee of a foreign trust]

is a foreign person within the meaning of the Act; the particulars contained in this form are to the best of my knowledge true and correct; and if applicable, I am authorised to make this declaration on behalf of the foreign person.

M L Brady	MICHAEL LAWRENCE BRADY SOLICITOR	01/07/2020
Signature	**Full name** **(and qualification or office if relevant)**	**Execution Date**

***Contact details of declarant:**
e.g. e-mail address or phone number

mlbrady@bradylocallawyers.com.au
(07) 3025 1525

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SAMPLE

Example 4 – Foreign Corporation (incorporated within Australia – partly foreign controlled)

QUEENSLAND TITLES REGISTRY

FOREIGN OWNERSHIP INFORMATION

FORM 25 Version 5

Foreign Ownership of Land Register Act 1988

This form is only required to be completed by or on behalf of a *foreign person* (a *foreign individual*, *foreign corporation* or trustee of a *foreign trust* – see the *Foreign Ownership of Land Register Act 1988* (the Act) and the *Duties Act 2001*).

Please note: a *foreign individual* does not include a person that has permanent residency status in Australia.

Refer to the Queensland Treasury Public Rulings for more information and guidance on *foreign corporations* and *foreign trusts* as defined in the *Duties Act 2001*.

Official use only

Where applicable, this form must accompany:

- Form 1 - Transfer (of freehold, State leasehold or applicable lease/sub-lease) and Form 24 - Property Information (Transfer); or
- Form 6 - Transmission Application to a devisee/legatee (for freehold, State leasehold or applicable lease/sub-lease) and Form 24A - Property Information (Transmission Application); or
- Form 7 – Lease of freehold or sub-lease of State leasehold where the term (including any available options) exceeds 25 years.

Details to be completed by or on behalf of the foreign person: **Mark applicable [ ] with 'X'**

Where there is insufficient space in an item, use a Form 20 (Enlarged Panel).

1. Lot on Plan Description

LOT 11 ON RP893999

2. Foreign person details

[ ] Individual **OR** [ ] Corporation/Trustee of foreign trust Wholly Foreign **OR** [X] Corporation/Trustee of foreign trust Partly Foreign

Foreign Country: .....

Foreign Country: .....

OR If more than one foreign country, complete details for each country below. Please note the percentages must total 100%.

% Foreign	Country of Foreign Shareholders/Beneficiaries

% Foreign: 80%

Complete details for each country applicable below. Please note the combined total of the percentages below must equal that of the percentage above.

% Foreign	Country of Foreign Shareholders/Beneficiaries
40%	SPAIN
40%	GERMANY

3. Declaration

I declare that: LOCAL INVESTMENT VEHICLE 2 PTY LTD ACN 123 456 789

[Full name of foreign individual, foreign corporation or trustee of a foreign trust]

is a foreign person within the meaning of the Act; the particulars contained in this form are to the best of my knowledge true and correct; and if applicable, I am authorised to make this declaration on behalf of the foreign person.

M L Brady	MICHAEL LAWRENCE BRADY SOLICITOR	01/07/2020
Signature	**Full name** **(and qualification or office if relevant)**	**Execution Date**

***Contact details of declarant:**
e.g. e-mail address or phone number

mlbrady@bradylocallawyers.com.au
(07) 3025 1525

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SAMPLE

Example 5 – Trustee of a Foreign Trust where the trust is wholly foreign (the trustee is a natural person that is not a *foreign individual*)

QUEENSLAND TITLES REGISTRY
Foreign Ownership of Land Register Act 1988

FOREIGN OWNERSHIP INFORMATION

FORM 25 Version 5
Page 1 of 1

This form is only required to be completed by or on behalf of a *foreign person* (a *foreign individual*, *foreign corporation* or trustee of a *foreign trust* – see the *Foreign Ownership of Land Register Act 1988* (the Act) and the *Duties Act 2001*).

Please note: a *foreign individual* does not include a person that has permanent residency status in Australia.

Refer to the Queensland Treasury Public Rulings for more information and guidance on *foreign corporations* and *foreign trusts* as defined in the *Duties Act 2001*.

Official use only

Where applicable, this form must accompany:

- Form 1 - Transfer (of freehold, State leasehold or applicable lease/sub-lease) and Form 24 - Property Information (Transfer); or
- Form 6 - Transmission Application to a devisee/legatee (for freehold, State leasehold or applicable lease/sub-lease) and Form 24A - Property Information (Transmission Application); or
- Form 7 – Lease of freehold or sub-lease of State leasehold where the term (including any available options) exceeds 25 years.

Details to be completed by or on behalf of the foreign person: **Mark applicable [ ] with 'X'**

Where there is insufficient space in an item, use a Form 20 (Enlarged Panel).

1. Lot on Plan Description

LOT 11 ON RP893999

2. Foreign person details

[ ] Individual **OR** [X] Corporation/Trustee of foreign trust Wholly Foreign **OR** [ ] Corporation/Trustee of foreign trust Partly Foreign

Foreign Country: .....

Foreign Country: .....

OR If more than one foreign country, complete details for each country below. Please note the percentages must total 100%.

% Foreign	Country of Foreign Shareholders/Beneficiaries
40%	BELGIUM
60%	FRANCE

% Foreign: .....

Complete details for each country applicable below. Please note the combined total of the percentages below must equal that of the percentage above.

% Foreign	Country of Foreign Shareholders/Beneficiaries

3. Declaration

I declare that: MARK ANDREW BURROWS

[Full name of foreign individual, foreign corporation or trustee of a foreign trust]

is a foreign person within the meaning of the Act; the particulars contained in this form are to the best of my knowledge true and correct; and if applicable, I am authorised to make this declaration on behalf of the foreign person.

M L Brady	MICHAEL LAWRENCE BRADY SOLICITOR	01/07/2020
Signature	**Full name** **(and qualification or office if relevant)**	**Execution Date**

***Contact details of declarant:**
e.g. e-mail address or phone number

mlbrady@bradylocallawyers.com.au
(07) 3025 1525

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SAMPLE

Example 6 – Trustee of a Foreign Trust where the trust is partly foreign (the trustee is a company that is not a *foreign corporation*)

QUEENSLAND TITLES REGISTRY

FOREIGN OWNERSHIP INFORMATION

FORM 25 Version 5

Foreign Ownership of Land Register Act 1988

This form is only required to be completed by or on behalf of a *foreign person* (a *foreign individual*, *foreign corporation* or trustee of a *foreign trust* – see the *Foreign Ownership of Land Register Act 1988* (the Act) and the *Duties Act 2001*).

Please note: a *foreign individual* does not include a person that has permanent residency status in Australia.

Refer to the Queensland Treasury Public Rulings for more information and guidance on *foreign corporations* and *foreign trusts* as defined in the *Duties Act 2001*.

Official use only

Where applicable, this form must accompany:

- Form 1 - Transfer (of freehold, State leasehold or applicable lease/sub-lease) and Form 24 - Property Information (Transfer); or
- Form 6 - Transmission Application to a devisee/legatee (for freehold, State leasehold or applicable lease/sub-lease) and Form 24A - Property Information (Transmission Application); or
- Form 7 – Lease of freehold or sub-lease of State leasehold where the term (including any available options) exceeds 25 years.

Details to be completed by or on behalf of the foreign person: **Mark applicable [ ] with 'X'**

Where there is insufficient space in an item, use a Form 20 (Enlarged Panel).

1. Lot on Plan Description

LOT 11 ON RP893999

2. Foreign person details

[ ] Individual **OR** [ ] Corporation/Trustee of foreign trust Wholly Foreign **OR** [X] Corporation/Trustee of foreign trust Partly Foreign

Foreign Country: .....

Foreign Country: .....

OR If more than one foreign country, complete details for each country below. Please note the percentages must total 100%.

% Foreign	Country of Foreign Shareholders/Beneficiaries

% Foreign: 80%

Complete details for each country applicable below. Please note the combined total of the percentages below must equal that of the percentage above.

% Foreign	Country of Foreign Shareholders/Beneficiaries
40%	BELGIUM
40%	FRANCE

3. Declaration

I declare that: LOCAL TRUSTEE COMPANY PTY LTD ACN 123 456 789

[Full name of foreign individual, foreign corporation or trustee of a foreign trust]

is a foreign person within the meaning of the Act; the particulars contained in this form are to the best of my knowledge true and correct; and if applicable, I am authorised to make this declaration on behalf of the foreign person.

M L Brady	MICHAEL LAWRENCE BRADY SOLICITOR	01/07/2020
Signature	**Full name** **(and qualification or office if relevant)**	**Execution Date**

***Contact details of declarant:**
e.g. e-mail address or phone number

mlbrady@bradylocallawyers.com.au
(07) 3025 1525

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SAMPLE

[25-4010] Guide to Completion of Form 25

The information collected on the Form 25 is required for entry on the Foreign Ownership of Land Register, which is a public register of land in Queensland held by a foreign person as defined in the *Foreign Ownership of Land Register Act 1988* (and the *Duties Act 2001*).

The Form 25 is used to provide the notification of ownership for s. 18(1) and s. 20 of the *Foreign Ownership of Land Register Act 1988.*

Where applicable for a notification under s. 18(1) of the Foreign Ownership of Land Register Act, the Form 25 must accompany one of the following instrument or document types that transfers or creates the interest in land being acquired by the foreign person:

- Form 1 – Transfer* (attached to the Form 24 – Property Information (Transfer));
- Form 6 – Transmission Application to a devisee/legatee* (attached to the Form 24A – Property Information (Transmission Application)); or
- Form 7 – Lease of freehold land or sub-lease of State leasehold land#.

* for freehold land, State leasehold land or a lease of freehold land/sub-lease of State leasehold land where the term (including any available options) exceeds 25 years.

\# where the term (including any available options) exceeds 25 years.

Where there is more than one foreign person acquiring an interest in land, it will be assumed that the foreign country details are the same unless otherwise stated.

[25-4020] Item 1

Insert the lot and plan number/s of the land for which the notification is being made.

Where the Form 25 is accompanying a Form 1, Form 6 or Form 7 this item should contain all of the relevant land listed in Item 2 of the relevant form.

[25-4030] Item 2

Only **one option** must be selected and completed.

Because of the definition of *foreign person* there may be instances where the entity acquiring an interest is both:

- A *foreign individual* and trustee of a *foreign trust*; or
- A *foreign corporation* and trustee of a *foreign trust*.

In these situations, it is acceptable for the entity to provide a notification for either option, but the Titles Registry preference is for the *foreign individual* or *foreign corporation* option to be used.

Foreign individual (Example 1)

For a foreign individual:

- Select Individual
- Insert the relevant foreign country of the person in the Foreign Country Field

Refer to Example 1.

Foreign corporation (Examples 2-4)

For a foreign corporation incorporated outside Australia:

- Select Corporation/Trustee of Foreign Trust Wholly Foreign
- Insert the country where the foreign corporation was incorporated in the Foreign Country Field

Refer to Example 2.

For a foreign corporation incorporated within Australia that is wholly foreign controlled:

- Select Corporation/Trustee of Foreign Trust Wholly Foreign
- If the foreign shareholders are only from one foreign country – insert the country in the Foreign Country Field

- If the foreign shareholders are from more than one foreign country – insert the countries and the corresponding percentages in the table (the percentages must total 100%)

Refer to Example 3.

For a foreign corporation incorporated within Australia that is partly foreign controlled:

- Select Corporation/Trustee of Foreign Trust Partly Foreign
- Insert the overall percentage of foreign shareholders in the % Foreign Field
- Insert the countries and the corresponding percentages of the foreign shareholders in the table – the combined total of the percentages listed in the table must be equal to the overall percentage of foreign shareholders entered in the % Foreign Field above the table

Refer to Example 4.

Trustee of a foreign trust (Examples 5-6)

For a trustee of a foreign trust where the foreign trust is wholly foreign:

- Select Corporation/Trustee of Foreign Trust Wholly Foreign
- If all of the *trust interests** are held by foreign beneficiaries that are only from one foreign country – insert the foreign country in the Foreign Country Field
- If all of the *trust interests** are held by foreign beneficiaries from more than one foreign country – insert the foreign countries and the corresponding percentages in the table (the percentages must total 100%)

*see s. 57 of the Duties Act 2001 or refer to [25-0030].

Refer to Example 5.

For a trustee of a foreign trust where the foreign trust is partly foreign:

- Select Corporation/Trustee of Foreign Trust – Partly Foreign
- Insert the overall percentage of *trust interests** that are held by foreign beneficiaries in the % Foreign Field
- Insert the foreign countries and the corresponding percentages of the trust interests that are held by foreign beneficiaries in the table – the combined total of the percentages listed in the table must be equal to the overall percentage of foreign beneficiaries entered in the % Foreign Field above the table

*see s. 57 of the *Duties Act 2001* or refer to [25-0030].

Refer to Example 6.

[25-4040] Item 3

The full name of the foreign person must be inserted where indicated and the form must be signed by the foreign person or a person authorised to sign on behalf of the foreign person (e.g. a solicitor acting for the foreign person or a person authorised to sign on behalf of the foreign corporation).

Contact details for the declarant must be included (e.g. a postal address, e-mail address or telephone number) where indicated to enable the Titles Registry to contact the declarant if further information or clarification is required.

[25-4045] deleted

[25-5000] eConveyancing

[25-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the *Land Title Act 1994* (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[25-5100] Scope Restrictions

Refer to the Titles Queensland Electronic Conveyancing web page for the list of transactions currently available through eConveyancing.

[25-5200] Prescribed Requirements – Form 25 (electronic)

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	*FOREIGN PERSON* TYPE AS DEFINED IN THE *DUTIES ACT 2001* (QLD)	FORM 24 QUESTION 1 (F)	FORM 25 (ELECTRONIC) COMPLETION
Natural Person	1. *foreign individual* only	Yes	Complete as normal for a *foreign individual* using the foreign country of the *foreign individual*.
	2. trust of a *foreign trust* only:		
	a. where the trust interests are wholly held by a foreign beneficiary or beneficiaries from one country only	Yes	Complete as if completing for a *foreign individual* but insert the foreign country of the foreign beneficiary/beneficiaries.
	b. trustee of a *foreign trust* 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. *foreign individual* **AND** trustee of a *foreign trust*	Yes	Complete as normal for a *foreign individual* using the foreign country of the *foreign individual*
Corporation	1. *foreign corporation* only	Yes	Complete as normal using the foreign country of incorporation or the percentages and countries of foreign shareholders.
	2. trustee of a *foreign trust* only	Yes	Complete as if completing for a *foreign corporation* but instead of entering the percentages and countries of foreign shareholders, enter the percentages and countries of the foreign beneficiaries of the trust.
	3. *foreign corporation* **AND** trustee of a *foreign trust*	Yes	Complete as normal for a *foreign corporation* using the foreign country of incorporation or the percentages and countries of foreign shareholders.

[25-5300] Attachments – Form 25 (electronic)

Currently there is no requirement or provision for any document or evidence to be included as an attachment with a Form 25 (electronic).

[25-5400] Execution and Certification

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

[25-5600] Electronic Form

[25-5610] Approved Electronic Form

A Foreign Ownership Information form that is an Electronic Conveyancing Document (an eConveyancing Foreign Ownership Information form) must accompany a Form 1 – Transfer (electronic) to a *foreign person* 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 Foreign Ownership Information form must be digitally signed by or for the *foreign person* 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.

FOREIGN OWNERSHIP INFORMATION

1. Property Details:

Lot Plan No.

2. Details to be completed by or on behalf of a foreign transferee/purchaser:

Foreign Country:

Natural Person [ ] **OR** Wholly Foreign Company [ ] **OR** Company/Corporation Partly Foreign Controlled [ ]

Execution

I declare that the following is a foreign person / company within the meaning of the Act:

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:

For
On behalf of
Dated:

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 Titles Queensland website.

[25-5620] Electronic Form Examples

Electronic Form Example 1 – Foreign Individual

QUEENSLAND TITLES REGISTRY
Foreign Ownership of Land Register Act 1988

FORM 25 (electronic) Version 2

FOREIGN OWNERSHIP INFORMATION

1. Property Details:

Lot	Plan	No.
11	RP	893999

2. Details to be completed by or on behalf of a foreign transferee/purchaser:

Foreign Country: SINGAPORE

Natural Person [X] **OR** Wholly Foreign Company [ ] **OR** Company/Corporation Partly Foreign Controlled [ ]

Execution

I declare that the following is a foreign person / company within the meaning of the Act:

IRAWAN BIN SALIM

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 of IRAWAN BIN SALIM
Dated: 07/01/2021

Privacy Statement

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For more information see the Titles Queensland website.

SAMPLE

Electronic Form Example 2 – Foreign Corporation (incorporated outside Australia)

QUEENSLAND TITLES REGISTRY
Foreign Ownership of Land Register Act 1988

FORM 25 (electronic) Version 2

FOREIGN OWNERSHIP INFORMATION

1. Property Details:

Lot	Plan	No.
11	RP	893999

2. Details to be completed by or on behalf of a foreign transferee/purchaser:

Foreign Country: SINGAPORE

Natural Person [ ] **OR** Wholly Foreign Company [X] **OR** Company/Corporation Partly Foreign Controlled [ ]

Execution

I declare that the following is a foreign person / company within the meaning of the Act:

OVERSEAS INVESTMENT CORPORATION ARBN 123 456 789

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 of OVERSEAS INVESTMENT CORPORATION ARBN 123 456 789
Dated: 07/01/2021

Privacy Statement

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SAMPLE

Electronic Form Example 3 – Foreign Corporation (incorporated within Australia – wholly foreign controlled)

FOREIGN OWNERSHIP INFORMATION

1. Property Details:

Lot	Plan	No.
11	RP	893999

2. Details to be completed by or on behalf of a foreign transferee/purchaser:

Foreign Country: GERMANY

Natural Person [ ] **OR** Wholly Foreign Company [x] **OR** Company/Corporation Partly Foreign Controlled [ ]

% Foreign	Country of Foreign Shareholders
60	GERMANY
40	SPAIN

Execution

I declare that the following is a foreign person / company within the meaning of the Act:

LOCAL INVESTMENT VEHICLE 1 PTY LTD ACN 123 456 789

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 of LOCAL INVESTMENT VEHICLE 1 PTY LTD ACN 123 456 789
Dated: 07/01/2021

Privacy Statement

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For more information see the Titles Queensland website.

SAMPLE

Electronic Form Example 4 – Foreign Corporation (incorporated within Australia – partly foreign controlled)

FOREIGN OWNERSHIP INFORMATION

1. Property Details:

Lot	Plan	No.
11	RP	893999

2. Details to be completed by or on behalf of a foreign transferee/purchaser:

Foreign Country: SPAIN

Natural Person [ ] **OR** Wholly Foreign Company [ ] **OR** Company/Corporation Partly Foreign Controlled [X]

% Foreign	Country of Foreign Shareholders
40	SPAIN
40	GERMANY

Execution

I declare that the following is a foreign person / company within the meaning of the Act:

LOCAL INVESTMENT VEHICLE 2 PTY LTD ACN 123 456 789

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 of LOCAL INVESTMENT VEHICLE 2 PTY LTD ACN 123 456 789
Dated: 07/01/2021

Privacy Statement

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SAMPLE

[25-5700] Electronic Form Notes for Completion

Refer to the table below for notes for the completion of a Form 25 (electronic).

ITEM	NOTES
Item 2	For Subscribers that are completing the Form 25 (electronic) for a *foreign person* that is a trustee of a *foreign trust* – refer to Prescribed Requirement 25-001 (see [25 5200]).

[25-9000] Cross References and Further Reading

Part 24 – Property Information (Transfer) and Property Information (Transmission Application) esp. [24-4020] and [24 5000]

Part 62 – eConveyancing

[25-9050] Notes in text

Note [1] – This part does not apply to water allocations.

Titles QUEENSLAND

Part 29 – Profit a prendre

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021

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Part 29 – Profit a prendre[1]

[29-0000] General Law

A profit a prendre is an interest that arises by agreement between two parties and relates to the right of one party to enter upon the land of the other and to extract or remove part of the land's substance (e.g. sand, gravel, trees, etc).

Profits a prendre were not recorded in the Land Registry until amendments to the *Land Title Act 1994*, that commenced on 13 July 1997 and amendments to the *Land Act 1994*, that commenced on 6 May 2004 made specific provision for their registration. This situation has existed even though relevant Torrens legislation envisaged the registration of profits a prendre and the repealed *Real Property Act 1861* provided for registration of easements and incorporeal rights.

The following types of profit a prendre are recognised:

- appurtenant profits which relate to or fulfil a need of a dominant parcel of freehold land or lease under the Land Act;
- profits in gross that benefit the grantee personally and are not attached to other freehold land or lease under the Land Act;
- profits in common in which the proprietors of both a dominant and a servient parcel share the enjoyment of a right to some substance of the encumbered freehold land or lease under the Land Act, however, these are not common in Australia.

Both an appurtenant profit and profit in gross may be mortgaged. However, only a profit in gross may be sold, the subject of a gift, or pass to a beneficiary by will or intestacy.

Every profit a prendre must be granted for a specific period that can be based on either a date or the occurrence of an event.

[29-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

Practice

[29-2000] Requirements of Profits a prendre

For a profit a prendre to be registered in the Land Registry it must be prepared in a Form 29 – Profit a prendre. Full particulars of the lot, or lease under the *Land Act 1994* that is burdened must be shown in Item 2 and if a lot, or lease under the Land Act is benefited, its particulars are to be shown below those of the burdened lot, or lease under the Land Act. Both the purpose and the term or event on which the profit a prendre profit ceases must be stated. The specific rights that relate to the stated purpose(s) may be fully defined either by an attached Form 20 – Schedule, a prior registered standard terms document or a combination of them.

The profit a prendre must be validly executed by both the grantor and grantee and witnessed.

In accordance with s. 373G(1) of the Land Act a lease under the Land Act may be made the subject of a profit a prendre only with the written approval of the chief executive. However, the chief executive's approval is not required if the profit a prendre is a forest consent agreement.

A profit a prendre is registrable even if the lot(s), or lease(s) under the Land Act burdened and the lot(s), or lease(s) under the Land Act benefited have, or will have, the same registered owner or holder or if the registered owner or holder of the benefited lot(s), or lease(s) under the Land Act has an interest in the burdened lot(s), or lease(s) under the Land Act.

Transactions involving registered profits a prendre (e.g. transfers, transmissions, etc) will be recorded on the title(s) for the burdened lot, or lease under the Land Act and the benefited lot, or lease under the Land Act, if applicable.

[29-2050] Survey requirements of Profit a prendre over part of a lot

A plan of survey or explanatory format plan is required to precede a profit a prendre if the interest affects part of the lot, or lease under the *Land Act 1994*. If the profit a prendre is for the whole of the lot, or lease under the Land Act, no plan is required.

Plans for profits a prendre purposes must comply with directions 4.8.2 and 19 of the Registrar of Titles Directions for the Preparation of Plans. 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. See also part 21 – Plans and Associated Documents, esp. [21-2100]).

[29-2100] Transfer Duty

A duty notation is required.

[29-2200] Removing Profits a prendre from Titles

A profit a prendre may be released or removed from the title.

A profit a prendre is released from a title under the provisions of ss. 97L(1) and (2) of the *Land Title Act 1994* or ss. 373O(1) and (2) of the *Land Act 1994*. The grantee of a profit a prendre may release a profit a prendre from the title by surrendering it to the extent shown in the release (see part 33 – Release of Covenant/Profit a prendre, esp. [33-2200]).

A profit a prendre may be removed from a title under the provision of s. 97L(3) of the Land Title Act or s. 373O(3) of the Land Act. A profit may be removed from the title by any interested party, if the specified period of time has expired or the event upon which it is based has occurred (see part 14 – General Request, esp. [14-2425]).

Profits a prendre are not extinguished merely because the same person becomes the owner or lessee of the benefited and burdened lots, or leases under the Land Act, acquires an interest or a greater interest. Extinguishment can only occur if:

- the owner of the benefited lot, or the lessee of the lease under the Land Act, or grantee of the profit a prendre asks the Registrar to extinguish it; or
- the Registrar creates a single title for the benefited and burdened lots[2].

[29-2300] Amending Profits a prendre

A profit a prendre may be amended by lodgement of a Form 13 – Amendment of Profit a prendre. (See part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement, esp. [13-2130]).

Forms

[29-4000] General Guide to Completion of Forms

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

PROFIT A PRENDRE

Duty Imprint

Dealing Number

OFFICE USE ONLY

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1. Grantor

KRISTINA MARIA PARKER

Lodger (Name, address, E-mail & phone number)

SMYTHE & CO.
SOLICITORS
45 ADELAIDE STREET
BRISBANE QLD 4000
mail@smytheco.com.au
(07) 3227 9850

Lodger Code
490

2. Description of Profit A Prendre/Lot on Plan burdened

LOT 33 ON RP587601

Title Reference
11567215

Description of Lot on Plan benefited (if applicable)

LOT 34 ON RP587601

11567216

3. Grantee

Given names	Surname/Company name and number	(include tenancy if more than one) and interest if not fee simple)
IVAN GEORGE	JOHNSON	

4. Purpose

TO REMOVE FLOODED GUM AND SPOTTED GUM TREES

5. Termination date or Occurrence

30 JUNE 2020

6. Consideration

$55,000.00

7. Grant/Execution

The Grantor grants to the Grantee for the above consideration a profit a prendre for the purpose stated in item 4 and the Grantor and Grantee covenant with each other in terms of:- *the attached schedule; ~~* the attached schedule and document no. _____; * document no.~~

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

J K Reid
.....signature
JOHN KEVIN REID
.....full name
SOLICITOR
.....qualification
Witnessing Officer

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

21/11/2017
Execution Date

K M Parker
.....
Grantor's Signature

P L Fish
.....signature
PETA LAUREL FISH
.....full name
SOLICITOR
.....qualification
Witnessing Officer
(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

22/11/2017
Execution Date

I G Johnson
.....
Grantee's Signature

SAMPLE

Title Reference [11567215]

(The terms and conditions of the agreement are to be set out here)

SAMPLE

Guide for Completion of Form 29

[29-4010] Item 1

Insert the full name(s) of the registered owner or lessee as grantor.

[29-4020] Item 2

Insert the 'Lot on Plan' descriptions of all burdened and if applicable benefited lots, or leases under the *Land Act 1994* comprised in the profit a prendre.

[29-4030] Item 3

Insert the full name(s) of the grantee(s) and tenancy (if applicable).

[29-4040] Item 4

Insert the purpose of the profit a prendre.

[29-4050] Item 5

Insert the termination date or a reference to the event that terminates the profit a prendre.

[29-4060] Item 6

Insert monetary or other consideration.

[29-4070] Item 7

Complete where indicated and execute as required.

[29-6000] deleted

[29-7000] Case Law

Nil.

[29-8000] Fees

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

[29-9000] Cross References and Further Reading

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 14 – General Request

Part 33 – Release of Covenant/Profit a prendre

Megarry and Wade, *The Law of Real Property*, 5th edn, London, Stevens, 1984

Bradbrook and Neave, *Easements and Restrictive Covenants*, Butterworths, 1986

Bradbrook, MacCallum and Moore, *Australian Real Property Law*, LBC Information Services, 1991

[29-9050] Notes in text

Note[1] – This part 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.

Titles QUEENSLAND

Part 30 – Mortgage Priority

LAND TITLE PRACTICE MANUAL

Updated:21 June 2021

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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* 2

[30-2010] PRACTICE 2

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[30-9050] Notes in text 6

Part 30 – Mortgage Priority

[30-0000] General Law

Under the provisions of the *Land Title Act 1994* and the *Land Act 1994*, the priority of mortgages may be altered. Form 30 – Mortgage Priority is the appropriate form.

[30-0010] Amendment of Priority of Mortgages

Section 177(1) of the *Land Title Act 1994* and s. 297(1) of the *Land Act 1994* provide that instruments or documents must be registered in the order in which they are lodged. Section 178(1) of the Land Title Act and s 298(1) of the Land Act provide that registered instruments or documents have priority according to when each of them were lodged and not according to when they were executed. Section 178(2) of the Land Title Act and s. 298(2) of the Land Act provide that an instrument or document is taken to be lodged on the date and at the time endorsed on the instrument or document by the Registrar unless the contrary is proved.

Section 77 of the Land Title Act and s. 344 of the Land Act allow the priority of registered mortgages to be amended by registration of a Form 30 – Mortgage Priority.

For further information see [30-2010] and [30-2020].

[30-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[30-2010] Practice

Amendment of Priority of Mortgages

[30-2000] deleted

[30-2010] Order of Priority

The Form 30 must specify the order of priority of all affected registered mortgages and be executed by all mortgagees affected by the Form 30. On registration of the Form 30, the mortgages have priority in the order specified.

The granting of priority to a mortgage, over another that was registered before it, involves the grantor (the mortgagee in the mortgage being postponed – hence 'giving priority') agreeing with the grantee (the mortgagee receiving priority) to the re-arranged priority.

[30-2020] Multiple Mortgages

Where more than one mortgagee agrees to the priority of their mortgages being postponed in favour of another mortgagee, a separate Form 30 is not required for each postponed mortgage, provided the same title or group of titles are affected by all mortgages involved.

Details of all mortgages postponing priority and the one receiving priority are to be set out in Item 2. However, the grantee (mortgagee receiving priority) must execute separately with each grantor (mortgagee postponing priority) at Item 6. That is, if two mortgages postpone priority in favour of another, the correct number and order of executions would be:

- the first postponing mortgagee;
- the mortgagee receiving priority;
- the second postponing mortgagee; and
- the mortgagee receiving priority a second time.

Generally, multiple executions at Item 6 would require the use of a Form 20 – Schedule to accommodate all the executions.

[30-4000] Forms

[30-4000] General Guide to Completion of Forms

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

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

MORTGAGE PRIORITY

FORM 30 Version 3

Dealing Number

OFFICE USE ONLY

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BEST & CO.
209 ADELAIDE STREET
BRISBANE QLD 4000
info@bests.com.au
(07) 3227 2325

Lodger Code
459

1. Priority particulars

Mortgage No. being postponed 700896408 .....
Mortgage No. receiving priority 720000282 .....

2. Consequent Order of Priority

Dealing Nos. 720000282.....
700896408.....

3. Lot on Plan Description

LOT 33 ON RP67670

Title Reference

11943034

4. Grantor (Mortgagee of the mortgage being postponed)

XYZ SECURITIES PTY LTD ACN 400 736 948

5. Grantee (Mortgagee of the mortgage receiving priority)

ZZ ADVANCES PTY LTD ACN 307 489 643

6. Request/Execution

The Grantor grants to the Grantee the priority of mortgages as indicated in item 2.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

A D Lien
.....Signature
ARNOLD DOUGLAS LIEN
.....full name
JUSTICE OF THE PEACE (C.DEC) 89339
.....qualification
Witnessing Officer
(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

12/10/2007
Execution Date

J E Bourke
XYZ SECURITIES PTY LTD
by its duly authorised attorney
JAMES EDGAR BOURKE under
Power of Attorney No. 701001010
.....
Grantor's Signature

.....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)

(seal)
or full name of company to be shown

15/10/2007
Execution Date

D J Tomlins, Director
DOUGLAS JOHN TOMLINS

D Harris, Director/Secretary
DAVID IAN HARRIS
.....
Grantee's Signature

SAMPLE

Guide to Completion of Form 30

[30-4010] Item 1

Insert dealing number of mortgages being postponed and receiving priority.

[30-4020] Item 2

Show the consequent priority.

[30-4030] Item 3

Freehold Description[1,2]

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

Water Allocation Description[2,3]

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

State Land[1,3]

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 crown plans).

e.g.	**Lot on Plan Description**	**Title reference**
	Lot 27 on CP LIV1234	46012345

[30-4040] Item 4

Insert full name of grantor (mortgagee granting the priority).

[30-4050] Item 5

Insert full name of grantee (mortgagee receiving the priority).

[30-4060] Item 6

Execute as indicated.

[30-4070] Duty

There is no duty notation required.

[30-6000] deleted

[30-7000] Case Law

Nil.

[30-8000] Fees

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

[30-9000] Cross References and Further Reading

Part 2 – Mortgage (National Mortgage Form)

Duncan and Vann, *Property Law and Practice*, Law Book Company Limited (loose-leaf service)

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

[30-9050] Notes in text

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.

Titles QUEENSLAND

Part 31 – Covenants

LAND TITLE PRACTICE MANUAL

Updated: 20 March 2025

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Part 31 – Covenants[1]

[31-0000] General Law

A covenant is a voluntary agreement that creates an obligation by a deed entered into by the parties. Covenants may be of a positive nature in that they require the performance of an action. They may also be negative or restrictive, that is one of the parties is forbidden from undertaking or performing a specified action.

Chapter 6 Part 4 Division 8A of the *Land Act 1994* and Part 6 Division 4A of the *Land Title Act 1994* allow covenants to be registered in favour of the State, another entity representing the State, or a local government for the purposes specified in the legislation.

A covenant must be validly executed and include a description sufficient to positively identify the subject lots or land. It must also fully set out the agreed terms and conditions.

Both the covenantor (the owner of freehold land or holder of State owned land) and the covenantee (the State, an entity representing the State or a local government) must execute the covenant. If the land is leased from the State, under the Land Act the chief executive must give written approval to a covenant affecting that land.

Section 97A(2A) of the Land Title Act and s. 373A(4) of the Land Act provide that a covenant may be registered even if the covenantor and the covenantee are the same entity.

On registration, a covenant complying with the legislation attaches to the land and binds the owner or holder and all successors in title until it is released.

A registered covenant is taken not to be registered under the Land Act or the Land Title Act to the extent that it is inconsistent with the legislation.

[31-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[31-2000] Practice

A covenant must be prepared in a Form 31 – Covenant.

A document creating a covenant may only be registered if the written approval of the chief executive is obtained and lodged with the document (s. 373B(1)(d) of the *Land Act 1994*)[2].

[31-2020] Types of covenants

A covenant under the Land Title Act must:

- relate to the use of a lot or part of a lot; or
- relate to the use of a building built or proposed to be built on a lot; or
- be aimed directly at preserving a native animal or plant; or a natural or physical feature of the lot that is of cultural or scientific significance; or
- be for ensuring that all lots that are subject to the covenant are transferred together to another person (the lots subject to the covenant may be freehold, non-freehold or a combination of freehold and non-freehold); or
- be for ensuring that a lot and a registered lease for another freehold lot or part of a lot that are subject to the covenant are transferred together to another person.

A covenant under the Land Act must:

- be for ensuring that all other land that is subject to the covenant is transferred together to another person (the lots subject to the covenant may be freehold, non-freehold or a combination of freehold and non-freehold); or

if non-freehold land is the subject of a lease, other than a trustee lease, or is land over which a person holds a road licence, a covenant to which the land is subject may:

- relate to the use of the land or part of the land; or
- relate to the use of a building built or proposed to be built on a land; or
- be aimed directly at preserving a native animal or plant; or a natural or physical feature of the land that is of cultural or scientific significance.

'Use' covenants under s. 97A(3)(a) of the Land Title Act or s. 373A(5)(a) of the Land Act may be used to achieve a local government planning objective, provided they are consistent with the local government's planning scheme and any conditions of development approval, as well as complying with the Land Title Act and/or the Land Act.

Examples of 'use' covenants that are in compliance with the legislation include:

- that a building on the lot/land must be used for educational purposes
- that the covenant area must be used for noise attenuation purposes
- that a building on the lot/land is not to be used for residential purposes
- that the lot/land may be used only for organic farming
- that a building on the lot/land must not be used for a stated commercial purpose
- that the lot/land is to be used only for the purpose of construction of buildings used for the development of technology (a definition of 'buildings used for the development of technology' should be included)
- that the lot/land is to be used only for the purpose of construction of water-sensitive residential housing (a definition of 'water-sensitive residential housing' should be included).

A subsection is included in the legislation to identify 'use' covenants which are ***not*** allowed by the legislation. These include:

- the requiring of adherence to an architectural, construction or landscaping standard
- a statement, acknowledgement or obligation relating to the use of other lots or land
- a condition precedent to using a lot or land for a stated purpose or any purpose
- regulation of the conduct of the owner of a lot or land that is unrelated to, or is ancillary to, use of the lot or land.

For further clarification and explanation, covenants imposing the following conditions do not comply with the legislation:

- an obligation to ensure that vehicular access to a lot or land is gained from a named street (regulating conduct ancillary to use of the lot or land)
- an obligation to keep a fence painted blue (imposing a landscaping standard)
- an obligation to construct any house on the lot or land within a stated height limit, facing a particular direction, or using split level or elevated construction techniques (a construction or architectural standard and/or regulating conduct ancillary to the use of the lot or land)
- an obligation not to use a lot or land for residential purposes until it is connected to water services (a condition precedent).

'Preservation' covenants under s. 97A(3)(b) of the Land Title Act or s. 373A(5)(b) of the Land Act may be used as a tool to assist in the preservation of native animals and plants, and natural or physical features of cultural or scientific significance.

Examples of preservation covenants include:

- a covenant for the purpose of preserving native vegetation (imposing an obligation not to remove such vegetation)
- a covenant for the purpose of preserving a bora ring (imposing an obligation not to disturb the area containing the bora ring)
- a covenant for preserving the natural and physical features of the lot or land being the natural slope of the land in the covenant area
- a covenant for the purpose of preserving native plants and preserving the natural features of the lot or land, including the water and soil in accordance with a management plan (the management plan should be identified, but not included as part of the covenant).

An example of a covenant that does not comply with the legislation would be a covenant providing that earthworks on a lot shall not exceed a maximum height of 2.0 metres.

Covenants 'tying parcels of land' may be registered under s. 97A(3)(c) of the Land Title Act or s. 373A(5)(c) of the Land Act. An example is a covenant ensuring that the lots described in Item 2 of the Covenant are to be transferred to the same person.

[31-2040] Purposes for which covenants may not be used

Restrictions on other dealings

Apart from a covenant under s. 97A(3)(c) of the Land Title Act or s. 373A(5)(c) of the Land Act, which impose restrictions on transferring land, a covenant cannot prevent the registered owner/covenantor or any other person from registering an interest in the subject lot or land.

For example, a covenant cannot prohibit the registered owner from granting a lease over the covenant area, nor from granting a lease except on specified terms. The following provisions would be unacceptable and unenforceable in a covenant:

- The Covenantor must not enter into any agreement for lease in respect of any part of the Covenant Area unless the lease is for a term not less than five years.
- The Covenantor must not grant any easement over the covenant area.

Matters to be dealt with by easements

Covenants may not provide for anything capable of being the subject of an easement. Example –

- a covenant acknowledging that a lot or land may be used for temporary parking.

Securing payment of money

Covenants may not secure the payment of money or money's worth under a condition of a development approval or an infrastructure agreement under the *Integrated Planning Act 1997* or the *Sustainable Planning Act 2009* or the *Planning Act 2016*. Example –

- an obligation to pay to the local authority agreed infrastructure contributions.

Planning schemes and development approval conditions

A covenant may not be inconsistent with a planning scheme under the *Planning Act 2016* unless it was entered into as a condition of a development approval or an infrastructure agreement. Section 97A(6A) of the *Land Title Act 1994* refers.

Under s. 107 of the Planning Act, a covenant entered into in connection with a development application is of no effect unless it is required under a development condition or an infrastructure agreement.

Earlier planning legislation included provisions to similar effect, for example, the *Sustainable Planning Act 1997* sections 87 and 349.

A covenant may not impose an obligation that is contrary to other legislation. For example, under section 66 of the Planning Act, a local authority must not require an access restriction strip as a condition of a development approval. Therefore, a covenant such as the following would not be acceptable:

- The covenantor shall use the Covenant area to restrict access to lot 3 from Brown Street.

[31-2060] Compliance with Legislation

A registered covenant is taken not to be registered under the *Land Title Act 1994* or the *Land Act 1994* to the extent that it is inconsistent with the legislation. Under s. 97AA of the Land Title Act and s. 373AB of the Land Act, the registration of covenants which are contrary to the legislation (e.g. pertaining to ancillary matters, landscaping and construction standards etc) would have no effect. Obligations described in such covenants may be conditions of development approval or contained in a local government's building code, but these are matters which depend on the Integrated Planning Act or the Sustainable Planning Act or the Planning Act, and are outside the scope of the Land Act and the Land Title Act. Under the Integrated Planning Act or the Sustainable Planning Act, development approvals and infrastructure agreements statutorily run with the land, and are binding on successors in title.

[31-2100] Requirements for a Covenant

A covenant must contain the full particulars of all lots or land that are subject to it. The covenant must describe the undertaking given by the covenantor. To clarify the intent of a covenant, inclusion of reference to the relevant legislation is required (e.g. 'Pursuant to s. 97A(3)(a)(i) of the Land Title Act' or 'Pursuant to s. 373A(5)(a)(i) of the Land Act').

[31-2150] Survey requirements of a covenant over part of a lot or land

A plan of survey or explanatory format plan is required to precede a covenant if the interest affects part of the lot or land. Building envelope sketches, diagrams, sketches and similar are not acceptable alternatives. If the covenant is for the whole of the lot or land, no plan is required.

Plans for a covenant must comply with directions 4.8.2 and 21 of the Registrar of Titles Directions for the Preparation of Plans. A plan must not describe a covenant as a 'Proposed Covenant' and there is no requirement for a covenant to be lodged immediately after the plan (see also part 21 – Plans and Associated Documents, esp. [21-2110]).

A covenant may be included with a survey of lots or land on a plan of subdivision.

[31-2200] Release of Covenant

A covenant may be wholly or partly released by registering a Form 33 – Release of Covenant.

A partial release of covenant must clearly specify the extent to which the covenant is released.

A partial release of part of the area affected by a covenant must be defined on a survey plan (see the Registrar of Titles Directions for the Preparation of Plans for covenants).

A covenant that is for ensuring that lots or land remains in the same ownership can only be partially released if at least two lots or parcels of land remain subject to the covenant after the partial release.

The release of covenant must be signed by the covenantee (see also [33-2100]).

[31-2300] Amendment of Covenant

Covenants may be amended by a Form 13 – Amendment. However, an amendment may not increase or decrease the area of land affected or add or remove a party. If non-freehold is involved, written approval of the amendment by the chief executive is required (see [13-2110]).

[31-4000] Forms

[31-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

COVENANT

FORM 31 Version 3

Dealing Number

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BRISBANE QLD 4000
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(07) 3227 9850

Lodger Code
490

1. Covenantor

JOHN DAVID BROWN

2. Description of Covenant / Lot on Plan | **Title Reference**

LOT 4 ON RP800006	22331100
LOT 5 ON RL9524	17732514

3. Covenantee

SMITHSON CITY COUNCIL

4. Description of Covenant (include reference to relevant section of legislation)

Pursuant to s. 373A(5)(c)(ii) of the Land Act 1994 and s. 97A(3)(c)(ii) of the Land Title Act 1994

5. Execution

The Covenantor being the registered owner of the lot described in item 2 covenants with the Covenantee in respect of the covenant described in item 4 and:- *the attached schedule; ~~*the attached schedule and document no. ..... ; document no. ..... .~~

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

A D Lein
.....signature
ARNOLD DOUGLAS LEIN
.....full name
JUSTICE OF THE PEACE 9339
.....qualification

13/9/2007
Execution Date

J D Brown
.....
Covenantor's Signature

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

15/9/2007
Execution Date

I L Hope
Appointed Officer
IAN LEO HOPE
.....
Covenantee's Signature

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

SAMPLE

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

COVENANT

FORM 31 Version 3

Dealing Number

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Lodger Code
490

1. Covenantor

JOHN DAVID BROWN

2. Description of Covenant / Lot on Plan | **Title Reference**

COVENANT A ON SP800106 | 22331100

3. Covenantee

SMITHSON CITY COUNCIL

4. Description of Covenant (include reference to relevant section of legislation)

PURSUANT TO SECTION 97A(3)(a)(i) OF THE LAND TITLE ACT 1994 RELATING TO THE USE OF THE LOT IN TERMS OF THE ATTACHED SCHEDULE

5. Execution

The Covenantor being the registered owner of the lot described in item 2 covenants with the Covenantee in respect of the covenant described in item 4 and:- *the attached schedule; ~~*the attached schedule and document no. ..... ; document no. ..... .~~

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

A D Lein
.....signature
ARNOLD DOUGLAS LEIN
.....full name
JUSTICE OF THE PEACE (C.DEC) 89339
.....qualification

13/9/2007
Execution Date

J D Brown
.....
Covenantor's Signature

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

15/9/2007
Execution Date

I L Hope

Appointed Officer
IAN LEO HOPE
.....
Covenantee's Signature

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

SAMPLE

Guide to Completion of Form 31

[31-4010] Item 1

Insert full name(s) of the covenantor, [registered owner(s) of freehold or holder(s) of non-freehold].

[31-4020] Item 2

Insert the 'Lot on Plan' descriptions for all lots or land affected by the covenant.

If the covenant applies to only part of the lot or land, then the covenant must be described in a manner similar to the following:

'Covenant A on SP 123567'.

In such cases, a plan will be required to be lodged in the land registry. The plan may be a survey plan or, if the registrar approves, an explanatory plan may be used to graphically represent the area affected by the covenant (see Survey Requirements [31-2150]).

[31-4030] Item 3

Insert the full name of the covenantee (i.e. the State, another entity representing the State or a local government).

[31-4040] Item 4

Include a description of the covenant and the relevant statutory provision. A covenant must be pursuant to either (a) or (b) or (c) in s. 97A(3) of the *Land Title Act 1994* and/or 5(a) or 5(b) or 5(c) in s. 373A of the *Land Act 1994*. A covenant cannot be pursuant to more than one of these paragraphs, although more than one covenant may be registered over the same lot or land for different purposes. Examples –

- 'Pursuant to s. 97A(3)(a)(ii) of the Land Title Act any building on the lot may only be used for residential purposes.'
- 'Pursuant to s. 97A(3)(b)(i) of the Land Title Act and the terms of the attached Schedule.'
- 'Pursuant to s. 97A(3)(a)(i) of the Land Title Act relating to the use of the lot in terms of the attached Schedule.'
- 'Pursuant to s. 373A(5)(c)(ii) of the Land Act and/or s. 97A(3)(c)(ii) of the Land Title Act relating to the future transfer of lots to a single ownership.' In instances where a covenant binds multiple tenure types (e.g. Road Licence and freehold land) reference to both Acts must be shown.

If space in item 4 is insufficient the description of the covenant may be set out in a Form 20 – Schedule attached to the Form 31, in which case the panel should refer to the Schedule.

The covenant must include a statement of its purpose. In the first example above, the purpose is stated in item 4. If the statement of purpose is not in item 4, then it must be included in the Schedule.

[31-4050] Item 5

Covenants must be validly executed by the covenantor and covenantee (the State, another entity representing the State or a local government).

For execution by a local government see [61-3200]. Execution on behalf of the State or an entity representing the State must be in accordance with relevant legislation.

A covenant that involves non-freehold land must have the written approval of the chief executive. Such requirement is in addition to it being executed for and on behalf of the State of Queensland.

[31-4060] Duty

There is no duty notation required on a Form 31 – Covenant.

[31-6000] deleted

[31-7000] Case Law

Townsville Port Authority v Max Locke, Registrar of Titles [2004] QCA 294

In this case the Queensland Court of Appeal considered the meaning of 'relate to the use of' a lot, part of a lot or a building in s. 97A(3)(a). Williams J stated:

> 'to be registrable the covenant must relate to a purpose for which a building proposed to be built on the lot can be used or otherwise be related to a use to be made or not to be made of that land.'

[31-8000] Fees

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

[31-9000] Cross References and Further Reading

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 33 – Release of Covenant/Profit a prendre

[31-9050] Notes in text

Note [1] – This part does not apply to water allocations.

Note [2] – This numbered section, paragraph or statement does not apply to freehold land.

Note [3] – This numbered section, paragraph or statement does not apply to State land.

Titles QUEENSLAND

Part 32 – Building Management Statements

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021

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Part 32 – Building Management Statements[1]

[32-0000] General Law

A building management statement (BMS) is an instrument/document by which the registered owners of lots or lessees under the *Land Act 1994* in a development agree to reciprocal provisions that benefit and burden their lots (s. 54A(2)(b) of the *Land Title Act 1994* and s. 294B(2)(b) of the Land Act).

A BMS is analogous to reciprocal easements with management covenants.

A BMS must provide for the supply of utility services, access, support and shelter and insurance arrangements. They may also contain provisions for a range of administrative matters as set out in s. 54C(2) of the Land Title Act and s. 294D(2) of the Land Act.

A BMS affecting freehold and non freehold land may be dealt with under s. 54J of the Land Title Act and s. 294J of the Land Act.

A BMS under the Land Act only applies to transport land as defined in Schedule 6 of the Land Act (s. 294A of the Land Act).

For a BMS to be registered it must:

- identify the lots to which it applies (s. 54A(2)(a) of the Land Title Act or s. 294B(2)(a) of the Land Act) (the term lot is taken to include common property s. 41C of the Land Title Act);

and have for freehold land:

- at least one of the lots entirely or partly **contained**, in one or more buildings; or
- at least one of the lots entirely or partly **containing**, one or more buildings (s. 54A(3) of the Land Title Act);

and have for transport land under the Land Act:

- each lot entirely or partly **contained**, in one or more buildings; or
- each lot entirely or partly **containing**, one or more buildings (s. 294B(3) of the Land Act);

and must comprise:

- at least two volumetric format lots; or
- one or more volumetric format lots **and** one or more standard format lots (s. 54B(2) of the Land Title Act or s. 294C(2) of the Land Act); (s. 54B(3) of the Land Title Act provides that in s. 54B a reference to standard format lot or volumetric format lot is taken to include a reference to common property, providing the common property is created on registration of a building format plan or volumetric format plan);

and,

- the lots must form a single continuous area of land (s. 54AA of the Land Title Act or s. 294BA of the Land Act).

A BMS may be registered even if all of the lots to which it applies are registered in the name of a single owner or lessee under the Land Act.

On registration, a reference to the BMS is recorded on the title for every lot involved. Examination undertaken by the Registrar will generally involve addressing compliance with the mandatory requirements only.

A BMS can be amended by registering an amendment, however, every owner of the lots or lessee under the Land Act to which it applies must sign the amendment. The lots to which it applies cannot be changed by amendment see part 13, esp. [13-2150].

A BMS is not automatically extinguished if one person becomes the registered owner or lessee under the Land Act of all the lots to which it applies. Extinguishment of a BMS only occurs on registration of an extinguishment signed by the registered owners or lessees under the Land Act of all lots involved see part 34, esp. [34-2000].

[32-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[32-2000] Practice

[32-2000] Requirements of Building Management Statement

A BMS that is to be registered against the title to the lots involved must be prepared in a Form 32 – Building Management Statement.

For further information see [32-0000].

A BMS must contain provisions that benefit and burden the lots to which it applies, and the lots must be wholly or partly contained in, or wholly or partly contain a building. The BMS must be signed by the registered owner or the lessee under the *Land Act 1994* of every lot. If the lots form part of a community titles scheme the body corporate of the scheme is taken to be the registered owner and may sign the statement (s. 54I(b) of the *Land Title Act 1994*).

Every BMS **must** contain provisions for the supply of services, access, support and shelter and insurance arrangements.

They **may** also contain provisions about:

- the establishment and operation of a management group;
- the imposition of levies and how levied amounts are to be kept and spent;
- property maintenance;
- architectural and landscaping standards;
- the resolution of disputes;
- rules for services and facilities common to lots;
- administrative arrangements;
- extinguishment;
- proposed future development.

Dispute resolution provisions, if included, may include referral for arbitration other than to a court, however, they may not preclude final determination by a court of competent jurisdiction. Optional provisions may be set out in an attached schedule or in a registered standard terms document.

Rights of access, support and shelter or any other right that is included in a BMS that would appear to be in the nature of an easement, operate and are effective without the registration of any further instrument/document.

[32-2040] Amendment of Building Management Statement

A BMS may be amended by registering an amendment that is prepared in a Form 13 – Amendment (see [13-2150]).

[32-2050] Extinguishment of Building Management Statement

A BMS may be extinguished or partially extinguished by registering an extinguishment in Form 34 – Extinguishment of Building Management Statement (see part 34).

[32-4000] Forms

[32-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

BUILDING MANAGEMENT STATEMENT

FORM 32 Version 3

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 Titles Queensland website.

Lodger (Name, address, E-mail & phone number)
SMYTHE & CO.
SOLICITORS
45 ADELAIDE STREET
BRISBANE QLD 4000
info@smytheco.com.au
(07) 3227 9850

Lodger Code
490

1. Registered Owners/State Lessees

HIGHRISE DEVELOPMENT PTY LTD ACN 124 123 457

2. Lot on Plan Description of affected land	**Title Reference**
LOT 143 ON SP900567	50002571
LOT 144 ON SP900567	50002572

3. Execution

The Registered Owners/State Lessees of the lots referred to in item 2 reciprocally grant and agree to the terms and conditions of the Building Management Statement contained in:- ~~*the attached schedule; *the attached schedule and document no. ……..~~ ; *document no. 700587641.

* delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

	(seal)	W *Smith*, Director
..... signature	or Full name of company	WILLIAM THOMAS SMITH
..... full name	to be shown	*P Jones*, Secretary
		PAUL JOHN JONES
..... qualification	20/11/2007	.....
Witnessing Officer	**Execution Date**	**Registered Owner's/ State Lessee's Signature**

(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	**Execution Date**	**Registered Owner's/ State Lessee's Signature**

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

SAMPLE

Guide to Completion of Form 32

[32-4010] Item 1

Insert the full name(s) of the registered owner(s) or lessee(s) under the *Land Act 1994* and refer to the lots in Item 2 by parcel number.

[32-4020] Item 2

Insert the 'Lot on Plan' descriptions of all lots comprised in the BMS with a parcel reference to identify each with one or more of the registered owners or lessees under the *Land Act 1994* in Item 1.

[32-4030] Item 3

The registered owner(s) or lessee(s) under the *Land Act 1994* must complete and execute as required.

[32-4040] Duty

A duty notation is not required on a Form 32 – Building Management Statement.

[32-6000] deleted

[32-7000] Case Law

Nil.

[32-8000] Fees

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

[32-9000] Cross References and Further Reading

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 34 – Extinguishment of Building Management Statement

[32-9050] Notes in text

Note [1] – This part 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.

Titles QUEENSLAND

Part 33 – Release of Covenant/Profit a prendre

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021

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Part 33 – Release of Covenant/Profit a prendre[1]

[33-0000] General Law

A covenant or profit a prendre that is registered in the Registry creates a charge over the lot(s) or land described in it and requires compliance with the obligations contained in the instrument or document.

The grantee may execute a release of a covenant or profit a prendre and on registration in the Land Registry, the charge is discharged to the extent shown in the release.

[33-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[33-2000] Practice

The appropriate form for a release of either a covenant or a profit a prendre is a Form 33 – Release of Covenant/Profit a prendre.

[33-2100] Release of Covenant

A covenant may be wholly or partly released by registering a Form 33 – Release of Covenant.

A partial release of covenant must clearly specify the extent to which the covenant is released. If a covenant restricted several uses and was to be released from less than all of the uses, the use to be released can be described verbally and that description of an obligation may be included in item 5 of the Form 33 or if insufficient space, in a Form 20 – Enlarged Panel annexed to the Form 33.

For a partial release of part of the area affected by a covenant the area being released or the area not being released must be defined on a survey plan (see the Registrar of Titles Directions for the Preparation of Plans for the requirements for a plan for an area for a covenant).

A covenant that is for ensuring that lots or land remains in the same ownership can only be partially released if at least two lots or parcels of land remain subject to the covenant after the partial release.

The release must be signed by the covenantee.

[33-2200] Release of Profit a prendre

Under the provisions of ss. 97L(1) and (2) of the Land Title Act 1994 or ss. 373O(1) and (2) of the Land Act 1994 a profit a prendre may be released to the extent shown in the release.

A profit a prendre may be partially released i.e. so far as it relates to:

- part of the land; or
- some of the substances that may be taken from the land. For example, a profit that entitles a party to take trees and gravel might be partially released so that the trees are excluded leaving only the right to take gravel.

The release must clearly specify the extent to which the profit a prendre is being released.

If the release does not release the whole of the land from the profit a prendre, the area being discharged or the area not being discharged must be defined on a survey plan.

A Form 33 – Release of Covenant/Profit a prendre signed by the covenantee/grantee must be lodged to register a release of a profit a prendre.

Lodgement fees are payable.

A release of a profit a prendre requires a duty notation.

Forms

[33-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994and Land Act 1994

RELEASE OF COVENANT/ PROFIT A PRENDRE

Duty Imprint

FORM 33 Version 3

Dealing Number

OFFICE USE ONLY

Privacy Statement
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1. Type/Dealing No. of instrument/document being released

Type of Instrument/Document PROFIT A PRENDRE

Dealing Number 723651098.....

Lodger (Name, address, E-mail & phone number)
SMYTHE & CO.
SOLICITORS
45 ADELAIDE STREET
BRISBANE QLD 4000
mail@smytheco.com.au
(07) 3227 9850

Lodger Code
490

2. Lot on Plan Description — **Title Reference**

LOT 33 ON RP587601 — 11567215
LOT 34 ON RP587601 — 11567216

3. Grantor/Covenantor

KRISTINA MARIA JOHNSON

4. Grantee/Covenantee

IVAN GEORGE JOHNSON

5. Execution by Grantee/Covenantee

***Full Surrender**

The Grantee/Covenantee releases the ~~covenant~~/profit a prendre in item 1 so that the ~~covenant~~/profit a prendre is extinguished.

***Partial Surrender**

~~The Grantee/Covenantee releases the covenant/profit a prendre in item 1 so far as relates to the land in item 2:-~~

~~*so far as relates to a part of the land being .....~~

~~*so far as relates to the substance taken from the land being .....~~

*delete if not applicable

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

P L Fish
.....signature
PETA LAUREL FISH
.....full name
SOLICITOR
.....qualification
Witnessing Officer

15/11/2007
Execution Date

I G Johnson
.....
Grantee's/Covenantee's Signature

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

SAMPLE

Guide to Completion of Form 33

[33-4010] Item 1

Insert the type of instrument/document and dealing number of the instrument/document to be released.

[33-4020] Item 2

The description of the lot should be 'Lot [number] on [Plan reference]'. The 'Title Reference' for each lot must also be completed.

[33-4030] Item 3

Insert the full name of the covenantor/grantor.

[33-4040] Item 4

Insert the full name of the covenantee/grantee.

[33-4050] Item 5

Complete and execute where indicated.

[33-6000] deleted

[33-7000] Case Law

Nil.

[33-8000] Fees

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

[33-9000] Cross References and Further Reading

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 29 – Profit a prendre

Part 31 – Covenants

[33-9050] Notes in text

Note [1] – This part does not apply to water allocations.

Note [2] – This numbered section, paragraph or statement does not apply to freehold land.

Note [3] – This numbered section, paragraph or statement does not apply to State land.

Titles QUEENSLAND

Part 34 – Extinguishment of Building Management Statements

LAND TITLE PRACTICE MANUAL

Updated: 28 August 2024

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[34-9050] Notes in text 4

Part 34 – Extinguishment of Building Management Statements

[34-0000] General Law

A building management statement (BMS) may be extinguished or partially extinguished by registering an extinguishment. Extinguishment or partial extinguishment only occurs on registration of an extinguishment that is signed by every registered owner or lessee under the *Land Act 1994* of all of the lots to which the BMS applies.

A BMS is not automatically extinguished if one person becomes the owner of all the freehold lots or the lessee of all the lots under the *Land Act 1994* to which it applies.

[34-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[34-2000] Practice

An extinguishment or partial extinguishment of a BMS is prepared in a Form 34 – Extinguishment of Building Management Statement.

A BMS may be partially extinguished to remove a lot that is not contained in, or does not contain, a building or part of a building.

For a full or partial extinguishment, the registered owner(s) of all the freehold lots or lessee(s) of all the lots under the *Land Act 1994* to which the BMS applies must execute the BMS. However, where lots affected by the BMS form part of a community titles scheme the extinguishment may be signed by the body corporate. The execution by the body corporate must be done in accordance with the relevant regulation module for the scheme. For further information refer to Part [45-2060].

For a full extinguishment of a BMS, the consents of all registered mortgagees to which the BMS applies are required (s. 54H(4)(b) of the Land Title Act or s. 294I(4)(b) of the Land Act). For a partial extinguishment, only the consents of registered mortgagees of lots to be removed from the BMS are required (s. 54H(4)(a) of the Land Title Act or s. 294I(4)(a) of the Land Act).

A BMS is not extinguished automatically if all of the lots come into common ownership. If all lots do come into common ownership and the owner(s) or lessees(s) under the Land Act intend to extinguish the BMS, an extinguishment must be lodged and registered.

[34-4000] Forms

[34-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

EXTINGUISHMENT OF BUILDING MANAGEMENT STATEMENT

FORM 34 Version 3

Dealing Number

OFFICE USE ONLY

Privacy Statement
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Lodger (Name, address, E-mail & phone number)
SMYTHE & CO.
SOLICITORS
45 ADELAIDE STREET
BRISBANE QLD 40
mail@smytheco.com.au
(07) 3227 9850

Lodger Code
490

1. Dealing number of instrument/document being extinguished

723568901

2. Lot on Plan Description of affected land | **Title Reference**

LOT 143 ON SP900567	5002571
LOT 144 ON SP900567	5002572

3. Registered Owners/State Lessees

HIGHRISE DEVELOPMENT PTY LTD ACN 124 123 457

4. Execution

The Registered Owners/State Lessees identified in item 3 agree to the extinguishment of the building management statement in item 1.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

..... signature	(seal) or Full name of company to be shown	W *Smith*, Director WILLIAM THOMAS SMITH
..... full name		*P Jones*, Secretary PAUL JOHN JONES
..... qualification	25/11/2007	.....
Witnessing Officer (Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)	**Execution Date**	**Registered Owner's/ State Lessee's Signature**
..... 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**	**Registered Owner's/ State Lessee's Signature**

SAMPLE

Guide to Completion of Form 34

[34-4010] Item 1

Insert the dealing number of the BMS to be extinguished.

[34-4020] Item 2

Insert the 'Lot on Plan' descriptions of all lots comprised in the BMS with a parcel reference to identify each with one or more of the registered owners or lessee(s) under the *Land Act 1994* in Item 3.

[34-4030] Item 3

Insert the full name(s) of all registered owner(s) or lessee(s) under the *Land Act 1994* and refer to the lots in Item 2 by parcel number.

[34-4040] Item 4

Execute as required.

[34-6000] deleted

[34-7000] Case Law

Nil.

[34-8000] Fees

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

[34-9000] Cross References and Further Reading

Part 20 – Schedule, Enlarged Panel, Additional Page or Standard Terms Document

Part 32 – Building Management Statements

[34-9050] Notes in text

Note [1] – This part 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.

Titles QUEENSLAND

Part 36 – Carbon Abatement Interest

LAND TITLE PRACTICE MANUAL

Updated: 1 November 2021

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Part 36 – Carbon Abatement Interest[1]

[36-0000] General Law

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]).

[36-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[36-2000] Practice

[36-2000] Requirements of a Carbon Abatement Interest

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.

[36-2050] Additional Requirements

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 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 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*;

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 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 (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].

[36-2100] Surrender of a Carbon Abatement Interest

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.

[36-2200] Removing a Carbon Abatement Interest

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]).

[36-2300] Amending a Carbon Abatement Interest

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].

[36-4000] Forms

[36-4000] General Guide to Completion of Forms

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

CARBON ABATEMENT INTEREST

Dealing Number *Duty Imprint*

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1. Grantor

BILL JONES

THE STATE OF QUEENSLAND (REPRESENTED BY THE DEPARTMENT OF RESOURCES) AS REVERSIONARY OWNER

Lodger (Name, address, E-mail & phone number)

JONES & CO SOLICITORS
54 ADELAIDE STREET
BRISBANE QLD 4000
mail@jonesco.com.au
(07) 3227 9850

Lodger Code (if any)
490

2. Description of Carbon Abatement Interest/ Lot on Plan

Carbon Abatement Interest A on SP123456

Title Reference

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 **Execution Date** **Grantor's Signature**

(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 **Execution Date** **Grantee's Signature**

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

SAMPLE

Title Reference [14621222]

(The terms and conditions of the agreement are to be set out here)

SAMPLE

Guide for Completion of Form 36

[36-4010] Item 1

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].

[36-4020] Item 2

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.

[36-4030] Item 3

Insert the full name(s) of the grantee(s) and tenancy (if applicable).

[36-4040] Item 4

Insert the termination date or a reference to the event that terminates the carbon abatement interest.

[36-4050] Item 5

Insert monetary or other consideration.

[36-4060] Item 6

Complete where indicated and execute as required.

[36-7000] Case Law

Nil.

[36-8000] Fees

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

[36-9000] Cross References and Further Reading

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

[36-9050] Notes in text

Note[1] – This part 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.

Titles QUEENSLAND

Part 37 – Surrender of Carbon Abatement Interest

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021

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Part 37 – Surrender of Carbon Abatement Interest[1]

[37-0000] General Law

Section 97U of the *Land Title Act 1994* and section 373Y of the *Land Act 1994* provide that the registrar may register a surrender of carbon abatement interest on lodgement of an instrument or document which surrenders the interest. On registration of the surrender the interest is surrendered to the extent shown in the instrument or document.

[37-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994* and *Land Act 1994*

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

[37-2000] Practice

[37-2000] Surrender of Carbon Abatement Interest

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.

A surrender of a carbon abatement interest is executed by the grantor and grantee and lodged in a Form 37 – Surrender of Carbon Abatement Interest.

If the carbon abatement is to be only partly surrendered, the surrendered portion must be capable of precise definition. If the surrendered portion is not capable of precise definition, the area to be surrendered, or the area to remain subject to the carbon abatement interest, must be defined by a plan of survey drawn in accordance with direction 6 of the Registrar of Titles Directions for the Preparation of Plans. Alternatively, the carbon abatement interest should be fully surrendered and a new carbon abatement interest created.

The consent of the relevant Minister on Form 18—General Consent is required to be deposited if the area to be surrendered is:

a. land within a State forest, timber reserve or forest entitlement area—the Minister administering the *Forestry Act 1959*; or

b. 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*.

Alternatively, if the State is a party to the Form 37 (i.e. a grantor) and executes the Form 37 as a grantor, the consent on a Form 18 is not required.

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.

Note: If the title subject to the carbon abatement interest is also subject to an administrative advice, Notice of Carbon Farming Initiative Project under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth), and the carbon abatement interest is being fully surrendered from the subject title, a Form 14—General Request to remove the administrative advice should also be lodged with the Form 37—Surrender of Carbon Abatement Interest.

Lodgement fees are payable and a duty notation is required.

[37-4000] Forms

[37-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY **SURRENDER OF CARBON ABATEMENT INTEREST** **FORM 37** Version 1
Land Title Act 1994 and Land Act 1994 Page 1 of 1

Dealing Number *Duty Imprint*

OFFICE USE ONLY

Privacy Statement
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1. Dealing number of Carbon Abatement Interest being surrendered

723651098

Lodger (Name, address, E-mail & phone number)
TOWN & CO.
SOLICITORS
45 ADELAIDE STREET
BRISBANE QLD 4000
mail@town&.com.au
(07) 3227 9850

Lodger Code
490

2. Lot on Plan Description

LOT 37 ON RP857601

Title Reference

13894001

3. Grantor

KRISTINA MARIA JOHNSON

4. Grantee

IVAN GEORGE JOHNSON

5. Surrender/Execution

Surrender of Carbon Abatement Interest

***Full Surrender** The Carbon Abatement Interest in item 1 is surrendered from 19/12/2012.

~~***Partial Surrender** The Carbon Abatement Interest in item 1 is surrendered from / /~~

~~*so far as relates to the land in item 2.~~

~~*so far as relates to part of the Carbon Abatement Interest area identified on/as .~~

*** 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 **Execution Date** **Grantee's Signature**

(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 **Execution Date** **Grantor's Signature**

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

SAMPLE

Guide to Completion of Form 37

[37-4010] Item 1

Insert the dealing number of the carbon abatement interest to be surrendered.

[37-4020] Item 2

The description of the lot should be 'Lot [number] on [Plan reference]'. The 'Title Reference' for each lot must also be completed.

[37-4030] Item 3

Insert the full name of the grantor.

[37-4040] Item 4

Insert the full name of the grantee.

[37-4050] Item 5

At Item 5, there are paragraphs applicable to a full and to a partial surrender. When completing the Form, the paragraph not applicable to the situation is to be ruled through.

The grantor and the grantee must execute the form.

[37-7000] Case Law

Nil.

[37-8000] Fees

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

[37-9000] Cross References and Further Reading

Part 59 – Forms

[37-9050] Notes in text

Note [1] – This part does not apply to water allocations.

Note [2] – This numbered section, paragraph or statement does not apply to freehold land.

Note [3] – This numbered section, paragraph or statement does not apply to State land.

Titles QUEENSLAND

Part 39 – High-density Development Easement

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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[39-9050] Notes in text 6

Part 39 – High-density Development Easement[1,2]

[39-0000] General Law

As part of urban densification and urban renewal, one type of development is the creation of small lot subdivisions, where lot sizes are much smaller than traditional development lot sizes, typically 70m2 to 450m2. The size of these lots necessitates unique architectural solutions to provide suitable living spaces. Part 6 Division 4AA of the *Land Title Act 1994* provides for the registration of statutory easements over lots, containing buildings (terrace type houses) with shared common walls. These easements are now referred to as high-density development easements.

These lots are being created as standard format lot subdivisions rather than community title schemes under the *Body Corporate and Community Management Act 1997* and therefore the statutory easement provisions in Part 6A Division 5 of Land Title Act for community titles schemes do not apply.

[39-0010] Purpose of High-density Development Easement

The purposes for high-density development easements are limited to one or more of the following:

a. support;
b. shelter;
c. projections;
d. maintenance of building close to boundary;
e. roof water drainage.

[39-0020] Creation of High-density Development Easement

High-density development easements may only be created over 2 small adjoining lots, and only if—

a. any of the following applies—
    i. a wall of a building situated on 1 of the adjoining lots is also a wall of a building situated on the other adjoining lot, and the wall is on the common boundary of the 2 adjoining lots;
    ii. a wall of a building is situated on 1 of the adjoining lots is adjacent to a wall of a building situated on the other adjoining lot, each wall is constructed on the same foundation and the foundation is on the common boundary of the 2 adjoining lots;
    iii. a wall of a building situated on 1 of the adjoining lots is adjacent to a wall of a building situated on the other adjoining lot, each wall is constructed on a separate foundation and each foundation is adjacent to the common boundary of the 2 adjoining lots; or
b. a relevant development approval, under which a requirement for a circumstance mentioned in paragraph (a)(i), (ii) or (iii) applies as a condition, applies to both adjoining lots.

Each lot to which a high-density development easement relates is benefitted and burdened by the high-density development easement to the extent necessary to give effect to the purposes for which the high-density development easement is created.

High-density development easements are not required to be identified on a plan of survey. The size and location of a high-density development easement is limited to the size and location of the structures, and to the extent necessary to give effect to the high-density development easement.

A high-density development easement may not be limited wholly or partly in height or in depth.

A person may grant a high-density development easement to himself/herself as owner of both the lots (s. 86 of the *Land Title Act 1994*).

A high-density development easement may not be amended (s. 91 of the Land Title Act).

[39-0030] Currency of High-density Development Easement

High-density Development Easement to take effect in the future

A high-density development easement that is to take effect at some future time cannot be registered. Under the provisions of s. 85B of the *Land Title Act 1994*, on registration of a high-density development easement, a high-density development easement is created.

[39-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994*

Refer to [0-8100].

[39-2000] Practice

[39-2000] Creation of High-density Development Easement

High-density development easements are created by a grant of high-density development easement under the provisions of Part 6 Division 4AA of the *Land Title Act 1994*.

[39-2010] High-density Development Easement Created by Grant

Under s. 82 of the *Land Title Act 1994*, high-density development easements are created upon the registration of a Form 39 – High-density Development Easement.

A high-density development easement may only be created by registering a high-density development easement and the high-density development easement must state the purpose/s of the high-density development easement referring to specific provisions of Part 6 Division 4AA of the Land Title Act and identify the affected land.

A high-density development easement from a person to himself/herself created by registering a high-density development easement cannot include covenants.

Lodgement fees are payable and a duty notation is required.

[39-2020] Consent to High-density Development Easement by Lessee

In view of the provisions of s. 184(1) of the *Land Title Act 1994*, a new high-density development easement requires the consent of every affected lessee of any lot affected by the high-density development easement. The consent must be given on a Form 18 – General Consent and be deposited with the Form 39 – High-density Development Easement.

[39-2030] Merger of a High-density Development Easement within a Lot

If the Registrar creates a single indefeasible title for a number of lots and those lots comprise both the lots the subject of a high-density development easement, the high-density development easement is extinguished by virtue of s. 87(b) of the *Land Title Act 1994*.

Similarly, if lots subject of a high-density development easement are amalgamated into one lot by survey, on creation of the indefeasible title for the amalgamated lot the high-density development easement is extinguished by virtue of s. 87(b) of the Land Title Act.

Modification or Extinguishment of a High-density Development Easement by Surrender

[39-2040] By Order of the Court

Section 181 of the *Property Law Act 2023* enables the court to modify or extinguish a high-density development easement.

If the court orders registration of a document(s) the Registrar's requirements in the following cases are set out below:

a. If the court order modifies some or any of the purposes and therefore the statutory provisions applying to the high-density development easement, then a Form 14 – General Request to register the order of the court is lodged, together with a copy of the order.

b. If the court order is for the full surrender of the high-density development easement, then a Form 40 – Surrender of High-density Development Easement is lodged. A copy of the court order is required if any person authorised by the court, other than the registered proprietor of the lots, has executed any instrument.

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

See also part 40 – Surrender of High-density Development Easement.

[39-4000] Forms

[39-4000] General Guide to Completion of Forms

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

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and *Land Act 1994*

HIGH-DENSITY DEVELOPMENT EASEMENT

FORM 39 Version 1

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 Titles Queensland website.

1. Registered Owners
DAVID JOHN TYSON

MICHAEL WAYNE SMITH

Lodger (Name, address, E-mail & phone number)
BROWN & CO
34 QUEEN STREET
BRISBANE QLD 4000
info@browns.com.au
(07) 3224 5398

Lodger Code (if any)

2. Lot on Plan Descriptions of Affected Land

	Title Reference
LOT 3 ON SP123456	15432099
LOT 6 ON SP134567	16253266

3. Consideration
$1.00

4. Purpose/s of High-density Development Easement

- Support (section 95 Land Title Act 1994)
- ~~Shelter (section 96 Land Title Act 1994)~~
- ~~Projections (section 96A Land Title Act 1994)~~
- ~~Maintenance of building close to boundary (section 96B Land Title Act 1994)~~
- ~~Roof water drainage (section 96C Land Title Act 1994)~~

Note: rule through if purpose is not applicable

5. Grant/Execution

The registered owners identified in item 1 reciprocally grant the High-density Development Easement over the land identified in item 2, for the purpose/s stated in item 4, and covenant with each other in terms of Division 4AA of the Land Title Act 1994.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

P L Fish
..... signature
PETA LAUREL FISH
..... full name
SOLICITOR
..... qualification

21 / 12 / 2017
Execution Date

David J Tyson
.....
Registered Owner's Signature

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

P L Fish
..... signature
PETA LAUREL FISH
..... full name
SOLICITOR
..... qualification

21 / 12 / 2017
Execution Date

Michael W Smith
.....
Registered Owner's Signature

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

SAMPLE

Guide to Completion of Form 39

[39-4010] General

A Form 39 – High-density Development Easement is used when a high-density development easement is granted under Part 6 Division 4AA of the *Land Title Act 1994*.

[39-4020] Item 1

Insert the full name of the parties to the high-density development easement as shown on the current title search, i.e. the registered owners of both lots affected by the high-density development easement. If the registered owner is a tenant in common, all tenants in common must join in one high-density development easement and not grant high-density development easements individually.

[39-4030] Item 2

Lot on Plan Descriptions of Affected Land

Insert the lot on plan descriptions of the affected land.

[39-4040] Item 3

Insert the monetary or other consideration.

[39-4050] Item 4

The inapplicable purposes must be deleted by being ruled through.

[39-4060] Item 5

All registered owners of the lots the subject of the high-density development easement must execute as required. Separate executions are required for each registered owner, even if they are the same for both lots.

See also Part 61 – Witnessing and Execution of Instruments or Documents, esp. [61-3000] ff.

[39-7000] Case Law

Nil.

[39-8000] Fees

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

[39-9000] Cross References and Further Reading

Part 40 – Surrender of High-density Development Easement

Part 61 – Witnessing and Execution of Instruments or Documents *ff*

[39-9050] Notes in text

Note [1] – This part does not apply to water allocations.

Note [2] – This part does not apply to State land.

Titles QUEENSLAND

Part 40 – Surrender of High-Density Development Easement

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021

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Part 40 – Surrender of High-Density Development Easement[1,2]

[40-0000] General Law

A high-density development easement is wholly extinguished by the registration of a surrender of that high-density development easement. As the high-density development easement benefits and burdens both lots, the registered owners of both affected lots must execute a surrender of the high-density development easement. The owner of one of the affected lots cannot, alone, effect the surrender of a high-density development easement.

[40-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994*

Refer to [0-8100].

[40-2000] Practice

[40-2000] Surrender of High-density Development Easement

The owners of both of the affected lots must together execute the Form 40 – Surrender of High-density Development Easement.

The consent, in Form 18 – General Consent, of any registered mortgagees of the affected lots must also be lodged. Further, the consent of any lessee that receives a benefit from the high-density development easement is also required (s. 90(3) and (4) of the *Land Title Act 1994*).

A high-density development easement may not be partially surrendered.

Lodgement fees are payable and a duty notation is required

[40-4000] Forms

[40-4000] General Guide to Completion of Forms

For general requirements for completion of forms see part 59 – Forms, esp. [59-2000].

QUEENSLAND TITLES REGISTRY
Land Title Act 1994

SURRENDER OF HIGH DENSITY DEVELOPMENT EASEMENT

FORM 40 Version 1

Dealing Number

Duty Imprint

OFFICE USE ONLY

Privacy Statement
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1. Dealing number of High-density Development being surrendered

712345678

Lodger (Name, address, E-mail & phone number)
BROWN & CO.
34 QUEEN STREET
BRISBANE QLD 4000
info@browns.com.au
(07) 3224 5398

Lodger Code (if any)
123

2. Lot on Plan Descriptions of Affected Land — **Title Reference**

LOT 3 ON SP123456 — 15432099

LOT 6 ON SP134567 — 16253266

3. Registered Owners

DAVID JOHN TYSON

MICHAEL WAYNE SMITH

4. Surrender/Execution

*** Surrender**
The registered owners surrender the High-density Development Easement in item 1 so that the High-density Development Easement is extinguished.

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)

/ /
Execution Date

.....
Registered Owner's Signature

..... 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

.....
Registered Owner's Signature

SAMPLE

Guide to Completion of Form 40

[40-4010] Item 1

Insert the dealing number of the high-density development easement being surrendered (e.g. 701233245).

[40-4020] Item 2

Insert the lot on plan descriptions of the affected land. The Title reference for the lots must also be inserted.

[40-4030] Item 3

Insert the full names of the registered owners of the affected land. If the registered owners of both lots affected by the high-density development easement are the same, the names of the registered owner/s must be inserted twice. If the registered owner is a tenant in common, all tenants in common must join in the one surrender and not surrender the high-density development easement individually.

[40-4040] Item 4

All registered owners of the lots the subject of the high-density development easement being surrendered must execute as required. Separate executions are required for each registered owner, even if they are the same for of both lots.

See also Part 61 – Witnessing and Execution of Instruments or Documents, esp. [61-3000] *ff.*

[40-7000] Case Law

Nil.

[40-8000] Fees

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

[40-9000] Cross References and Further Reading

Part 39 – High-Density Development Easement

Part 61 – Witnessing and Execution of Instruments or Documents ff

[40-9050] Notes in text

Note [1] – This part does not apply to water allocations.

Note [2] – This part does not apply to State land.

Titles QUEENSLAND

Part 45 – Community Title Schemes

LAND TITLE PRACTICE MANUAL

Updated: 20 March 2025

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Part 45 – Community Title Schemes

[45-0000] General Law

The *Body Corporate and Community Management Act 1997* (the '**BCCMA'**) impacts on a significant proportion of the State's population. The Act fully replaced the *Building Units and Group Titles Act 1980* at the end of the transitional period except for those developments established under the specified Acts referred to in s. 326 of the BCCMA. See Part [45-0001] for further clarification.

For ease of reference, the *Body Corporate and Community Management Act 1997* will be shortened to '**BCCMA'** throughout Part 45. Please note Part 45 does not apply to water allocations or to State land.

Provisions set out in the *South Bank Corporation Act 1989* apply to bodies corporate created under that Act.

The BCCMA was substantially amended by the *Body Corporate and Community Management and Other Legislation Amendment Act 2023* which commenced on 1 May 2024, along with corresponding changes to subordinate legislation under the Act. Some of the amendments relevant to land title practice included:

- Provision to allow for termination of community titles schemes for economic reasons (see Part [45-3141]); and
- Removal of the requirement for the body corporate to obtain, keep, or possess a body corporate seal; and
- The body corporate seal (if retained by a body corporate) becoming of no legal effect; and no longer being required for a valid execution of a titles instrument by a body corporate; and
- Introduction of new requirements for the execution of land title instruments by a body corporate (see Parts [45-2060] to [45-2085]).

[45-0001] Application of this Part and the BCCMA

Part 45, and the BCCMA applies to all community titles schemes other than those which were established under a specified Act. For further information on specified Acts refer to section 326 of the BCCMA.

The schemes under a specified Act (s 326 BCCMA) mean those established under:

a. the *Integrated Resort Development Act 1987*; or
b. the *Mixed Use Development Act 1993*; or
c. the *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980;* or
d. the *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*; or
e. the *Sanctuary Cove Resort Act 1985.*

[45-1000] Legislation

Reference to the registrar of titles in the *Land Title Act 1994*

Refer to [0-8100].

Practice

Community Titles Schemes in the Land Registry

[45-2000] Basic Attributes of a Community Titles Scheme

The *Body Corporate and Community Management Act 1997* ('**BCCMA'**) provides for the establishment of community titles schemes over freehold land. A community titles scheme consists of at least two lots and common property.

The following instruments must be lodged (in the following order) to create a community titles scheme:

- a first community management statement (CMS) and

- a plan of survey, in the appropriate format.

The First CMS identifies the scheme land (scheme land comprises all lots and the common property for the scheme) and may also include land other than the land in the accompanying plan of subdivision. All of the lots designated on the plan need not be included in the scheme.

On registration of the plan and the First CMS the following are created:

- a body corporate for the scheme; and
- indefeasible titles for each lot and the common property in the scheme.

Generally, all lots in a community titles scheme should be registered in one name. However, lots owned by different registered owners may be combined in a community titles scheme provided there is no impact on ownership of the lots created by the scheme to prevent creation of indefeasible titles for every lot. If there is an impact on the lots which are created by virtue of the differing ownership, then the registry will require implementing documents to resolve the ownership (see [21-2330]).

The following is provided as an example where there are no land titling ownership issues to resolve:

> The subdivision of two lots, each owned by a different person, to create a community titles scheme of five lots and common property where the subdivision is undertaken so that three of the scheme lots come entirely from one of the original lots and the remaining two scheme lots come entirely from the other original lot.

Land cannot be common property for more than one community titles scheme.

[45-2020] Types of Scheme Arrangements

The BCCMA allows for the creation of basic schemes and layered arrangements. Both basic schemes and layered arrangements may be developed in stages.

A basic scheme is one where land is subdivided into lots and common property to create a scheme with a single body corporate.

A layered arrangement is a grouping of community titles schemes under a principal scheme (s. 18 of the BCCMA). Samples of diagrams included in this part are based on diagrams of examples of layered arrangements shown in Schedule 1 of the BCCMA.

Staged subdivisions occur when an original lot(s) is subdivided into scheme lots and common property and one or more of the scheme lots is then further subdivided. There is a range of permitted methods of dealing with staged subdivisions (see [45-2680]).

A CMS may provide for the scheme to be a 'lease-back scheme' pursuant to s. 17 of the BCCMA.

[45-2030] Types of Body Corporate Modules (Regulation Modules)

There are 5 different types of body corporate modules created by subordinate legislation pursuant to section 21 of the BCCMA. These module types have been listed below. A body corporate can only have one regulation module applying to it (section 21(5) BCCMA).

For ease of reference, the regulation modules are identified throughout Part 45 only by the name of the module type (shown in the left column in the table below), and not by the full name of the Regulation.

MODULE TYPE	CORRESPONDING REGULATION
Standard Module	Body Corporate and Community Management (Standard Module) Regulation 2020
Accommodation Module	Body Corporate and Community Management (Accommodation Module) Regulation 2020
Commercial Module	Body Corporate and Community Management (Commercial Module) Regulation 2020
Small Schemes Module	Body Corporate and Community Management (Small Schemes Module) Regulation 2020
Specified Two-Lot Schemes Module*	Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011

*Referred to as a 'Two-Lot Module' for the remainder of this Part

[45-2040] deleted

[45-2050] Executions by a Body Corporate prior to 1 May 2024

The amendments to the BCCMA and its subordinate legislation which commenced on 1 May 2024 included transitional provisions which prescribe how body corporate executions made prior to 1 May 2024 must have been completed. These transitional requirements are identical to the requirements that existed prior to the changes that commenced on 1 May 2024 (including the use of the body corporate seal).

The transitional requirements are found in the Regulations for the respective body corporate module types, and have been included in the table below:

SCHEME REGULATION MODULE	TRANSITIONAL REQUIREMENTS FOR: DISPOSAL OF AN INTEREST IN, LEASING, OR LICENSING COMMON PROPERTY	TRANSITIONAL REQUIREMENTS FOR: EASEMENTS AND SURRENDER OF EASEMENTS
Standard	s 260-261	s 262-263
Accommodation	s 249-250	s 251-252
Commercial	s 204-205	s 206-207
Small Schemes	s 172-173	s 174-175
Two-Lot Module	s 86-87	s 88-89

Lodgers should ensure that any instrument lodged which has been executed (on the face of the instrument) by a body corporate prior to 1 May 2024 complies with the transitional provisions contained in the above table (for the relevant regulation module that applies to the scheme).

There is nothing to preclude the body corporate from re-executing a titles instrument in accordance with the new execution requirements contained in Part [45-2060] (for a transaction that was previously consented to). However, this ability to re-execute an instrument does not circumvent other time restrictions that may apply to a lodgement (e.g. the requirement that a New CMS must be lodged within three months of being consented to by the body corporate, refer to Part [45-2220] for further information).

For clarity, where a body corporate has authorised a transaction prior to 1 May 2024, but it has not yet executed an instrument to give effect to that transaction; the execution by the body corporate must be completed in accordance with the current execution requirements contained in Part [45-2060].

[45-2060] Executions by a Body Corporate

Application

This section applies to all instruments executed by a body corporate on or after 1 May 2024. For information on executions prior to 1 May 2024, refer to the transitional provisions contained in Part [45-2050].

Introduction and Overview

Because of the breadth and complexity of the requirements around body corporate executions this topic has been divided into several smaller parts to assist lodgers in understanding the requirements and ensuring their compliance with them. Parts [45-2060] - [45-2085] inclusive are instructive on this topic.

Practical Form Guidance (for executions)

A Form 20 – BCCM Execution must be used for the execution of all titles instruments by a body corporate, other than a Form 14. For guidance on the method of execution required for an instrument refer to Parts [45-2061] and [45-2062]. For more information on the completion and execution of the Form 20 – BCCM Execution refer to Part [45-2080], and for more information on the execution of a Form 14 by a body corporate refer to Part [45-2085].

[45-2061] Process for Ensuring a Valid Execution by a Body Corporate

The four steps for selecting a valid method of execution by a body corporate are as follows:

1. **Identify the Execution Type (for the instrument type being executed)**: The body corporate should review the table in Part [45-2062] and confirm which execution type is required for the relevant instrument.
2. **Select a Valid Method of Execution**: The body corporate should identify the part of the manual that corresponds to the regulation module applicable to the scheme, and to the execution type that is required for the relevant instrument (e.g. Standard Module – Formal Execution) as shown in the below table:

REGULATION MODULE	PART OF THE MANUAL
Standard Module	**[45-2064]**
Regulation Execution	[45-2064-1]
Formal Execution	[45-2064-2]
Minor Execution	[45-2064-3]
Accommodation Module	**[45-2064]**
Regulation Execution	[45-2064-1]
Formal Execution	[45-2064-2]
Minor Execution	[45-2064-3]
Small Schemes Module	**[45-2065]**
Regulation Execution	[45-2065-1]
Formal Execution	[45-2065-2]
Minor Execution	[45-2065-3]
Commercial Module	**[45-2066]**
Regulation Execution	[45-2066-1]
Formal Execution	[45-2066-2]
Minor Execution	[45-2066-3]
Two-Lot Module	**[45-2067]**
Regulation Execution	[45-2067-1]
Formal Execution	[45-2067-2]
Minor Execution	[45-2067-3]

   The body corporate should then select an appropriate method of execution (the **method of execution**) from the corresponding part as shown in the table.

3. **Review any Miscellaneous Requirements that may apply to the Execution**: There may be additional requirements for executions by a body corporate, these are contained in Part [45-2070].
4. **Prepare and execute the Form using the Method of Execution**: The execution by a body corporate of all titles instruments other than a Form 14, must be on a Form 20 – BCCM Execution. For guidance and examples to assist with completing:
   - **Form 14**, refer to Part [45-2085].
   - **Form 20 – BCCM Execution**, refer to Part [45-2080] and [45-2081].

[45-2062] Execution Types (By Instrument)

There are three distinct execution types that apply to instruments executed by a body corporate which are: Regulation, Formal, and Minor. Refer to Part [45-2063] for further explanation.

The requirements for a valid execution by the body corporate will vary depending on the instrument type and the applicable regulation module. The table below shows which execution type is required for each instrument type:

INSTRUMENT TYPE	EXECUTION TYPE
Form 1 – Transfer (as Transferor)	Regulation
Form 1 – Transfer (as Transferee)	Formal
Form 7 – Lease (as Lessor or Lessee)	Regulation
Form 8 – Surrender of a Lease (as Lessor or Lessee)	Regulation
Form 9 – Easement	Regulation
Form 10 – Surrender of Easement	Regulation
Form 12 - Request to Register Writ/Warrant of Execution	Formal
Form 13 – Amendment of Building Management Statement	Formal
Form 14 – Change of Address of Body Corporate	Minor
Form 14 – Request to record new CMS	Minor
Form New CMS	Formal
Form 14 – Administrative Advice	Minor
Form 14 – Amalgamation of Schemes	Minor
Form 18 – General Consent	Regulation
Form 18A – Registered Owners/Lessee's Consent to Survey Plan	Regulation
Form 32 – Building Management Statement	Formal
Form 34 – Extinguishment of Building Management Statement	Formal

[45-2063] Execution Types (Summary of the Different Types and Methods)

[45-2063-1] Regulation Execution

Regulation execution refers to the methods of execution by a body corporate that are prescribed by Regulation. Specifically, it refers to the requirements contained in the various regulation modules for the BCCMA pursuant to sections 21, 154, and 155. For more information on the types of body corporate regulation modules, refer to Part [45-2030].

The BCCMA prescribes that these execution requirements (for a regulation execution) apply any time there is a disposal of an interest in, leasing, or licensing of common property; or, alternatively where an easement is to be registered over scheme land; or, where an easement over body corporate land is to be surrendered. These requirements apply in respect to an easement or a surrender of an easement, regardless of whether the body corporate is executing as grantor or as grantee.

The actual requirements themselves (the methods of execution) are found in the Regulations for the respective module types. Refer to the table below for the relevant sections in the Regulations:

SCHEME REGULATION MODULE	REQUIREMENTS FOR: DISPOSAL OF AN INTEREST IN, LEASING, OR LICENSING COMMON PROPERTY	REQUIREMENTS FOR: EASEMENTS AND SURRENDER OF EASEMENTS
Standard	s. 184	s. 185
Accommodation	s. 174	s. 175
Commercial	s. 131	s. 132
Small Schemes	s. 103	s. 104
Two-Lot Module	s. 33	s. 34

The methods of execution available in the regulation sections listed above are detailed under the 'Regulation Execution' sub-headings, located in the respective module headings (e.g. Commercial Module) in Parts [45-2064] to [45-2067]. For an explanation of the process of selecting an appropriate method of execution, refer Part [45-2061].

For information on which execution type applies to which instrument, refer to Part [45-2062].

[45-2063-2] Formal Execution

Formal execution refers to the method of execution in circumstances where the requirements are not prescribed by the BCCMA Regulations, however the instrument may be capable of effecting substantive change to scheme land. In these instances, the body corporate will need to execute the instrument in accordance with the requirements for a formal execution.

An example of an instrument requiring formal execution would be a Form 1 – Transfer executed by the body corporate where the body corporate is the transferee. This is because although there is no disposal of an interest occurring (and as such the execution requirements are not prescribed by the Regulations), the body corporate is becoming the owner of new scheme land upon registration, and therefore a substantive change to scheme land is being effected by the registration instrument (thus warranting the requirement for a formal execution type).

The methods of execution available where a formal execution type is required are detailed under the 'Formal Execution' sub-headings, located inside the respective module heading Parts (e.g. Commercial Module) in Parts [45-2064] to [45-2067]. For more information on the process of selecting an appropriate method of execution, refer to Part [45-2061].

For information on which execution type applies to which titles instrument, refer to Part [45-2062].

[45-2063-3] Minor Execution

Minor execution refers to the method of execution used for instruments that cannot effect any substantive change to body corporate land, and as a result these execution requirements are not as stringent as the formal or regulation execution types.

All executions of a Form 14 by a body corporate will require a minor execution.

An example of where a minor execution would be required would be a Form 14 – General Request lodged to request the change of address for the service of notices for the body corporate, refer to Part [45-2400].

Although there are some instruments lodged on a Form 14 that can effect a substantive change to scheme land (e.g. a request to amalgamate schemes, refer to Part [45-3180]), these instruments cannot be lodged in isolation. Accompanying instruments and supporting evidence are required as part of the lodgement, and thus only minor execution requirements apply to any Form 14 executed by a body corporate.

The methods of execution available where a minor execution type is required, are detailed under the 'Minor Execution' sub-headings, located under the respective module headings (e.g. Commercial Module) in Parts [45-2064] to [45-2067]. For more information on the process of selecting an appropriate method of execution, refer to Part [45-2061].

[45-2063-4] Where there is more than one Instrument Type in a Form or in a Lodgement

There are some instrument types which are made up of more than one instrument (e.g. a New CMS comprises both a Form 14 – Request to record a new CMS and Form New CMS). In these instances, the execution requirements for each individual instrument apply, refer to Part [45-2062].

[45-2064] Standard and Accommodation Module Execution Requirements

This section contains the available methods of execution for a body corporate in either a Standard or an Accommodation module to execute an instrument. Each method of execution is detailed under its respective execution type (e.g. Formal Execution). Lodgers should be aware that some additional execution requirements may apply to an execution, refer to Part [45-2070]. For information on the process of selecting an appropriate method of execution, refer to Part [45-2061].

[45-2064-1] Regulation Execution

When a regulation execution is required, it must be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer Part [45-2081]. For guidance on the completion and execution of a Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a regulation execution are detailed in the below table:

EXECUTION BY: (METHOD OF EXECUTION)	NOTES
If the body corporate resolution authorising the transaction specifies a person who must sign the certificate (the Form 20 – BCCM Execution), that person.	Completion of the Form 20 - BCCM Execution must include the full name of the person signing and their authority to sign (e.g. 'Person Specified as Signatory in the Body Corporate Resolution Authorising the Transaction'). A copy of the body corporate resolution does not need to be deposited as proof of the signer's authority (although the resolution may be required to be deposited to satisfy other titling requirements). By executing in this way, the signer confirms and declares that they are authorised by the resolution to execute the instrument on behalf of the body corporate.
Two members of the body corporate committee, one of whom must be the Chairperson or the Secretary of the committee.	Completion of the 'Form 20 - BCCM Execution' must include the full names of the persons signing and their authority to sign (e.g. 'Member of the Body Corporate Committee'). Note: there must be two signatures, and one signatory must be either the Chairperson or the Secretary of the body corporate committee; the other signatory only needs to be a member of the committee (including any office holder.)
If all of the lots in the community title scheme are in identical ownership, that owner.	The registered owner must include their full name (as recorded on title), and their signer authority (e.g. 'Registered Owner - Individual - All lots in identical ownership'). Where there is more than one registered owner on title, refer to Part [45-2070-2]. If the owner is a corporation, refer to Part [45-2070-4].
Where a body corporate manager under Chapter 3, Part 5 has been appointed by the Scheme, the body corporate manager and one other person who is an owner of a lot included in the scheme.	The body corporate manager must include their full name and their signer authority (e.g. 'Body Corporate Manager under Chapter 3, Part 5'). If the body corporate manager is a corporation, there are additional requirements that apply, refer to Part [45-2070-4]. The signature of the owner of the lot included in the scheme should include their full name as it appears on title and their signer authority (e.g. 'Registered Owner – Individual'). If there is more than one registered owner of a lot (e.g. in a joint tenancy), or if the owner is a corporation, refer to Part [45-2070-2]. The term 'body corporate manager' has multiple meanings under the BCCMA, for clarification on its meaning refer to Part [45-2070-5].

[45-2064-2] Formal Execution

A formal execution type must be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer Part [45-2081]. For guidance on the completion and execution of a Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a formal execution are detailed in the below table:

EXECUTION BY: (METHOD OF EXECUTION)	NOTES
Any method of execution listed in the Regulation Execution section above.	The body corporate may execute the Form 20 – BCCM Execution using any method of execution detailed in the 'Regulation Execution' section in Part [45-2064-1].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority, refer to Parts [45-2085-3] and [61-3060]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2064-3] Minor Execution

A minor execution type is only applicable to executions of a Form 14 – General Request.

The Form 14 is the only instrument that can be executed by a body corporate on the instrument itself. The methods of execution contained in this section will require the signer to complete an execution clause under their signature, refer to Part [45-2085].

The available methods of execution for a minor execution are detailed in the below table:

EXECUTION BY: (METHOD OF EXECUTION)	NOTES
Any member of the body corporate committee.	An execution clause must be completed which includes the full name of the person signing, their position, and the full name of the scheme they are signing for, refer to Part [45-2085-1]. Any current member of the body corporate committee may execute a Form 14, including an office holder.
The body corporate manager.	An execution clause must be completed which includes the full name of the person signing, their position, and the name of the organisation they represent, refer to Part [45-2085-2]. Note: 'body corporate manager' refers to the broad definition of the term (which includes a manager engaged to assist with the administration of the body corporate), refer to Part [45-2070-5].
Where all the lots in the community title scheme are in identical ownership, that owner.	The registered owner needs to include their full name (as recorded on title), and their signer authority, refer to Parts [45-2070-3] and [45-2085-5].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority, refer to Part [45-2085-3]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2065] Small Schemes Module Execution Requirements

This section contains the available methods of execution for a body corporate in a Small Schemes Module. Each method of execution is detailed under its respective execution type (e.g. Formal Execution). Lodgers should be aware that some additional execution requirements may apply to an execution, refer to Part [45-2070]. For information on the process of selecting an appropriate method of execution refer to Part [45-2061].

[45-2065-1] Regulation Execution

A regulation execution must be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer to Part [45-2081]. For guidance on the completion and execution of a Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a regulation execution are detailed in the below table:

EXECUTION BY: (METHOD OF EXECUTION)	NOTES
If the body corporate resolution authorising the transaction specifies a person who must sign the certificate (the Form 20 – BCCM Execution), that person.	Completion of the 'Form 20 - BCCM Execution' must include the full name of the person signing and their authority to sign (e.g. 'Person Specified as Signatory in the Body Corporate Resolution Authorising the Transaction'). A copy of the body corporate resolution does not need to be deposited as proof of the signer's authority (although the resolution may be required to be deposited to satisfy other titling requirements). By executing in this way, the signer confirms and declares that they are authorised by the resolution to execute the instrument on behalf of the body corporate.
The Secretary and the Treasurer of the body corporate committee.	Completion of the 'Form 20 - BCCM Execution' must include the full names of the persons signing and their authority to sign (e.g. 'Treasurer of the Body Corporate Committee'). There must be two signatures, one signature must be that of the Treasurer, and the other signature must be that of the Secretary.
Where one person holds both the offices of Secretary and Treasurer, that person, and a registered owner of a lot included in the scheme.	The committee member must include their full name and their signer authority (e.g. 'Secretary and Treasurer of the Body Corporate Committee'). A registered owner of a lot included in the scheme must also sign, and include their full name and their authority to sign (e.g. 'Registered Owner – Individual').
If all of the lots in the community title scheme are in identical ownership, that owner.	The registered owner needs to include their full name (as recorded on title), and their signer authority (e.g. 'Registered Owner - Individual - All lots in identical ownership'). Where there is more than one registered owner on title, refer to Part [45-2070-2]. If the owner is a company, refer to Part [45-2070-4].
Where a body corporate manager under Chapter 3, Part 5 has been appointed by the Scheme, the body corporate manager and 1 other person who is an owner of a lot included in the scheme.	The body corporate manager must include their full name and their signer authority (e.g. 'Body Corporate Manager under Chapter 3, Part 5'). If the body corporate manager is a corporation there are additional requirements that apply, refer to Part [45-2070-4]. The signature of the owner of the lot included in the scheme should include their full name as it appears on title, and their signer authority (e.g. 'Registered Owner – Individual'). If there is more than one registered owner of a lot (e.g. in a joint tenancy), or if the owner is a corporation, refer to Part [45-2070-2]. The term 'body corporate manager' has multiple meanings under the BCCMA, for clarification on its meaning refer to Part [45-2070-5].

[45-2065-2] Formal Execution

A formal execution type must be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer Part [45-2081]. For guidance on the completion and execution of a Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a formal execution are detailed in the below table:

EXECUTION BY: (METHOD OF EXECUTION)	NOTES
Any method of execution listed in the Regulation Execution section above.	The body corporate may execute the Form 20 – BCCM Execution using any method of execution detailed in the 'Regulation Execution' section in Part [45-2065-1].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority, refer to Parts [45-2085-3] and [61-3060]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2065-3] Minor Execution

A minor execution type is only applicable to executions of a Form 14 – General Request.

The Form 14 is the only instrument that can be executed by a body corporate on the instrument itself. The methods of execution contained in this section will require the signer to complete an execution clause under their signature, refer to Part [45-2085].

The available methods of execution for a minor execution are detailed in the below table:

EXECUTION BY: (METHOD OF EXECUTION)	NOTES
Any member of the body corporate committee.	An execution clause must be completed which includes the full name of the person signing, their position, and the full name of the scheme they are signing for, refer to Part [45-2085-1]. Any current member of the body corporate committee may execute a Form 14, including an office holder.
The body corporate manager.	An execution clause must be completed which includes the full name of the person signing, their position, and the name of the organisation they represent, refer to Part [45-2085-2]. Note: 'body corporate manager' refers to the broad definition of the term (which includes a manager engaged to assist with the administration of the body corporate), refer to Part [45-2070-5].
Where all the lots in the community title scheme are in identical ownership, that owner.	An execution clause must be completed which includes the full name of the registered owner and their signer authority, refer to Parts [45-2070-3] and [45-2085-5].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority refer to Parts [45-2085-3] and [61-3060]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2066] Commercial Module Execution Requirements

This section contains the available methods of execution for a body corporate in a Commercial Module to execute an instrument. Each method of execution is detailed under its respective execution type (e.g. Formal Execution). Lodgers should be aware that some additional execution requirements may apply to an execution, refer to Part [45-2070]. For information on the process of selecting an appropriate method of execution, refer to Part [45-2061].

[45-2066-1] Regulation Execution

A regulation execution must be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer to Part [45-2081]. For guidance on the completion and execution of a Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a regulation execution are detailed in the below table:

EXECUTION BY:(METHOD OF EXECUTION)	NOTES
If the body corporate resolution authorising the transaction specifies a person who must sign the certificate (the Form 20 – BCCM Execution), that person.	Completion of the 'Form 20 - BCCM Execution' must include the full name of the person signing and their authority to sign (e.g. 'Person Specified as Signatory in the Body Corporate Resolution Authorising the Transaction'). A copy of the body corporate resolution does not need to be deposited as proof of the signer's authority (although a copy may be required to satisfy other requirements). By executing in this way, the signer confirms and declares that they are authorised by the resolution to execute the instrument on behalf of the body corporate.
Two members of the body corporate committee, one of whom must be the Chairperson or the Secretary of the committee.	Completion of the 'Form 20 - BCCM Execution' must include the full names of the persons signing and their authority to sign (e.g. 'Member of the Body Corporate Committee'). Note: there must be two signatures, and one signatory must be either the Chairperson or the Secretary of the body corporate committee; the other signatory only needs to be a member of the committee (including any office holder.)
If all of the lots in the community title scheme are in identical ownership, that owner.	The registered owner needs to include their full name (as recorded on title), and their signer authority (e.g. 'Registered Owner - Individual - All lots in identical ownership'). Where there is more than one registered owner on title, refer to Part [45-2070-2] for guidance. If the owner is a company, refer to Part [45-2070-4].

[45-2066-2] Formal Execution

A formal execution type must be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer to Part [45-2081]. For guidance on the completion and execution of the Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a formal execution are detailed in the below table:

EXECUTION BY:(METHOD OF EXECUTION)	NOTES
Any method of execution listed in the Regulation Execution section above.	The body corporate may execute the Form 20 – BCCM Execution using any method of execution detailed in the 'Regulation Execution' section in Part [45-2066-1].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority, refer to Parts [45-2085-3] and [61-3060]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2066-3] Minor Execution

A minor execution type is only applicable to executions of a Form 14 – General Request.

The Form 14 is the only instrument that can be executed by a body corporate on the instrument itself. Accordingly, the methods of execution contained in this section will require the signer to complete an execution clause under their signature. For guidance on the execution of a Form 14 by a body corporate, refer to Part [45-2085].

The available methods of execution for a minor execution are detailed in the below table:

EXECUTION BY:(METHOD OF EXECUTION)	NOTES
Any member of the body corporate committee.	An execution clause must be completed which includes the full name of the person signing, their position, refer to Part [45-2085-1]. Any current member of the body corporate committee may execute a Form 14, including an office holder.
The body corporate manager.	An execution clause must be completed which includes the full name of the person signing, their position, and the name of the organisation they represent, refer to Part [45-2085-2]. Note: 'body corporate manager' refers to the broad definition of the term (which includes a manager engaged to assist with the administration of the body corporate), refer to Part [45-2070-5].
Where all the lots in the community title scheme are in identical ownership, that owner.	The registered owner needs to include their full name (as recorded on title), and their signer authority, refer to Parts [45-2070-3] and [45-2085-5].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority, refer to Part [45-2085-3]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2067] Two-Lot Module Execution Requirements

This section contains the available methods of execution for a body corporate in a Two-Lot Module to execute an instrument. Each method of execution is detailed under its respective execution type (e.g. Formal Execution). Lodgers should be aware that some additional execution requirements may apply to an execution, refer to Part [45-2070]. For information on the process of selecting an appropriate method of execution refer to Part [45-2061].

[45-2067-1] Regulation Execution

When a regulation execution is required, it can only be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer Part [45-2081]. For guidance on the completion and execution of the Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a regulation execution are detailed in the below table:

EXECUTION BY:(METHOD OF EXECUTION)	NOTES
The owner of each lot.	Both registered owners must sign, and both must include their full name and their signer authority (e.g. Registered Owner – Individual') when completing the 'Form 20 - BCCM Execution'.
If all of the lots in the community title scheme are in identical ownership, that owner.	The registered owner must include their full name (as recorded on title), and their signer authority (e.g. 'Registered Owner - Individual - All lots in identical ownership'). Where there is more than one registered owner on title, refer to Part [45-2070-2]. If the owner is a corporation, refer to Part [45-2070-4].

[45-2067-2] Formal Execution

A formal execution type can only be completed on a Form 20 – BCCM Execution and not on the instrument itself, refer to Part [45-2081]. For guidance on the completion and execution of the Form 20 – BCCM Execution, refer to Part [45-2080].

The available methods of execution for a formal execution are detailed in the below table:

EXECUTION BY:(METHOD OF EXECUTION)	NOTES
Any method of execution listed in the Regulation Execution section above.	The body corporate may execute the Form 20 – BCCM Execution using any method of execution detailed in the 'Regulation Execution' section in Part [45-2067-1].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority, refer to Parts [45-2085-3] and [61-3060]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2067-3] Minor Execution

A minor execution type is only applicable to executions of a Form 14 – General Request.

The Form 14 is the only instrument that can be executed by a body corporate on the instrument itself. Accordingly, the methods of execution contained in this section will require the signer to complete an execution clause under their signature. For guidance on the execution of a Form 14 by a body corporate, refer to Part [45-2085]

The available methods of execution for a minor execution are detailed in the below table:

EXECUTION BY:(METHOD OF EXECUTION)	NOTES
The body corporate manager.	An execution clause must be completed which includes the full name of the person signing, their position, and the name of the organisation they represent, refer to Part [45-2085-2]. Note: 'body corporate manager' refers to the broad definition of the term (which includes a manager engaged to assist with the administration of the body corporate), refer to Part [45-2070-5].
An owner of a lot included in the scheme.	An execution clause must be completed which includes the full name of the registered owner. Where the owner is a corporation, refer to Part [45-2070-4].
A legal practitioner acting for the body corporate.	An execution clause must be completed which includes the full name of the legal practitioner and their signer authority, refer to Part [45-2085-3]. By signing on behalf of the body corporate, the legal practitioner confirms they hold instructions to execute the instrument on behalf of the body corporate.

[45-2068] Constructing Authority Execution Requirements

If a constructing authority is executing on behalf of the body corporate pursuant to Section 12A of the *Acquisition of Land Act 1967*; and Section 51 or 51A of the BCCMA, they must include their full name, their position (e.g. Authorised Officer – Constructing Authority) and the name of the Entity in which they hold that position (e.g. Department of Transport and Main Roads).

If a Form 14 is being executed, the above details must be included in the signer's execution clause. If a Form 20 – BCCM Execution is being executed, these details must be included in the Execution section where indicated (in Item 3 of the Form). All titles instruments being executed by a body corporate (including by a constructing authority) other than a Form 14 must be executed using a Form 20 – BCCM Execution, refer to Part [45-2080] to [45-2081].

[45-2070] Miscellaneous Guidance and Requirements for Executions by a Body Corporate

This Part contains additional guidance and requirements that apply to the various methods of execution available to a body corporate.

[45-2070-1] Representative of a Registered Owner

Where a person's name is recorded on the body corporate roll as the representative of an owner of a lot, that person may sign on behalf of the owner in any instance where a registered owner is required to sign for the purpose of a body corporate execution. The representative should include their full name and their signer authority (e.g. 'Representative of a Registered Owner').

Where a representative signs in this way, they are not required to provide evidence of their name being recorded on the roll as a representative. However, by signing the person is confirming and declaring that they are recorded in this way on the body corporate roll and that they hold the requisite authority to sign on behalf of the registered owner.

[45-2070-2] Where there is more than one Registered Owner on Title

Where there is more than one registered owner on title (e.g. joint tenants) and the chosen method of execution requires the registered owner to sign, only one of the registered owners is required to sign. This rule applies whether the owner of the lot signing is a natural person (an individual), or a corporation.

If the owner is a corporation, further execution requirements apply, refer to Part [45-2070-4].

[45-2070-3] Where all Lots included in the scheme are in Identical Ownership

This method of execution can only be used in instances where the name of the registered owner as recorded on title is identical for all lots included in the scheme.

This method can also be used if there is more than one registered owner, provided the names of the registered owners that are recorded on title across all lots, are identical. It is of no consequence under this Part, if there is a variation in the capacity (e.g. as trustee), the tenancy (e.g. as joint tenants or tenants in common), or the shares held (e.g. ½ share interest) across the different lots by those same registered owners (provided that the names of the registered owners themselves, as recorded on title are identical across all lots).

Where there is more than one registered owner on title, it is sufficient for only one of the registered owners to sign. This applies whether the owner of the lots is a natural person (an individual) or a corporation, refer to Part [45-2070-2]. For guidance on execution by a corporation that is a registered owner, refer to Part [45-2070-4].

[45-2070-4] Execution by a Corporation

Where a corporation is signing as a registered owner (either of a single lot, or of all lots included in the scheme), the signer must include their full name, their position (e.g. Director / Secretary), and the name and the A.C.N. of the company.

Where a body corporate manager under Chapter 3, Part 5 is required to execute on behalf of a body corporate, and that body corporate manager is also company, the signer must include their full name, their position (e.g. 'Body Corporate Manager under Chapter 3, Part 5'), the office they hold within the company (e.g. Director / Secretary), as well as the name and the A.C.N. of the company.

It is sufficient for the purpose of a body corporate execution for only one company officer (e.g. Director or Secretary) to sign on behalf of the company. However, by signing on behalf of a corporation in this way, the signer (the company officer) is taken to be signing as an agent for the company; and in doing so, they are confirming and declaring that they hold the requisite company authority to authorise the transaction on behalf of the company.

[45-2070-5] Body Corporate Manager

A broad definition of 'Body Corporate Manager' is contained in s. 14 of the BCCMA. The definition in the Act includes both a manager engaged to provide administrative services for the body corporate, and a manager that has been engaged to carry out all the functions of the body corporate committee on behalf of the body corporate (usually described as a body corporate manager under Chapter 3, Part 5 of the Regulations).

Because this definition does not differentiate between the types of body corporate managers that can be appointed, and because the execution requirements (under the BCCMA regulations) differ depending on the type of body corporate manager that has been engaged; this term can cause confusion.

The term 'body corporate manager' is most commonly used to refer to a manager engaged to assist the committee with the running and administration of the body corporate. Where a body corporate manager has been appointed for this purpose, the manager only has the authority to execute on behalf of the body corporate where a minor execution type is required (for all module types).

A 'body corporate manager under Chapter 3, Part 5' means a body corporate manager that has been formally appointed under Chapter 3, Part 5 of the BCCMA regulations for a scheme in either a Standard, Small, or an Accommodation Module. This formal type of appointment engages a manager to perform all the functions of the body corporate committee on behalf of the body corporate. The appointed body corporate manager under Chapter 3, Part 5 can be a natural person (an individual) or a corporation.

If the body corporate manager under Chapter 3, Part 5 is a corporation, and they are completing a regulation execution, there are additional requirements that apply, refer to Part [45-2070-4].

[45-2070-6] Ownership other than in the Registered Owners Personal Capacity (e.g. Trustee)

No additional execution requirements apply under this Part if the registered owner (signing on behalf of the body corporate) holds their interest in a capacity other than their own individual capacity (e.g. as a trustee or personal representative). When completing the form or an execution clause, the capacity of the registered owner should not be included.

Notwithstanding that there are no additional execution requirements for different capacities, where a registered owner signs as a registered owner on behalf of the body corporate, they confirm and declare by signing that they have the requisite authority to sign in the capacity in which their interest is held on title (e.g. as trustee).

[45-2070-7] Attorney executing on behalf of a Registered Owner

For the purpose of body corporate executions, if an attorney needs to sign on behalf of a registered owner of a lot included in a scheme, they must first take the required steps to have their name recorded on the body corporate roll as the representative of the owner of that lot. Once the attorney has been recorded on the body corporate roll, the guidance contained in Part [45-2070-1] will apply.

The body corporate roll is maintained by the body corporate for the scheme, and any change to the roll must be done through the body corporate itself. More information on changes to the body corporate roll is available at the website of the Office of the Commissioner for Body Corporate and Community Management, or by contacting the body corporate manager or committee for the scheme.

[45-2070-8] Relevant Certificate

The Form 20 – BCCM Execution (properly completed and executed) is a 'relevant certificate' for the purpose of the requirements under the respective BCCMA Regulations (as identified in Part [45-2063-1]). For this reason, no further guidance around the requirements or the form of a 'relevant certificate' is provided.

[45-2070-9] Section 96 Compliance

A body corporate must not carry on a business (s. 96(1) BCCMA). By executing the Form 20 – BCCM Execution, the body corporate confirms that they remain in compliance with this requirement.

[45-2080] Guidance on Completion and Execution of the Form 20 – BCCM Execution

For general requirements for completion of forms, refer to Part 59 – Forms. For general guidance on the use of a Form 20 refer to Part 20, esp Part [20-2000].

Item 1

Insert the name of the Community Titles Scheme (CTS) in the left-hand column and insert the number of the CTS in the right-hand column.

Item 2

Insert the Regulation Module Type for the scheme (e.g. Standard Module) in the left-hand column; and insert the type of instrument being executed in the right-hand column (e.g. Form CMS).

Item 3

Enter the name, the signer authority, and entity (if applicable) where indicated in the fields in the execution panel. There is provision for two signatures, but depending on the method of execution, only one signature may be required. The form should then be executed by the person(s) specified. For more information on establishing the method of execution and clarification on signer authorities, refer to Part [45-2060].

Example:

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997, Land Title Act 1994

BCCM EXECUTION / RELEVANT CERTIFICATE

FORM 20 Version 2
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1. Community Titles Scheme (CTS) Name	CTS Number
Fawlty Towers Community Title Scheme	2345
2. Module Type of BCCM Scheme	**Instrument being executed (using this certificate)**
Accommodation Module	New CMS

3. Execution by the Body Corporate for the above Scheme*

Signature	Sfawlty	Signature	Bfawlty
Signer Name	Sybil Fawlty	Signer Name	Basil Fawlty
Signer Authority	Chairperson of the Body Corporate Committee	Signer Authority	Member of the Body Corporate Committee
Entity (if applicable)		Entity (if applicable)	
Execution Date	29/08/2024	Execution Date	30/08/2024

*By executing above the Body Corporate confirms it is in compliance with Section 96 of the *Body Corporate and Community Management Act 1997*.

[45-2081] Referring to the Form 20 – BCCM Execution on other Titles Instruments

As all body corporate executions (other than on a Form 14) are required to be on a Form 20 – BCCM Execution (and not on the face of the instrument itself), the titles instrument being executed by the body corporate using the Form 20 – BCCM Execution must refer to the Form 20 – BCCM Execution on its face. This referral to the Form 20 – BCCM Execution should be done in accordance with the method prescribed below.

Method

In the execution section / panel on the face of the titles instrument being executed by the body corporate, the following wording should be inserted:

See Form 20 – BCCM Execution

A requisition may issue if the titles instrument does not refer to the Form 20 – BCCM Execution on its face where the body corporate is required to execute it.

Example on a Titles Instrument

See the below example of the referral to the Form 20 – BCCM Execution for the execution of a Form 7 Lease as Lessor by the Body Corporate. The requirement to refer to the Form 20 – BCCM Execution applies to all titles instruments (other than a Form 14):

8. Grant/Execution

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in: the attached schedule.

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 the Land Title Act 1994 e.g. Legal Practitioner, JP, C Dec)

/ /
Execution Date

See Form 20 – BCCM Execution

.....
Lessor's Signature

[45-2085] Execution of the Form 14 – General Request by a Body Corporate

The Form 14 is the only instrument that can be executed by a body corporate on the face of the instrument itself; all other instruments executed by a body corporate must be executed on a Form 20 – BCCM Execution.

All executions of the Form 14 by a body corporate must include an execution clause in the space provided in Item 7 of the form. The guidance and examples in Parts [45-2085-1] to [45-2085-5] should be read in conjunction with those provided for Minor Executions for the respective module types in Parts [45-2060] to [45-2067].

[45-2085-1] Execution by a Member of the Body Corporate Committee

Any current member of the body corporate committee may execute a Form 14, including an office holder (e.g. Secretary).

If executing in this way an execution clause must be completed which includes the full name of the person signing, their position, and the full name of the scheme they are signing for. An example is shown below:

Wendy Markle
Member of the Body Corporate Committee
Body Corporate for Fawlty Towers CTS 2345

Example on a Form 14:

7. Execution by applicant

Wendy Markle
Member of the Body Corporate Committee
Body Corporate for Fawlty Towers CTS 2345

JTaylor

30 / 08 / 2024
Execution Date

.....
Applicant's ~~or Solicitor's~~ Signature

[45-2085-2] Execution by the Body Corporate Manager

For a Minor Execution type, any type of body corporate manager formally appointed by the body corporate can execute the form. For clarification on the different types of body corporate managers, refer to Part [45-2070-5]. The type of body corporate manager does not need to be specified in the execution clause.

Where the body corporate manager is a corporation, any representative of that corporation can sign the Form 14.

If executing in this way, an execution clause must be completed which includes the signer's full name, the organisation they represent (if applicable), and their position. An example is shown below:

Jeremy Taylor
Strata Services
Body Corporate Manager for Fawlty Towers CTS 2345

Example on a Form 14:

7. Execution by applicant

Jeremy Taylor
Strata Services
Body Corporate Manager for Fawlty Towers CTS 2345

30 / 08 / 2024
Execution Date

.....
Applicant's ~~or Solicitor's Signature~~

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

[45-2085-3] Execution by a Legal Practitioner

If executing in this way, the execution clause must include the full name of the legal practitioner and their signer authority, refer to Part [61-3060]. An example is shown below:

John Francis Smith

Solicitor

Example on a Form 14:

7. Execution by applicant

John Francis Smith
Solicitor

30 / 08 / 2024
Execution Date

.....
~~Applicant's or~~ Solicitor's Signature

[45-2085-4] Execution by an Owner of a Lot in a Two-Lot Module

In a Two-Lot Module, any owner of a lot included in the scheme can execute a Form 14, refer to Part [45-2067-3].

Where there is more than one registered owner, only one of the registered owners is required to sign, refer to Part [45-2070-2].

Individual

If executing in this way, an execution clause should include the full name of the registered owner and identify that they are a registered owner of a lot included in the scheme. An example is shown below:

Van Nguyen
Registered Owner of a Lot in the Scheme

Example on a Form 14:

7. Execution by applicant

Van Nguyen
Registered Owner of a Lot in the Scheme

30 / 08 / 2024
Execution Date

.....
Applicant's ~~or Solicitor's Signature~~

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Corporation

If the owner of the Lot is a company, only one of the company office holders (e.g. Director / Secretary) needs to sign. The execution clause should include the name of the office holder, their position (e.g. Director). An example is shown below:

Van Nguyen
Director
Small Developments Pty Ltd A.C.N. 789 234 123
Registered Owner of a Lot in the Scheme

Example on a Form 14

7. Execution by applicant

Van Nguyen
Director
Small Developments Pty Ltd A.C.N. 789 234 123
Registered Owner of a Lot in the Scheme

30 / 08 / 2024
Execution Date

.....
Applicant's ~~or Solicitor's Signature~~

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

[45-2085-5] Execution by the Owner (All lots in Identical Ownership)

Where all lots are in identical ownership, but there is more than one registered owner, only one of the registered owners needs to sign, refer to Part [45-2070-3].

Individual

In the case of an individual, the execution clause should include the full name of the registered owner and identify that all lots are in identical ownership. An example is shown below:

Sybil Fawlty
Registered Owner – All Lots in Identical Ownership

Example on Form 14:

7. Execution by applicant

Sybil Fawlty
Registered Owner – All Lots in Identical Ownership

30 / 08 / 2024
Execution Date

.....
Applicant's ~~or Solicitor's~~ Signature

Corporation

If the owner is a corporation, only one of the company office holders (e.g. Director / Secretary) needs to sign. The execution clause below the company officer's signature needs to be completed and it must contain the name of the office holder, their position (e.g. Director), and a clause confirming that the company is a registered owner with all lots held in identical ownership. An example is shown below:

Polly Sherman
Sole Director and Secretary
Fawlty Developments Pty Ltd A.C.N. 789 234 123
Registered Owner – All lots in identical ownership

Example on Form 14:

7. Execution by applicant

Polly Sherman
Sole Director and Secretary
Fawlty Developments Pty Ltd A.C.N. 789 234 123
Registered Owner – All Lots in Identical Ownership

30 / 08 / 2024
Execution Date

.....
Applicant's ~~or Solicitor's~~ Signature

[45-2090] Reserving a Name for a Scheme

See part 14, esp. [14-2500]

[45-2100] to [45-2120] deleted

Community Management Statement – Principal Document and Basic Requirements

[45-2140] Purpose of a Community Management Statement

A CMS is a document that identifies scheme land and provides particulars of the scheme in keeping with s. 66 of the BCCMA. The particulars include:

- the name of the community titles scheme;
- the name of the body corporate;
- the name and address of the original owner for a First CMS;
- the applicable regulation module;
- a schedule of lot entitlements (contributions and interests);

- the service location diagrams as required by s. 66(1)(d) as they relate to the scheme;
- the by-laws (including identification and allocation to lots of any exclusive use areas);
- a future development concept drawing etc. if applicable; and
- anything else relating to the regulation module.

[45-2160] Requirements to Record a CMS

A CMS is not an instrument under the *Land Title Act 1994* and must be presented with a Form 14 – General Request to be recorded (see part 14, esp. [14-2600]). A CMS may only include those things that the BCCMA and the adopted regulation module provide it must or may include.

An existing CMS for a community titles scheme cannot be amended. However, a New CMS for the scheme may be recorded to replace an existing statement.

[45-2180] Execution of a CMS

First CMS

A First CMS must be executed by the original owner of the scheme land. For further information see example 1.1 First CMS – Basic Scheme.

New CMS

A New CMS must be executed by the body corporate using a Form 20 – BCCM Execution, in accordance with the requirements in Part [45-2060].

Where positions on the body corporate have not been filled because the first annual general meeting of the body corporate has not been held, the New CMS may be signed by the original owner. This should be done using a Form 20-BCCM Execution. In these instances, the New CMS must be accompanied by a statutory declaration by the original owner stating that the first annual general meeting has not been held.

A New CMS must be lodged in the Titles Registry within three (3) months of the date of execution/consent.

For further information see Parts [45-2060] to [45-2080] and example 1.2 New CMS – Basic Scheme.

[45-2200] Requirements for a First CMS

A First CMS must be lodged in the Titles Registry with the plan of survey that creates the lots and common property for the scheme. It cannot be recorded unless it is signed by the person(s) who, on establishment of the scheme, is/are the original owner(s). The following requirements of s. 66 of the BCCMA must also be completed in the CMS:

a. the name of the scheme;
b. the regulation module applicable to the scheme;
c. the name of the body corporate;
d. the description of all scheme land (including common property);
e. the full name and address of the original owner;
f. the number of the plan deposited with the CMS; and
g. completed Schedules A, B, C, D and E.

Planning body First CMS notation

A properly completed Form 18C – Planning Body Community Management Statement Notation (Form 18C) signed by an authorised officer/delegate of the planning body must be deposited with the Form 14 – General Request to record the First CMS (along with the deposited First CMS). The officer's/delegate's full name and designation must be shown.

Refer to [18-4200] to [18-4220] for the guide to completion for the Form 18C.

[45-2220] Requirements for a New CMS

A New CMS that is to be recorded in the Titles Registry must be lodged within three months of being consented to by the body corporate. The following requirements of the BCCMA must also be met:

a. the name of the scheme, including the community titles scheme number;
b. the regulation module to be adopted for the scheme;
c. the description of all scheme lots (including common property) and if applicable, any additional lot(s) being added to the scheme;
d. the full name and address of the original owner applicable to any new lots added to the scheme;
e. the number of the plan deposited with the CMS if applicable; and
f. completed Schedules A, B, C, D and E.

Planning body New CMS notation or exemption

If an exemption under s. 60(6) of the *Body Corporate and Community Management Act 1997* applies:

- Item 7 – New CMS exemption to planning body community management statement notation must be completed by inserting the words 'Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*'; and
- there is no requirement for a Form 18C – Planning Body Community Management Statement Notation (Form 18C) to be deposited with the Form 14 – General Request to record the New CMS.

Section 60(6) exempts the requirement for a planning body notation if there is no difference between the existing CMS and the New CMS for any issue that the planning body could have regard to.

Where the planning body community management statement notation is required (i.e. where there is no exemption) – a properly completed Form 18C signed by an authorised officer/delegate of the planning body must be deposited with the Form 14 – General Request to record the New CMS (along with the deposited New CMS). The officer's/delegate's full name and designation must be shown.

Refer to [18-4200] to [18-4220] for the guide to completion for the Form 18C.

[45-2230] Services Location Diagrams and Statutory Easements for a Community Titles Scheme

The First CMS and any subsequent New CMS for a scheme where the development approval by the local authority was given on or after 4 March 2003 must include a services location diagram (SLD) for scheme land that is in standard format lots. For a building format plan or volumetric format plan a SLD is required over the common property, where the common property is in standard format, up to the 'footprint of the building'. It is accepted that a private yard is not common property, however, having regard to the fact that a private yard is 'standard format' in principle (unlimited in height and depth) and outside of the building footprint, a SLD should be prepared if service easements are extant on the private yard.

Where a staged development existed prior to 4 March 2003, a SLD is required for subsequent stages creating lots and common property.

The body corporate must also lodge a request to record a New CMS including a SLD in the following circumstances:

a. because of a change in the service easements for the standard format lots included in a community titles scheme, a SLD (the '**original diagram**') included in the community management statement no longer reflects the location of the current service easements; or
b. a SLD is not included in the community management statement and, after the commencement of s. 70, a service easement ('**new easement**') is established for a standard format lot included in the scheme.

The New CMS is to be lodged within one year of when either (a) or (b) above apply.

Item 6 of the Form 14 Request to record New CMS (or First CMS) is to reflect the amendment or inclusion of a SLD.

Schedule D of the CMS form is to include a statement referencing the inclusion of a SLD and annexing the diagrams by way of alpha identifier to this Schedule. The type of statutory easement must be identified in schedule D preferably in the form of a matrix. An example matrix relevant to a building format plan is reproduced for reference:

LOTS ON PLAN OR COMMON PROPERTY	STATUTORY EASEMENT	SERVICE LOCATION DIAGRAM
Common Property	Support, shelter and services	C and D
Lot 1 on SP12347	Support, shelter and services	
Lot 2 on SP12347	Support, shelter and services	
Lot 3 on SP12347	Support, shelter and services	
Lot 4 on SP12347	Support, shelter and services	

Persons other than a cadastral surveyor may prepare a SLD and certification is not required.

[45-2240] Practice Requirements for Recording CMS and Changing a Scheme

Each CMS lodged, will be allocated a CMS number (a unique identification number) and will be subjected to examination at the discretion of the Registrar of Titles.

The CMS number will be allocated at the time the CMS is lodged in the Titles Registry. The CMS number is generated automatically by the Automated Titles System and is printed on the adhesive label that will be attached to the CMS. A second adhesive label is printed and attached to the Form 14 – General Request. The second label will show the dealing number and identify the CMS as either a First CMS or New CMS.

The CMS number allocated to the First CMS that established a community titles scheme will be retained as the permanent reference and will be used for any New CMS lodged during the life of the scheme. The CMS number appears on every indefeasible title created for lots comprised in the scheme, including the common property.

[45-2260] Recording a First CMS Lodged with the Plan Establishing a Community Titles Scheme

A Form 14 – General Request to record a First CMS and a CMS must be lodged with every plan of subdivision that establishes a community titles scheme. The request and the plan are registered on the existing indefeasible title(s) and the CMS number is brought forward to the indefeasible title created for the scheme common property. The titles created for the lots in the scheme are noted with a reference to the CMS e.g. 'community management statement 1234' following the description in the 'estate and land' details on the title. No separate notation as to a First CMS or New CMS is made on the indefeasible titles for the lots in the scheme.

[45-2280] Changing a Scheme by a New CMS

A community titles scheme may be changed by, or in conjunction with, the recording of a New CMS. The scheme is changed when the New CMS is recorded in the Titles Registry.

To amend any or all of the provisions contained in a CMS, a complete New CMS must be recorded. A Form 14 – General Request must be used in the same manner as for the First CMS and contain a request to the effect that the First CMS be superseded by the CMS included in that request. To facilitate examination, the Request also identifies any schedule(s) which have been changed. On registration, the latest CMS becomes the CMS for the scheme but retains the original CMS number. For example, where land is to be added to a community titles scheme, Item 4 of a New CMS must include reference to the additional parcel as well as the existing scheme lots to identify all of the scheme land. The Request to record a New CMS is registered on the title for the additional parcel and the title for common property for the scheme.

[45-2300] Recording a New CMS

A New CMS is recorded by the registration of a Form 14 – General Request to record the New CMS. This occurs only on the indefeasible titles for the scheme common property and any lot(s) being added to or removed from the scheme.

A New CMS may be lodged with or without a plan. However, a New CMS must be lodged with every plan that subdivides scheme land.

[45-2320] Changing the Name of a Scheme

An essential prerequisite to changing the name of a scheme by the body corporate is to check that the proposed new name is available for use. To ensure that the name remains available it is advisable that the proposed name be reserved. A

reservation of name for this purpose is recorded for the proposed scheme on registration of a Form 14 – General Request. See part 14, esp. [14-2500].

A change of name for a scheme is made by recording a New CMS to record the change of name only or may be included with other changes when recording a New CMS.

Where a change of name of a community titles scheme is to be recorded, Items 1 and 5 of the Form 14 – General Request must show the new name, Item 2 must describe the common property in the former name and Item 3 must also show the former name. Item 6 should state that the New CMS is changing the name of the scheme and any other amendments, if applicable, and may be worded as follows:

> 'I hereby request that: the new community management statement deposited herewith which amends the scheme name (and Schedules A and C and Item 2 regulation module, if applicable) be recorded as the community management statement for [scheme name] community titles scheme [scheme number].'

Any execution by the body corporate, including of a Form 14 and the New CMS, must be completed in accordance with Part [45-2060].

The CMS must show the new name in Items 1 and 3 and Item 4 must describe the common property in the new name.

[45-2340] Searching Community Title Schemes

To search a community titles scheme, the searcher must provide either the name of the community titles scheme (e.g. Seaview), the community titles scheme number (e.g. 1234) or the plan number of a lot in the scheme (e.g. SP902468).

The following searches relevant to schemes are available and each provides particular information.

A Community Titles Scheme Search Statement attracts a prescribed fee and reveals:

- the name of the community titles scheme;
- the name of the body corporate and its latest recorded address;
- the community management statement number; and
- the lots and title references for the lots in the scheme, including the common property title reference.

A search of the title for the common property attracts a prescribed fee and reveals:

- the name of the community titles scheme;
- the name of the body corporate and its latest recorded address;
- all registered interests over the common property land;
- the dealing number of the current CMS; and
- where applicable, the dealing number(s) of any by-laws which were recorded before the commencement of the *Body Corporate and Community Management Act 1997*.

  As from 13 July 1997, every instrument (e.g. lease or easement) that relates to the common property for a community titles scheme is registered only on the title for the common property (i.e. not on the plan as was the practice prior to that date).

A copy of the registered plan for the scheme may be obtained on request and payment of the prescribed fee.

A search of a First CMS or New CMS attracts a prescribed fee and comprises a copy of the Form 14 – Request to record CMS and the CMS.

A search of a standard CMS attracts a prescribed fee and comprises:

- a copy of the standard CMS; and
- copies of all by-laws recorded in the Titles Registry.

  The copies of the registered by-laws are made available owing to the legislative requirements which authorise a standard CMS. Those requirements relate to bodies corporate in existence prior to the commencement of the Body Corporate and Community Management Act, and will apply where a New CMS has not been recorded.

  A standard CMS is a CMS created under s. 339(5)(a) of the Body Corporate and Community Management Act. The re-numbered transitional provision (which was formerly s. 285(5)(a) of the Body Corporate and Community Management Act) provides that a scheme in existence prior to 13 July 1997 retains its existing by-laws. Accordingly, all registered by-laws as part of a search of a standard CMS.

Copies of other instruments recorded on the registered plan will be provided on payment of the prescribed fee.

[45-2360] Accessing the CMS

A copy of a First CMS or New CMS may be obtained by reference to the dealing number. That reference may be obtained from either a search of the indefeasible title for the common property for the scheme or a Community Title Scheme Search Statement. Only the latest CMS for a scheme will be provided if a request for a copy of the CMS number is received.

[45-2380] Title for Common Property

When a community titles scheme is established, the Registrar must create an indefeasible title for the common property for the scheme. The indefeasible title for common property can be searched on payment of the prescribed fee.

The common property for a community titles scheme is owned by the registered owners of the lots included in the scheme. They hold the common property as tenants in common in shares proportionate to the scheme's interests schedule (i.e. the lot entitlements for the respective lots). However, the body corporate is taken to be the registered owner of the common property for dealings with the fee simple. See s. 41C(3) of the Land Title Act.

The fee simple title for common property cannot be mortgaged. The common property may not be sold or transferred other than in accordance with s. 41C(3) of the Land Title Act.

In a search of an indefeasible title for common property, the body corporate will be displayed as the registered owner and the address for service of notices as recorded will also be revealed (required by s. 315 of the BCCMA), for example:

REGISTERED OWNER

BODY CORPORATE FOR SEAVIEW COMMUNITY TITLES SCHEME 1234

SERVICE ADDRESS

GPO Box 10000

BRISBANE QLD 4001

If a body corporate manager has been recorded for a scheme, this will be displayed in the 'Service Address' field of the search, for example:

REGISTERED OWNER

BODY CORPORATE FOR SEAVIEW COMMUNITY TITLES SCHEME 1234

SERVICE ADDRESS

A BODY CORPORATE MANAGEMENT PTY LTD

GPO Box 10000

BRISBANE QLD 4001

The 'Estate and Land' field of the search will show, for example:

COMMON PROPERTY OF SEAVIEW COMMUNITY TITLES SCHEME 1234

[45-2400] Change of Address of a Body Corporate

The address for service of notices on the body corporate for a community titles scheme is the address recorded on the indefeasible title for the common property. The address is a requisite of the Form 14 – General Request with the First CMS for a scheme.

To change the address of a body corporate, a Form 14 – General Request by the body corporate requesting that a new address for service be recorded must be lodged. Alternatively, a change of service address may be incorporated as a component being amended in a New CMS provided the prescribed lodgement fee for each transaction is paid (see also part 14, esp. [14-2700]).

Body Corporate Dealing with Scheme Land

[45-2420] Body Corporate Acquisition of and Dealing with a Lot Included in its own Scheme

The *Body Corporate and Community Management Act 1997* (the BCCMA) provides for a body corporate of a community titles scheme to acquire and/or deal with a lot included in its own scheme.

For a body corporate the interest in a lot included in its own scheme is restricted to:

- registering an easement for one or more basic utility services (s. 44 of the BCCMA); or
- acquiring a lot to create additional common property (s. 37 of the BCCMA); or
- acquiring a lot after the original owner control period has ended and converting the lot to common property and subsequently registering a lease for a residence for a letting agent and/or service contractor (s. 40 of the BCCMA).

[45-2440] Body Corporate May Deal with Land as Common Property

A body corporate may acquire additional land to be included in the common property for the community titles scheme. If additional land is acquired for common property, it becomes part of the scheme land for the community titles scheme and the transfer and a New CMS must be recorded (see [45-2540]).

When additional common property is acquired for a scheme, all mortgages must be discharged before it can be transferred to the body corporate. This requirement is mandatory as the fee simple interest in common property cannot be subject to mortgage (s. 41C(3) of the *Land Title Act 1994*).

A body corporate may also dispose of part of the common property. A plan of subdivision, a transfer of the part of the common property being sold and a New CMS are required (see [45-2580]).

However, when dealing with land as common property a body corporate must not carry on a business (s. 96 of the BCCMA) (see also [45-2520]).

[45-2445] Acquiring a Lot for Conversion to Common Property for a Residence for a Letting Agent or Service Contractor

The following steps/instruments are required:

1. Interests currently registered over the lot must be dealt with (e.g. any mortgages must be released or leases surrendered).
2. Form 1 - Transfer of the lot to the body corporate executed by the body corporate as Transferee in accordance with Part [45-2060].
3. Plan of survey converting the lot to common property.
4. Form 18A consenting to the survey plan executed by the body corporate in accordance with Part [45-2060].
5. New CMS executed by the body corporate in accordance with Part [45-2060].
6. Form 7 - Lease to the letting agent and/or service contractor executed by the body corporate as Lessor in accordance with Part [45-2060].

When dealings of this nature are lodged the Registrar is assuming that the original owner control period has ended (s. 40(1) of the BCCMA). Requisitions will only issue where it is obvious that the application is within the control period. All the dealings must be registered simultaneously.

The requirements of the instruments lodged are as follows:

Survey Plan

- The survey plan must only be for the purpose of creating the additional common property. This precludes any other actions/surveys being dealt with on the same plan.
- The survey plan must be accompanied by a Form 18A executed by the body corporate in accordance with Part [45-2060].
- The approval of the planning body is not required (s. 50(h)(iii) of the *Land Title Act 1994*).

New CMS

- Item 6 of the Form 14 – Request for New CMS must clearly indicate that the conversion of the lot to CP is pursuant to s. 40 of the BCCMA. This will identify that the intent of the New CMS is to lease the new common property to a letting agent or service contractor.
- Other schedules are not precluded from being amended, provided they satisfy all other requirements.
- If the conversion is in a layered arrangement, then a New CMS for the principal scheme must also be lodged.
- The Form 14 Request to record new CMS and the Form CMS (New CMS) must be executed by the body corporate in accordance with Part [45-2060].

Lease

- The Lease must be executed by the body corporate as Lessor in accordance with Part [45-2060]. There is no requirement to ensure the lease term and any amendments comply with the relevant regulation module.
- Planning Body approval on a Form 18 – General Consent is required if the lease is for a period of ten years of more. Refer to Part [7-0050].
- The leased area may be described as part of the common property being 'formerly Lot 4 on SP [number]' or a new plan of survey or explanatory plan may be lodged.

[45-2450] Reconversion requirements

The following instruments are required to be lodged or deposited:

1. Surrender, cancellation or determination of the lease to the letting agent and/or service contractor; and
2. Plan of survey converting the common property to a lot; and
3. Form 18A executed by the body corporate in accordance with Part [45-2060]; and
4. New CMS executed by the body corporate in accordance with Part [45-2060]; and
5. Transfer of the lot from the body corporate to the new owner.

All the dealings must be registered simultaneously. The requirements of the instruments are as follows:

Surrender of Lease

The usual Titles Registry requirements for surrender of lease apply. Refer to Part 8 for further guidance and information.

Survey Plan

- The survey plan must only be for the purpose of converting the common property to a lot in the scheme.
- The survey plan must be accompanied by a Form 18A executed by the body corporate in accordance with Part [45-2060].
- The approval of the planning body is not required (s. 50(h)(iii) of the *Land Title Act 1994*).

New CMS

- Item 4 of the Form 14 – Request to record New CMS is amended by including the new lot in the scheme land.
- Item 6 of the Form 14 – Request to record New CMS is to include wording similar to 'for converting part of the common property to a lot pursuant to s. 40 of the BCCMA.
- Schedule A of the CMS is amended by including the new lot in the scheme.
- The Form 14 Request to record new CMS and the Form CMS (New CMS) must be executed by the body corporate in accordance with Part [45-2060].

Transfer of Lot from the Body Corporate to purchaser

- Form 1 - Transfer of the lot from the body corporate executed by the body corporate as Transferor in accordance with Part [45-2060].

[45-2460] deleted

Adding or Excluding a Lot to/from a Community Titles Scheme

[45-2480] Adding a Lot to a Community Titles Scheme

A lot may be added to an existing community titles scheme, provided s. 115H(4) of the *Land Title Act 1994* is satisfied in that the lot to be added must form a continuous area of land with part of existing scheme land. To add a lot to an existing scheme, a New CMS that specifies the lot(s) to be added must be lodged and registered. However, a lot within another existing community titles scheme may not be added to a community titles scheme.

The Form 14 – Request to record the New CMS must be completed as follows:

- Item 2 - include both the description and title reference for the common property and the lot to be added;
- Item 3 and Item 5 - show the name of the registered owner of the lot to be added and the name of the body corporate;
- Item 6 - the lot being added to the scheme must be identified, and state that Item 4 and Schedule A of the CMS are being amended; and
- be executed by the body corporate in accordance with Part [45-2060]

The Form CMS (New CMS) lodged with the Form 14 should be executed by the body corporate in accordance with Part [45-2060], and must also be executed by the registered owner on an additional Form 20 – BCCM Execution that is deposited with the New CMS (note only the registered owner needs to sign this additional Form 20 – BCCM Execution).

On registration of the CMS the community titles scheme number will be noted on the indefeasible title for the additional lot(s).

[45-2500] Excluding a Lot from Scheme Land in a Community Titles Scheme

A lot may be excluded from a community titles scheme by lodging and registering a request to record a New CMS that identifies the lots remaining in the scheme. However, a lot may only be excluded if:

- the excluded lot is capable of being held as a separate lot in either a standard or volumetric format plan; and
- at least two lots will remain in the scheme.

If the lot to be excluded is a lot identified on a group title plan the lot must be first converted, by a plan of survey, to a standard format lot on a survey plan.

The Form 14 – General Request to record the New CMS must be completed as follows:

- Item 2 - include both the description and title reference for the common property and the lot to be excluded;
- Item 3 and Item 5 - show the name of the registered owner of the lot to be excluded and the name of the body corporate;
- Item 6 - the lot(s) being excluded from the scheme must be identified, and state that Item 4 and Schedule A of the CMS are being amended; and
- be executed by the body corporate in accordance with Part [45-2060].

The Form CMS (New CMS) lodged with the Form 14 should also be executed by the body corporate in accordance with Part [45-2060].

On recording the New CMS, the community titles scheme number will be removed from the indefeasible title for the excluded lot(s).

[45-2520] Subdividing Common Property to Create a New Lot within the Scheme

Additional lot(s) may be created from the common property in a community titles scheme. In these instances, the following documents must be lodged or deposited in the order shown:

1. a Form 21 - Survey Plan that defines the additional lot(s); and
2. Form 18A consent to the survey plan that has been executed by the body corporate in accordance with Part [45-2060]; and
3. a Form 1 – Transfer from the body corporate to the intended owner of each new lot, executed by the body corporate as Transferor in accordance with Part [45-2060]; and

4. a New CMS that reflects the changes to Item 4 and Schedule A executed by the body corporate in accordance with Part [45-2060].

All of the documents are recorded on the indefeasible title for the common property in the scheme.

[45-2540] Lot to be Added to Common Property

If all or part of a lot outside a community titles scheme is to be added to the common property for the scheme, the new lot must adjoin the scheme (unless permitted otherwise) to ensure the scheme remains a single, continuous area of land (s. 115H of the *Land Title Act 1994*).

A lot or part of a lot within a scheme may also be added to the common property for the scheme.

A lot or part of a lot in a subsidiary scheme may be added to the common property of the principal scheme.

The current recorded CMS for both the principal scheme and the subsidiary scheme must clearly identify the intention to create the additional principal common property in both schedule B and the concept diagram.

Section 49DA of the *Land Title Act 1994* Applies

Where a lot or part of a lot, within a community titles scheme is to be converted into additional common property, and Schedule B or the concept plan in the current recorded CMS for a scheme indicates this, the common property will be created on registration of a plan that spatially identifies the area of additional common property without additional documentation being required (s. 49DA of the Land Title Act). [See 45-2680].

Section 49DA of the *Land Title Act 1994* Does Not Apply

Where s. 49DA of the Land Title Act does not apply (that is, Schedule B or the concept plan in the current recorded CMS for a scheme does not indicate that the lot is intended to be converted into additional common property) and only part of a lot is being added, it must first be subdivided by either a standard, building or volumetric format plan (as appropriate) to designate the area that is being transferred to the body corporate as a separate lot, if applicable. In these instances, the following documents must be lodged in the order shown:

1. a plan of subdivision (if required);
2. a transfer to the body corporate of the lot that is to become common property;
3. a New CMS to bring the lot into the scheme (if required);
4. a compiled plan, signed by the body corporate, converting the acquired lot to common property. The description on this plan must be ‘common property subdividing (the lot/plan description of the lot acquired)’; and
5. a New CMS that incorporates the additional common property.

The plan (1), transfer (2) and plan (4) will be recorded on the indefeasible title for the lot(s) being converted to common property. The Request to record the New CMS will be recorded on the indefeasible title for scheme’s common property. On the indefeasible title for scheme’s common property it will also be noted that additional common property has been added to the scheme by virtue of the plan and transfer.

Where s. 49DA of the Land Title Act does not apply and the whole of a lot is to be added, steps 2 to 5 above must be followed.

It is not necessary for the new common property to be amalgamated with the existing common property by a plan of amalgamation.

[45-2560] Lot to be Added to a Community Title Lot

This option is generally not available in a community titles scheme that comprises lots created by a building format plan. However, if the scheme comprises only part of a building, another lot within that building may be added to the scheme.

All or part of a lot that is outside a community titles scheme may be added to a lot in a community titles scheme if the lot or part of the lot to be added to the scheme adjoins the scheme land. If only part of a lot is to be added, the lot must first be subdivided by either a standard or volumetric format plan to create a separate lot to add to the scheme lot. The following documents are required to be lodged in the order shown:

1. plan of subdivision and consent (if required);
2. transfer, over the lot to be transferred, in favour of the registered owner of the community title lot;
3. a New CMS to bring the lot into the scheme;

4. compiled plan in the appropriate format amalgamating the community titles lot and the lot being added;
5. a New CMS which amends Item 4 and Schedule A.

The Form 14 – General Request to record the New CMS (3) must state in Item 2 the land description and title reference for the common property for the scheme and the lot on plan description and title reference for the lot(s) to be included. Item 6 should refer to the lot(s) to be included in the community titles scheme and the schedule(s) to be amended.

Items 3 and 5 of the Form 14 should also include the owner of the lot. Both the body corporate and the registered owner of the lot added to the scheme must execute in Item 8 of the CMS.

The transfer (2) and plan (4) are recorded over their relative indefeasible titles simultaneously. The Request to record the New CMS (5) is recorded on the indefeasible title for common property for the scheme and the indefeasible title for the lot.

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[45-2580] Part of Common Property to be Excised from a Community Titles Scheme

Before part of the common property in a community titles scheme can be excised from the common property for the scheme, the part must first be designated as a separate lot by a standard or volumetric format plan.

[45-2600] Part of Common Property on a Standard or Volumetric Format Plan being Excised

If the part of the common property that is being excised is a standard or volumetric format lot, the following documents are required to be lodged in the order shown:

1. a standard or volumetric format plan that shows the part of the common property to be excised as a standard or volumetric lot. The plan is to be approved by the relevant planning body and be prepared in accordance with directions 8 or 10 and 12 of the Registrar of Titles Directions for the Preparation of Plans;
2. a transfer of the standard or volumetric lot being excised; executed by the body corporate as transferor;
3. a New CMS that identifies the extent of the scheme land by reference to the scheme land at item 4 and to the plan at item 6 of the CMS; and
4. The Form 14 – General Request that accompanies the New CMS must state in Item 2 the land description and title reference for the common property for the scheme and the lot on plan description, and title reference for the lot(s) to be excised. Item 6 should refer to the lot(s) to be excised from the community titles scheme and, if applicable, the schedule(s) to be amended.

The plan, transfer and request to record New CMS will be recorded on the indefeasible title for common property for the scheme. The request to record New CMS will also be recorded on the indefeasible title for the lot to be excised.

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[45-2620] Part of Common Property on a Building Format Plan Outside a Building or Structure Being Excised

If the part of the common property that is being excised is on a building format plan and outside a building or structure, the following documents are required to be lodged in the order shown:

1. a standard or volumetric format plan that shows the part of the common property to be excised as a standard or volumetric lot. The plan is to be approved by the relevant planning body and be prepared in accordance with directions 8 or 10 and 12 of the Registrar of Titles Directions for the Preparation of Plans;
2. a transfer of the standard or volumetric lot(s) being excised; executed by the body corporate as transferor; and
3. a New CMS that identifies the extent of the scheme land by reference to the scheme land at item 4 and to the plan at item 6 of the CMS; and
4. The Form 14 – General Request that accompanies the New CMS must state in Item 2 the land description and title reference for the common property for the scheme and the lot on plan description, and title reference for the lot(s) to be excised. Item 6 should refer to the lot(s) to be excised from the community titles scheme and, if applicable, the schedule(s) to be amended.

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[45-2640] Part of Common Property on a Building Format Plan within a Building or Structure Being Excised

If the part of the common property that is being excised is on a building format plan and within a building or structure, the following documents may be required to be lodged in the order shown:

1. a volumetric format plan that shows the part of the common property to be excised as a volumetric lot. The plan is to be approved by the relevant planning body and prepared in accordance with directions 10 and 12 of the Registrar of Titles Directions for the Preparation of Plans;
2. a transfer of the volumetric lot being excised; executed by the body corporate as transferor;
3. a New CMS that identifies the extent of scheme land by reference to the scheme land at item 4 and the plan at item 6 of the CMS; and
4. The Form 14 – General Request that accompanies to record the New CMS must state in Item 2 the land description and title reference for the common property for the scheme and the lot on plan description and title reference for the lot(s) to be excised. Item 6 should refer to the lot(s) to be excised from the community titles scheme and, if applicable, the schedule(s) to be amended.

Depending on the individual circumstances and situation, one of the following may be required:

5. A further plan that amalgamates the volumetric lot being excised from the common property with an adjoining volumetric lot; OR
6. A Form 31 – Covenant, pursuant to s. 97A(3)(c) of the *Land Title Act 1994* which links the volumetric lot being excised with another lot

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[45-2660] A Lot or Part of a Lot Excised from a Community Titles Scheme

When either a standard or volumetric area is to be excised from a community titles scheme, the following requirements apply:

1. if the **whole** of a standard or volumetric lot is to be excised, the following documents are required to be lodged in the order shown –
    i. a transfer of the lot from the registered owner to the purchaser, (if required); and
    ii. a New CMS for the remainder of the scheme.
2. if only **part** of a standard or volumetric lot is to be excised, the following documents are required to be lodged in the order shown –
    i. a standard or volumetric format plan that subdivides the lot affected;
    ii. a transfer of the lot to be excised from the registered owner to the purchaser (if required); and
    iii. a New CMS for the remainder of the scheme.

The Form 14 – General Request to record the New CMS must state in Item 2 the land description and title reference for the common property for the scheme and the lot on plan description and title reference for the lot(s) to be excised. Item 6 should refer to the lot(s) to be excised from the community titles scheme and the schedule(s) to be amended.

The plan (if required) and transfer will be recorded on the indefeasible title for the lot being excised. The New CMS will be registered simultaneously on the indefeasible title for common property for the scheme and the indefeasible title for the lot to be excised from the scheme.

There are specific requirements for the execution of an instrument by a body corporate, refer to Part [45-2060] for further guidance.

[45-2670] Resumptions over scheme land in a Community Titles Scheme

Where part of a community titles scheme is to be resumed by a constructing authority in accordance with the *Acquisition of Land Act 1967* the following instruments must be lodged for registration:

1. Plan of subdivision in the appropriate format; and

2. Request to record New CMS; and
3. Resumption instrument.

The requirements for the instruments lodged are as follows:

1. Plan of subdivision

The plan may only deal with the resumption action and must be signed by the constructing authority in accordance with Part [45-2068].

2. Request to record New CMS

Only changes from the previous contribution schedule lot entitlements the subject of the resumption can be altered in Schedule A of the CMS. Differences in the contribution schedule lot entitlements must be explained.

If the resumption affects an exclusive use area or services location diagrams, Schedule E and any relative diagram must also be amended. No other alterations or amendments in the CMS are permitted.

The consent of the planning body is not required (s. 60(6)(b)(ii) of the BCCMA) so a Form 18C – Planning Body Community Management Statement Notation is not required. Insert 'N/A' or 'Not applicable pursuant to s. 60(6)(b)(ii) of the *Body Corporate and Community Management Act 1997'* in Item 7 of the CMS.

The Form 14 and the New CMS at Item 8 should be executed in accordance with Part [45-2060].

Alternatively, if the body corporate has not signed the Form 14 and the New CMS, the constructing authority may sign the Form 14 and New CMS on behalf of the body corporate (ss. 51(7) to (9) of BCCMA). This execution should be completed in accordance with Part [45-2068].

3. Resumption instrument

The current requirements for a resumption instrument apply (see part 14 – General Request, esp. [14-2320]).

[45-2680] Staged Subdivisions

A staged subdivision exists when the First CMS for a scheme indicates that the scheme is to be developed progressively. An explanation of the staged development for the scheme is required in Schedule B of the First CMS and the explanation of the remaining development outlined in the CMS lodged with each subsequent stage until the development has been completed. Concept drawings that show how the scheme is to be progressively developed must be deposited with the CMS.

Staged subdivision is distinctly different from a decision made by one or more lot owners to re-subdivide their lot(s) and/or common property to change the shape or number of lots or add to or reduce the size of the common property. In such instances a decision to re-subdivide will not be anticipated in the First CMS or included in a development master plan.

A range of options are available for implementing the staged development of what will ultimately become a community titles scheme. Some typical methods are explained in the following paragraphs. Regardless of the option that best accommodates the needs of the scheme, all land that will be comprised in either a current or future stage of the scheme must be revealed in the First CMS so that:

- all indefeasible title(s) are noted with the CMS number;
- all lots are identified as scheme land; and
- a composite 'Schedule of Lot Entitlements' is revealed.

Where a further stage of a scheme is being created by the registration of a plan of subdivision, the additional common property created in the further stage becomes common property for the scheme on registration of the plan only if Schedule B or the concept plan contained in the current recorded CMS for the scheme indicates that additional common property may be created (s. 49DA of the *Land Title Act 1994*). If s. 49DA of the Land Title Act does not apply to the creation of additional common property, the procedure outlined in [45-2540] should be followed.

A New CMS must be lodged with each subsequent plan that creates a further stage of the scheme. If a progressive subdivision is by a building format plan, common property must be created on that plan unless the plan is subdividing or amalgamating lots on a registered building format plan (s. 49C(2) of the Land Title Act).

As the fee simple interest in common property cannot be subject to mortgage (s. 41C(3) of the Land Title Act) and because every mortgagee must consent to the plan, no release of the mortgage as far as it relates to new common property is necessary.

[45-2700] Method 1

In a situation where the base parcel for a community titles scheme consists of one or more lots, these lots may be subdivided into lots on either a standard or a volumetric format plan. The lots created are referred to in this Part as the 'original lots'.

One or more of those original lots may then be further subdivided into lots and common property by either a standard, volumetric or building format plan.

The CMS that is lodged with the first plan that creates common property for the scheme will reveal that the original lots, the subdivided lots and the common property are all part of the community titles scheme. It will also reveal the proposed development in stages for the lots.

[45-2720] Method 2

The base parcel for a community titles scheme may be subdivided into lots and all or part of the proposed common property by either a standard or volumetric format plan.

The CMS that is lodged with that plan will reveal the proposed development in stages for the lots.

[45-2740] Method 3

The base parcel for a community titles scheme may be subdivided into lots and all or part of the proposed common property by either a standard or volumetric format plan.

A lot may then be subdivided out of the common property and transferred to a third party for development as part of the original scheme.

The New CMS lodged with the plan that subdivides the common property will reveal that the lot is intended to remain part of the scheme and is for future subdivision.

[45-2760] Method 4

The base parcel for a community titles scheme that is made up of standard format lots only may be subdivided by a building format plan. That plan may create building format lots and all or part of the proposed common property and leave a parcel remaining that is not common property. The remaining parcel is still a standard format lot.

The CMS that is lodged with that plan will reveal the proposed staged development of the remaining standard format lot if it is to be included in the scheme.

[45-2780] Layered arrangements

A layered arrangement occurs when the CMS for a principal scheme indicates that one or more of the scheme lots will be further subdivided to create a separate scheme that will be a subsidiary of the principal scheme. Diagrams A and B illustrate the potential structures of layered arrangements.

Each subsidiary scheme created retains the lot entitlements allocated to the lot of the principal scheme on registration of the plan that created the principal scheme. The CMS for the principal scheme describes in Schedule A each subsidiary scheme as 'Community Titles Scheme [name] [number (if known)]' instead of a lot on plan.

On registration of each plan that creates a further layer or subdivides any lot within a subsidiary scheme, a New CMS must be lodged for both the principal scheme and the subsidiary scheme. However, if scheme land for the principal scheme only is subdivided, a New CMS for the principal scheme only is required.

On creation of a subsidiary scheme, a new body corporate is established and that body corporate represents the subsidiary scheme on the body corporate for the principal scheme.

When establishing a layered arrangement, Schedule B of the CMS for the principal scheme should clearly set out details of the proposed layered development structure. If this information is disclosed in Schedule B of the CMS for the principal scheme, details of lot entitlements or plan numbers for subsidiary scheme(s) need not be shown. Each layer only requires approval by ordinary resolution of the body corporate for the scheme to which the lot being subdivided belongs, provided the CMS for the subsidiary scheme is in accordance with Schedule B of the CMS for the principal scheme. Any development that differs from Schedule B of the CMS for the principal scheme requires consent of the body corporate of the principal scheme by a resolution without dissent.

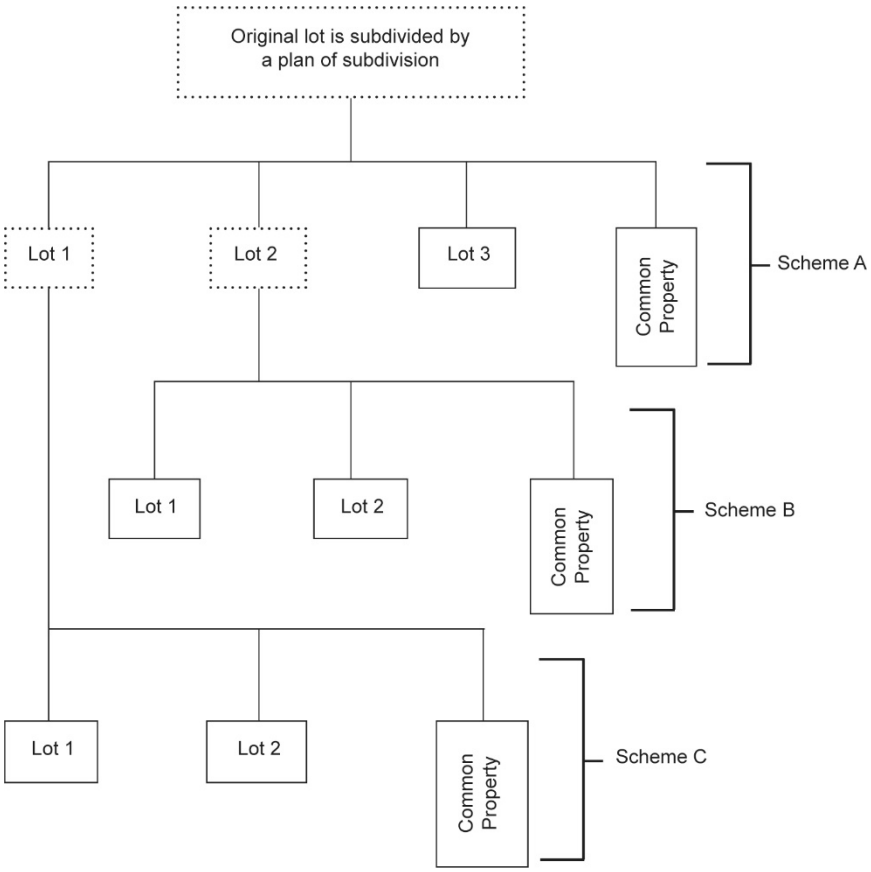
The CMS lodged with each plan that creates a subsidiary scheme must be a First CMS and must be signed by the owner of the lot(s) being subdivided to create the scheme.

The indefeasible titles created for the lots and common property for a subsidiary scheme will show the references to their own CMS number and the CMS for the principal scheme. If a scheme is a subsidiary of another subsidiary scheme, the indefeasible titles created will refer to the CMS numbers of all higher schemes as well as its own.

If the First CMS and if that First CMS has been replaced the current CMS, for a scheme indicates that additional common property for the principal scheme will be created on registration of a subsidiary scheme, the additional common property for the principal scheme is created on registration of the plan and CMS for the subsidiary scheme.

As the fee simple interest in common property cannot be subjected to mortgage (s. 41C(3) of the *Land Title Act 1994*) and because every mortgagee must consent to the plan, no release of the mortgage, as far as it relates to the new common property, is necessary.

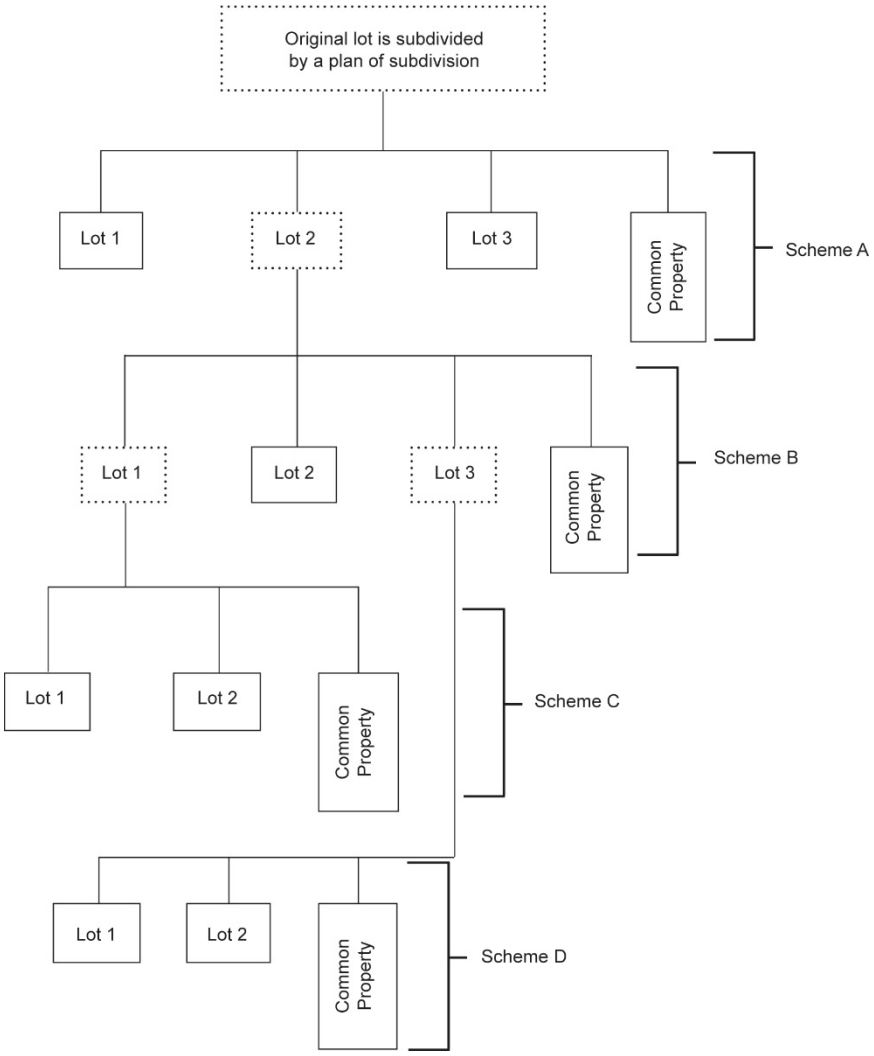
Diagram A – Illustration of a Simple Layered Arrangement of Schemes



Lots 1 and 2 in Scheme A are subdivided by further plans of subdivision to create basic Schemes B and C.

Accordingly, Lots 1 and 2 in Scheme A are themselves community titles schemes.

Diagram B – Illustration of a More Complex Layered Arrangement of Schemes



For the more complex **layered arrangement of community titles schemes** illustrated:

- Scheme A is the principal scheme because it is not a lot included in another community titles scheme.
- Scheme B is both a **subsidiary scheme** for Scheme A and a lot included in Scheme A, and includes three lots, two of which are community title schemes (Schemes C and D).
- Schemes C and D are both **basic schemes** because none of the lots included in either scheme is another community titles scheme.
- Schemes C and D are also **subsidiary schemes** for both Schemes A and B. However, neither Scheme C nor Scheme D is a lot included in Scheme A, but each scheme is a lot included in Scheme B.
- **Scheme land** for Scheme D consists of Lot 1, Lot 2, and the common property for Scheme D.
- **Scheme land** for Scheme C consists of Lot 1, Lot 2, and the common property for Scheme C.
- **Scheme land** for Scheme B consists of Lot 2, the common property for Scheme B, the scheme land for Scheme C and the scheme land for Scheme D.
- **Scheme land** for Scheme A consists of Lot 1, Lot 3, the common property for Scheme A, and the scheme land for Scheme B.

[45-2840] to [45-2920] deleted

[45-2945] Transitional Provisions - Building Units and Group Titles Act 1980

For information regarding transitional provisions under the *Building Units and Group Titles Act 1980* refer to Chapter 8, Part 1 of the BCCMA. For clarification on the application of the BCCMA refer to Parts [45-0000] to [45-0001].

[45-2950] to [45-3120] deleted

[45-3140] Termination of a Community Titles Scheme

A community titles scheme may be terminated by lodging a plan that amalgamates all land comprised in the scheme. The plan must be prepared in keeping with the 'Registrar of Titles Directions for the Preparation of Plans'. The plan may be compiled from the plan to be extinguished, subject to the normal requirements for compiled plans.

A Form 18A Registered Owners/Lessees Consent to Survey Plan should be executed by the body corporate in accordance with Part [45-2060]. Alternatively, it may be executed by the person on whose application a court ordered the termination of the scheme.

Evidence of the termination, as required by Part 6A Division 7 of the *Land Title Act 1994*, must be deposited with the plan when it is lodged. Evidence of the termination may be:

a. a certified copy of the body corporate resolution terminating the scheme and any agreements entered into by the parties about termination issues; or

b. an order of the court to terminate the scheme.

On lodgement of a plan for termination of a scheme the Registrar will search the Register to determine if there is any land held as an asset that should be dealt with as part of the termination process.

On registration of the plan:

- the particulars about the scheme and its CMS will be cancelled;
- one or more indefeasible titles will be created for the new lot(s) that comprises all of the land that, immediately before the cancellation, was scheme land;
- the indefeasible title(s) will show the registered owners of all of the lots previously included in the scheme as tenants in common with shares proportionate to the lot entitlements shown in the schedule of interest in the cancelled CMS;
- the indefeasible title(s) will also show the share of each registered owner as being subject to any mortgage(s), lease(s) or other interest(s) previously registered on the cancelled title to their lot in the terminated community titles scheme.

A basic scheme is defined as a community titles scheme that has one level of management. Consequently, if terminating a layered arrangement of schemes, all subsidiary schemes must be terminated first. When all subsidiary schemes have been terminated, the principal scheme may be terminated.

[45-3141] Termination for economic reasons

The BCCMA provides for a motion to be passed by a body corporate for the termination of a community titles scheme for economic reasons.

A termination resolution for economic reasons can only be passed if the body corporate has complied with the applicable requirements under Chapter 2, Part 9, Division 4 of the BCCMA.

If the resolution is passed, a notice of termination resolution on a 'BCCM Form 30' must be sent to the relevant parties, including the Registrar (section 81L(3) BCCMA) within two (2) weeks.

The notice is recorded as an administrative advice on all titles for the lots and common property within the scheme being terminated. Refer to part [52-0340] for further information and guidance.

Upon registration of a survey plan for termination of a scheme, the administrative advice for the notice of termination resolution will be cancelled over all applicable titles.

[45-3160] Amalgamation of Existing Schemes

The BCCMA provides for amalgamation of two or more community titles schemes.

Two or more schemes may be amalgamated if none of them are subsidiary schemes.

Two or more subsidiary schemes may be amalgamated if each is a lot comprised in one principal scheme and provided they are not the only lots in the principal scheme.

Schemes may only be amalgamated if the bodies corporate for each scheme agree by resolutions without dissent to the amalgamation and to the First CMS for the amalgamated scheme. If the schemes to be amalgamated are subsidiary schemes, the body corporate for the principal scheme must also consent to the amalgamation by an ordinary resolution. Alternatively, a District Court may order that two or more schemes be amalgamated.

If a District Court makes an order that two or more schemes are to be amalgamated, the court may also make orders about:

a. the contents of the CMS for the amalgamated scheme; and

b. the disposition of assets and/or liabilities of the schemes prior to the amalgamation.

When two or more schemes are amalgamated, their existence as separate schemes ends and a new scheme is created. The lots and common property of each of the amalgamated schemes become the lots and common property for the amalgamated scheme. However, schemes may not be amalgamated if the proposed scheme would not conform to the requirements of the BCCMA.

[45-3180] Documentation for Amalgamating Schemes

The documentation required to **voluntarily** amalgamate two or more existing community titles schemes comprises:

- a Form 14 – General Request to amalgamate (no lodgement fee is applicable) with:
  - a certified copy of each resolution is required to evidence that the schemes may be amalgamated (ss. 115W and 115X of the *Land Title Act 1994*); and
- a Form 14 – General Request to record First CMS with:
  - a First CMS for the amalgamated scheme (the CMS must reflect the provisions agreed to by the previous bodies corporate for the separate schemes by resolutions without dissent); and
  - a properly completed Form 18C – Planning Body Community Management Statement Notation signed by the planning body.

The documentation required to amalgamate two or more existing community titles schemes to comply with a District Court order comprises:

- a Form 14 – General Request to amalgamate (no lodgement fee is applicable) with:
  - a certified copy of the District Court order; and
- a Form 14 – General Request to record First CMS with:
  - a First CMS for the amalgamated scheme; and
  - a properly completed Form 18C – Planning Body Community Management Statement Notation signed by the planning body.

Item 6 of the Form 14 – General Request to record First CMS must include the name and address for service of the body corporate for the amalgamated scheme.

The name of the amalgamated scheme may be:

- a new name that has not already been registered or reserved for another scheme; or
- the name of one of the schemes being amalgamated (upon registration of the Request, the names of the schemes being amalgamated cease to exist and are available for use for the new scheme and if not used, for any other scheme).

If the schemes to be amalgamated are subsidiary schemes a New CMS for the principal scheme is also required (ss. 115W and 115X of the Land Title Act).

On registration of the Form 14 – General Request to amalgamate the following will take place:

- the CMS numbers for the schemes being amalgamated will be cancelled; and
- a new CMS number will be generated for the First CMS for the new scheme; and
- the indefeasible titles for common property in the schemes being amalgamated will be cancelled; and
- an indefeasible title for the common property for the new scheme will be created.

If any reciprocal easements have been registered on the cancelled indefeasible titles for the common property for the previous schemes they will be surrendered as part of the amalgamation process. Note: Section 87(b) of the Land Title Act will be relied upon to surrender any reciprocal easements. The existing indefeasible titles for the lots in the scheme will not be cancelled, however, the CMS reference for each relevant original scheme will be updated as the CMS number created for the amalgamated scheme.

Forms

[45-4000] General Guide to Completion of CMS Forms

- There must be margins free from printing and writing of not less than 10mm on all sides of the form.
- The form must be clearly printed on one side of the sheet only and be produced in a way that is permanent and allows reproduction by photographic means to the satisfaction of the Registrar in a print size no smaller than 1.8mm (10 point).
- The whole of the form, whether printed or processed, must appear on one side of one sheet only. No panel may be removed (i.e. the item must be shown in full even if not used).
- Forms must not be folded.
- All numbered items are to be completed or if not applicable to be either ruled through diagonally or marked N/A.
- If there is insufficient space in any item insert only the words ‘see Annexure’ or ‘see Enlarged Panel’ and attach a Form 20. Enlarged panels must be used to accommodate data that cannot be contained on the form. An enlarged panel may be used for any number of items. Schedules A to E in the CMS cannot have annexures.
- All information relating to the schedules must appear in the relevant schedule and the schedules must appear in order. Annexures or Enlarged Panels to Schedules A to E are not acceptable.
- The annexure or enlarged panel should be identified either by title reference (at least one) or the scheme name, numbered consecutively and should show the item name and number, e.g. Item 8. Execution by original owner.
- All pages of the lodged document must be numbered consecutively (e.g. page 1 of 15), commencing with the Form 14 as page 1. The relevant CMS Form (First or New) and any annexures including enlarged panels and schedules must be placed in the appropriate order within the complete document and the pages numbered accordingly. The page number must appear in the top right hand corner of each page including any sketch plans.
- Alterations to information entered on the form should be crossed out (not erased or obliterated by painting over) and initialled by the parties. Initialling is not necessary when deleting optional items or panels ruled through.
- An Australian company name must in all circumstances be followed by its Australian Company Number or Australian Registered Body Number.

Example 1.1 – First CMS – Basic Scheme

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C

Office use only
CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name of community titles scheme

BRIGHTON VILLA COMMUNITY TITLES SCHEME

2. Regulation module

SMALL SCHEMES MODULE

3. Name of body corporate

BODY CORPORATE FOR BRIGHTON VILLA COMMUNITY TITLES SCHEME

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF BRIGHTON VILLA COMMUNITY TITLES SCHEME	50046170
LOTS 1 TO 4 ON SP12347	

5. Name and address of original owner

BRIGHTON PTY LTD ACN 007 768 903
PO BOX 727
BRISBANE QLD 4001

6. Reference to plan lodged with this statement

SP12347

7. First CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

N/A

A Form 18C must be deposited with the Request to record the First CMS.

8. Execution by original owner

(seal)
or full name of
company to be shown

C Johns, Director
CHARLES JOHNS
K Brown, Director/Secretary
KENNETH BROWN

20/09/2024
Execution Date

.....
***Execution**

*Original owner to execute for a first community management statement

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 Titles Queensland website.

SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP12347	1	1
Lot 2 on SP12347	1	1
Lot 3 on SP12347	1	1
Lot 4 on SP12347	1	1
TOTALS	4	4

N.B. – Any First CMS lodged after 14 April 2011 must address in Schedule A the requirements of ss. 46(9) and 66(1)(db) and (dc) of the *Body Corporate and Community Management Act 1997* for all the lots in the scheme. See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

Not applicable (or an indication that it is not applicable e.g. N/A).

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, the full text of the by-laws, shall be clearly set out. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

SAMPLE

Lots on Plan or Common Property	Statutory Easement	Service Location Diagrams
Common Property	Support, shelter and services	C and D
Lot 1 on SP12347	Support, shelter and services	
Lot 2 on SP12347	Support, shelter and services	
Lot 3 on SP12347	Support, shelter and services	
Lot 4 on SP12347	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use area(s) in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

THIS CMS MUST BE DEPOSITED WITH:
-A FORM 14 GENERAL REQUEST; AND
-A FORM 18C (IF NO EXEMPTION TO THE PLANNING BODY CMS NOTATION APPLIES).

A NEW CMS MUST BE LODGED WITHIN THREE (3) MONTHS OF THE DATE OF CONSENT BY THE BODY CORPORATE

Office use only
CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name and number of community titles scheme

BRIGHTON VILLA COMMUNITY TITLES SCHEME 1010

2. Regulation module

SMALL SCHEMES MODULE

3. Name of body corporate

BODY CORPORATE FOR BRIGHTON VILLA COMMUNITY TITLES SCHEME 1010

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF BRIGHTON VILLA COMMUNITY TITLES SCHEME	56000010
LOT 1 ON SP12347	56000011
LOT 2 ON SP12347	56000012
LOT 3 ON SP12347	56000013
LOT 4 ON SP12347	56000014

5. #Name and address of original owner

N/A

6. Reference to plan lodged with this statement (if applicable)

N/A

7. New CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*

*If there is no exemption, a Form 18C must be deposited with the Request to record the CMS.

8. Consent of body corporate

See Form 20 – BCCM Execution

.....
Execution

Privacy Statement
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SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP12347	1	1
Lot 2 on SP12347	1	1
Lot 3 on SP12347	1	1
Lot 4 on SP12347	1	1
TOTALS	4	4

N.B. – See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

Not applicable (or an indication that it is not applicable e.g. N/A).

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, the full text of the by-laws, shall be clearly set out. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date of the plan is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

SAMPLE

Lots on Plan or Common Property	Statutory Easement	Service Location Diagrams
Common Property	Support, shelter and services	C and D
Lot 1 on SP12347	Support, shelter and services	
Lot 2 on SP12347	Support, shelter and services	
Lot 3 on SP12347	Support, shelter and services	
Lot 4 on SP12347	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use area(s) in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

Example 2.1 – First CMS - Staged Subdivision, First Stage (All Stages Not Included in the First CMS and No Additional Common Property to be Created)

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C

Office use only
CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name of community titles scheme

GRANDVIEW HEIGHTS COMMUNITY TITLES SCHEME

2. Regulation module

STANDARD MODULE

3. Name of body corporate

BODY CORPORATE FOR GRANDVIEW HEIGHTS COMMUNITY TITLES SCHEME

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF GRANDVIEW HEIGHTS COMMUNITY TITLES SCHEME	50131185
LOTS 1 TO 12 AND 99 ON SP12348	

5. Name and address of original owner

GRAND VIEWS PTY LTD ACN 333 306 001
PO BOX 222
BRISBANE QLD 4001

6. Reference to plan lodged with this statement

SP12348

7. First CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

N/A

A Form 18C must be deposited with the Request to record the First CMS.

8. Execution by original owner

(seal)
or full name of
company to be shown

B May, Director
BRIAN MAY
S Doust, Director/Secretary
STEPHEN DOUST

20/11/2023
Execution Date

.....
***Execution**

*Original owner to execute for a first community management statement

Privacy Statement
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SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP12348	1	1
Lot 2 on SP12348	1	1
Lot 3 on SP12348	1	1
Lot 4 on SP12348	1	1
Lot 5 on SP12348	1	1
Lot 6 on SP12348	1	1
Lot 7 on SP12348	1	1
Lot 8 on SP12348	1	1
Lot 9 on SP12348	1	1
Lot 10 on SP12348	1	1
Lot 11 on SP12348	1	1
Lot 12 on SP12348	1	1
Lot 99 on SP12348	1	1
TOTALS	13	13

N.B. – Any First CMS lodged after 14 April 2011 must address in Schedule A the requirements of ss. 46(9) and 66(1)(db) and (dc) of the *Body Corporate and Community Management Act 1997* for all the lots in the scheme. See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

Lot 99 on SP12348 is to be further subdivided by a standard format plan into 8 lots under the standard module for residential purposes.

N.B. – 1. Concept drawings in accordance with section 66(1)(f)(i) of the *Body Corporate and Community Management Act 1997* must also be included.

2. The purpose of any future allocations for the scheme and the stages in which the future allocations are to be made should also be included.

(Where concept drawings are annexed they should be on international sheet size A4 or A3 and comply with imaging quality requirements.)

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

Exclusive Use

12. The proprietors of lots identified in Schedule E are entitled to exclusive use of the areas allocated therein and as identified on sketch plans marked “A” and “B” attached hereto.

SAMPLE

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

Lots on Plan or Common Property	**Statutory Easement**	**Service Location Diagrams**
Common Property	Support, shelter and services	C and D
All lots	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use area(s) in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

Lot on Plan	**Exclusive use area**
Lot 2 on SP12348	Area “1” on sketch marked “A”
Lot 4 on SP12348	Area “2” on sketch marked “A”

Or, if lots have more than one exclusive use area the purpose may be included by the addition of an extra box to the above:

Lot on Plan	**Exclusive use area**	**Purpose**
Lot 2 on SP12348	Area “1” on sketch marked “A” Area “1 “ on sketch marked “B”	Carpark Storage
Lot 4 on SP12348	Area “2“ on sketch marked “A” Area “2” on sketch marked “B”	Carpark Storage

SAMPLE

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C (IF NO EXEMPTION TO THE PLANNING BODY CMS NOTATION APPLIES).

A NEW CMS MUST BE LODGED WITHIN THREE (3) MONTHS OF THE DATE OF CONSENT BY THE BODY CORPORATE

Office use only

CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name (including number) of community titles scheme

GRANDVIEW HEIGHTS COMMUNITY TITLES SCHEME 1357

2. Regulation module

STANDARD MODULE

3. Name of body corporate

BODY CORPORATE FOR GRANDVIEW HEIGHTS COMMUNITY TITLES SCHEME 1357

4. Scheme land

Lot on Plan Description — Title Reference

SEE ENLARGED PANEL

5. Name and address of original owner

NOT APPLICABLE

6. Reference to plan lodged with this statement (if applicable)

SP123459

7. New CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

N/A

*If there is no exemption a Form 18C must be deposited with the Request to record the CMS.

8. Consent of body corporate

See Form 20 – BCCM Execution

Execution

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SAMPLE

EITHER **Title Reference [56000000]** *OR* **GRANDVIEW HEIGHTS COMMUNITY TITLES SCHEME 1357**

4. Scheme Land

Description of Lot	Parish	Title Reference
Common Property of Grandview Heights community titles scheme 1357		56000000
Lot 1 on SP12348		56000001
Lot 2 on SP12348		56000002
Lot 3 on SP12348		56000003
Lot 4 on SP12348		56000004
Lot 5 on SP12348		56000005
Lot 6 on SP12348		56000006
Lot 7 on SP12348		56000007
Lot 8 on SP12348		56000008
Lot 9 on SP12348		56000009
Lot 10 on SP12348		56000010
Lot 11 on SP12348		56000011
Lot 12 on SP12348		56000012
Lot 13 on SP123459		
Lot 14 on SP123459		
Lot 15 on SP123459		
Lot 16 on SP123459		
Lot 17 on SP123459		
Lot 18 on SP123459		
Lot 19 on SP123459		
Lot 20 on SP123459		

OR

4. Scheme Land

Description of Lot	Title Reference
Common Property of Grandview Heights Community Titles Scheme 1357	56000000
Lots 1 to 12 on SP12348	56000001 to 56000012
Lots 13 to 20 on SP123459	

SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP12348	1	1
Lot 2 on SP12348	1	1
Lot 3 on SP12348	1	1
Lot 4 on SP12348	1	1
Lot 5 on SP12348	1	1
Lot 6 on SP12348	1	1
Lot 7 on SP12348	1	1
Lot 8 on SP12348	1	1
Lot 9 on SP12348	1	1
Lot 10 on SP12348	1	1
Lot 11 on SP12348	1	1
Lot 12 on SP12348	1	1
Lot 13 on SP123459	1	1
Lot 14 on SP123459	1	1
Lot 15 on SP123459	1	1
Lot 16 on SP123459	1	1
Lot 17 on SP123459	1	1
Lot 18 on SP123459	1	1
Lot 19 on SP123459	1	1
Lot 20 on SP123459	1	1
TOTALS	20	20

N.B. – See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

Not applicable (or an indication that it is not applicable e.g. N/A).

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws applicable to this statement shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

Where an exclusive use by-law is to be included the following wording may be used as the basis:

Exclusive Use

12. The proprietors of lots identified in Schedule E are entitled to exclusive use of the areas allocated therein and as identified on the sketch plans marked “A” and “B” attached hereto.

SAMPLE

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

Lots on Plan or Common Property	**Statutory Easement**	**Service Location Diagrams**
Common Property	Support, shelter and services	C and D
All lots	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use are(s) allocated to the lot(s) should be included in the format below. A sketch plan of the exclusive use area(s) in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

Example of allocation of exclusive use areas:

Lot on Plan	**Exclusive Use Area**
Lot 2 on SP12348	Area “1” on sketch marked “A”
Lot 4 on SP12348	Area “2” on sketch marked “A”
Lot 5 on SP12348	Area “14” on sketch marked “B”
Lot 6 on SP12348	Area “15” on sketch marked “B”

Or, if lots have more than one exclusive use area the purpose may be included by the addition of an extra box to the above:

Lot on Plan	**Exclusive Use Area**	**Purpose**
Lot 2 on SP12348	Area “1” on sketch marked “A” Area “1” on sketch marked “B”	Carpark Storage
Lot 4 on SP12348	Area “2” on sketch marked “A” Area “2” on sketch marked “B”	Carpark Storage

SAMPLE

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C

Office use only
CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name of community titles scheme

NORTHGATE HEIGHTS NO. 1 COMMUNITY TITLES SCHEME

2. Regulation module

STANDARD MODULE

3. Name of body corporate

BODY CORPORATE FOR NORTHGATE HEIGHTS NO. 1 COMMUNITY TITLES SCHEME

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF NORTHGATE HEIGHTS NO. 1 COMMUNITY TITLES SCHEME	14872009
LOTS 1 TO 6 ON SP12346	

5. Name and address of original owner

NORTHGATE PTY LTD ACN 007 090 232
PO BOX 3
BRISBANE QLD 4001

6. Reference to plan lodged with this statement

SP12346

7. First CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

N/A

A Form 18C must be deposited with the Request to record the First CMS.

8. Execution by original owner

(seal)
or full name of
company to be shown

P Stanley, Director
PAUL STANLEY
J Adams, Director/Secretary
JORDAN ADAMS

20/11/2023
Execution Date

..... ***Execution**

*Original owner to execute for a first community management statement

Privacy Statement
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SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP12346	1	1
Lot 2 on SP12346	1	1
Lot 3 on SP12346	1	1
Lot 4 on SP12346	1	1
Lot 5 on SP12346	1	1
Lot 6 on SP12346	1	1
TOTALS	6	6

N.B. – Any First CMS lodged after 14 April 2011 must address in Schedule A the requirements of ss. 46(9) and 66(1)(db) and (dc) of the *Body Corporate and Community Management Act 1997* for all the lots in the scheme. See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

The scheme is intended to be developed as a layered arrangement in accordance with section 66(1)(g) of the *Body Corporate and Community Management Act 1997*.

Lot 2 on SP12346 is to be further subdivided by a standard format plan into 4 lots and common property being stage 2 forming a subsidiary scheme described as Northgate Heights No. 2 community titles scheme under the Accommodation Module for holiday rental.

Lot 4 in Northgate Heights No. 2 community titles scheme is to be further subdivided by a building format plan into 4 lots and common property being stage 3 forming another subsidiary scheme described as Northgate Heights No. 3 community titles scheme under the Commercial Module for retail shop letting.

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, the full text of the by-laws applicable to this statement shall be clearly set out. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SAMPLE

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

Lots on Plan or Common Property	**Statutory Easement**	**Service Location Diagrams**
Common Property	Support, shelter and services	C and D
Lot 1 on SP12346	Support, shelter and services	
Lot 2 on SP12346	Support, shelter and services	
Lot 3 on SP12346	Support, shelter and services	
Lot 4 on SP12346	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use areas in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C

Office use only
CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name of community titles scheme

NORTHGATE HEIGHTS NO. 2 COMMUNITY TITLES SCHEME

2. Regulation module

ACCOMMODATION MODULE

3. Name of body corporate

BODY CORPORATE FOR NORTHGATE HEIGHTS NO. 2 COMMUNITY TITLES SCHEME

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF NORTHGATE HEIGHTS NO. 2 COMMUNITY TITLES SCHEME	50011003
LOTS 1 TO 4 ON SP123462	

5. Name and address of original owner

NORTHGATE PTY LTD ACN 007 090 232
PO BOX 3
BRISBANE QLD 4001

6. Reference to plan lodged with this statement

SP123462

7. First CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

N/A

A Form 18C must be deposited with the Request to record the First CMS.

8. Execution by original owner

(seal of original owner) or full name of company to be shown

P Stanley, Director
PAUL STANLEY
J Adams, Director/Secretary
JORDAN ADAMS

20/11/2023
Execution Date

.....
***Execution**

*Original owner to execute for a first community management statement

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SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP123462	1	1
Lot 2 on SP123462	1	1
Lot 3 on SP123462	1	1
Lot 4 on SP123462	1	1
TOTALS	4	4

N.B. – Any First CMS lodged after 14 April 2011 must address in Schedule A the requirements of ss. 46(9) and 66(1)(db) and (dc) of the *Body Corporate and Community Management Act 1997* for all the lots in the scheme. See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

In accordance with the layered arrangements identified in Northgate Heights No. 1 Community Titles Scheme 2468.

Lot 4 on SP123462 is to be subdivided by a building format plan into 4 lots and common property being stage 3 forming a subsidiary scheme described as Northgate Heights No. 3 community titles scheme under the Commercial Module for retail shop letting.

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws applicable to this statement shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

SAMPLE

Common Property		
Common Property	Support, shelter and services	C and D
Lot 1 on SP123462	Support, shelter and services	
Lot 2 on SP123462	Support, shelter and services	
Lot 3 on SP123462	Support, shelter and services	
Lot 4 on SP123462	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use areas in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C

Office use only
CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name of community titles scheme

NORTHGATE HEIGHTS NO. 3 COMMUNITY TITLES SCHEME

2. Regulation module

COMMERCIAL MODULE

3. Name of body corporate

BODY CORPORATE FOR NORTHGATE HEIGHTS NO. 3 COMMUNITY TITLES SCHEME

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF NORTHGATE HEIGHTS NO.3 COMMUNITY TITLES SCHEME LOTS 1 TO 4 ON SP13624	50022001

5. Name and address of original owner

NORTHGATE PTY LTD ACN 007 090 232
PO BOX 3
BRISBANE QLD 4001

6. Reference to plan lodged with this statement

SP13624

7. First CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

N/A

A Form 18C must be deposited with the Request to record the First CMS.

8. Execution by original owner

(seal of original owner)
or full name of
company to be shown

P Stanley, Director
PAUL STANLEY
J Adams, Committee Member
JORDAN ADAMS

20/11/2023
Execution Date

.....
***Execution**

*Original owner to execute for a first community management statement

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SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP13624	1	1
Lot 2 on SP13624	1	1
Lot 3 on SP13624	1	1
Lot 4 on SP13624	1	1
TOTALS	4	4

N.B. – Any First CMS lodged after 14 April 2011 must address in Schedule A the requirements of ss. 46(9) and 66(1)(db) and (dc) of the *Body Corporate and Community Management Act 1997* for all the lots in the scheme. See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

In accordance with the layered arrangements identified in Northgate Heights No. 1 community titles scheme 2468.

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws applicable to this statement shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of or statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

SAMPLE

Lots on Plan or Common Property	Statutory Easement	Service Location Diagrams
Common Property	Support, shelter and services	C and D
Lot 1 on SP13624	Support, shelter and services	
Lot 2 on SP13624	Support, shelter and services	
Lot 3 on SP13624	Support, shelter and services	
Lot 4 on SP13624	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use areas in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C (IF NO EXEMPTION TO THE PLANNING BODY CMS NOTATION APPLIES).

A NEW CMS MUST BE LODGED WITHIN THREE (3) MONTHS OF THE DATE OF CONSENT BY THE BODY CORPORATE

Office use only

CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name and number of community titles scheme

NORTHGATE HEIGHTS NO. 1 COMMUNITY TITLES SCHEME 2468

2. Regulation module

STANDARD MODULE

3. Name of body corporate

BODY CORPORATE FOR NORTHGATE HEIGHTS NO. 1 COMMUNITY TITLES SCHEME 2468

4. Scheme land

Lot on Plan Description Title Reference

SEE ENLARGED PANEL

5. Name and address of original owner

N/A

6. Reference to plan lodged with this statement

N/A

7. New CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*

*If there is no exemption a Form 18C must be deposited with the Request to record the CMS.

8. Consent of body corporate

SEE FORM 20 BCCM EXECUTION

Execution

Privacy Statement
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SAMPLE

EITHER **Title Reference [50011001]** *OR* **NORTHGATE HEIGHTS NO. 1 COMMUNITY TITLES SCHEME 2468**

4. Scheme Land

Description of Lot	**Title Reference**
Common property of Northgate Heights No. 1 community titles scheme 2468	50011001
Lot 1 on SP12346	50011002
Lot 3 on SP12346	50011004
Lot 4 on SP12346	50011005
Lot 5 on SP12346	50011006
Lot 6 on SP12346	50011007
Common Property of Northgate Heights No. 2 community titles scheme 3579	50021997
Lot 1 on SP13462	50021998
Lot 2 on SP13462	50021999
Lot 3 on SP13462	50022000
Common Property of Northgate Heights No. 3 community titles scheme	
Lot 1 on SP13624	
Lot 2 on SP13624	
Lot 3 on SP13624	
Lot 4 on SP13624	

SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on SP12346	1	1
Lot 3 on SP12346	1	1
Lot 4 on SP12346	1	1
Lot 5 on SP12346	1	1
Lot 6 on SP12346	1	1
Northgate Heights No. 2 community titles scheme 3579	1	1
Northgate Heights No. 3 community titles scheme	1	1
TOTALS	7	7

N.B. – See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

The scheme land is made up of a layered arrangement consisting of the principal scheme being Northgate No. 1 community titles scheme 2468 and the subsidiary scheme being Northgate Heights No. 2 community titles scheme 3579 and Northgate Heights No. 3 community titles scheme.

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws applicable to this statement shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or
2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

SAMPLE

Lots on Plan or Common Property	Statutory Easement	Service Location Diagrams
Common Property	Support, shelter and services	C and D
All lots	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use areas in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C

Office use only
CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name of community titles scheme

CAPE VIEW COMMUNITY TITLES SCHEME

2. Regulation module

STANDARD MODULE

3. Name of body corporate

BODY CORPORATE FOR CAPE VIEW COMMUNITY TITLES SCHEME

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF CAPE VIEW COMMUNITY TITLES SCHEME	14872009
LOT 20 ON SP10056	14872009
LOT 21 ON SP10056	14872009

5. Name and address of original owner

CAPE DEVELOPMENTS PTY LTD ACN 007 903 768
LEVEL 8, 123 EAGLE STREET
BRISBANE QLD 4000

6. Reference to plan lodged with this statement

SP10056

7. First CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

N/A

*A Form 18C must be deposited with the Request to record the First CMS.

8. Execution by original owner

P Stanley
Cape Developments Pty Ltd A.C.N. 007 903 768 by its duly constituted attorney Paul Andrew Stanley under Power of Attorney No. 700115983

15/10/2023
Execution Date

.....
***Execution**

*Original owner to execute for a first community management statement

Privacy Statement
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SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 20 on SP10056	1	1
Lot 21 on SP10056	1	1
TOTALS	2	2

N.B. – Any First CMS lodged after 14 April 2011 must address in Schedule A the requirements of ss. 46(9) and 66(1)(db) and (dc) of the *Body Corporate and Community Management Act 1997* for all the lots in the scheme. See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

The scheme land is intended to be further developed progressively in two stages being stage 1 and stage 2.

Stage 1 will be created by the resubdivision of Lot 20 on SP10056 by a building format plan to create Lots 1 to 9 inclusive on SP10057 and some additional common property under the Standard Module for accommodation.

Stage 2 will be created by the resubdivision of Lot 21 on SP10056 by a building format plan to create Lots 10 to 19 inclusive on SP10058 and some additional common property under the Standard Module for accommodation.

It is intended that there will be only one body corporate namely, the body corporate for Cape View community titles scheme.

After the resubdivision of lot 20 on SP10056 by the building format plan for stage 1, the contributions and interests in the schedule of lot entitlements relating to Lots 1 to 9 inclusive on SP10057 and 21 on SP10056 are set out in Annexure "X" attached hereto. (The annexure should be on a Form 20 setting out the table of lot entitlements in a similar format to Schedule A of the CMS).

After the resubdivision of Lot 21 on SP10056 by the building format plan for stage 2, the contributions schedule lot entitlements and interests schedule lot entitlements relating to Lots 1 to 9 inclusive on SP10057 and Lots 10 to 19 inclusive on SP10058 are set out in Annexure "Y: attached hereto. (The annexure should be on a Form 20 setting out the table of lot entitlements in a similar format to Schedule A of the CMS).

The concept drawing annexed to this Schedule B is intended only to represent an indicative development plan for stage 1 and stage 2 when completed. Accordingly, it has been annexed for illustrative purposes only. The concept drawing in any plan contained in this CMS does not accurately fix or specify the location of proposed buildings or the boundaries within or outside proposed buildings or the boundaries of any exclusive use areas, all of the same being subject to final survey being undertaken after the completion of the Utility Infrastructure Works referred to in Schedule D and the completion of all other relevant civil works and landscaping works to be undertaken on the scheme land.

N.B. – 1. Concept drawings in accordance with section 66(1)(f) of the *Body Corporate and Community Management Act 1997* must also be included.

2. If the contribution schedule lot entitlements are not equal an explanation as to why, in accordance with sections 46(8) and 66(1)(d) of the *Body Corporate and Community Management Act 1997*, must also be included.

(Where concept drawings are annexed they should be on international sheet size A4 or A3 and comply with imaging quality requirements.)

SAMPLE

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws applicable to this statement shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme, e.g.:

1. To facilitate the progressive development of the Cape View community titles scheme, as identified in Schedule B, the original owner may, at any time, enter on the scheme land, or any part thereof, the common property and any lot in the Cape View community titles scheme to undertake works of any kind necessary or incidental to establishing utility infrastructure and utility services and connections, thereto, including the following works:
   (a) excavation and general earthworks;
   (b) the construction of common property areas, including roads;
   (c) the construction on the common property of such improvements and facilities as may be considered necessary by the original owner to establish utility services, and connections thereto;
   (d) the construction of services infrastructure whether public or private including but without limiting the generality thereof, connections for sewerage, gas, electricity, telephone, fibreoptics or any other lawful service available to the public;

   all of which are collectively called the "Utility Infrastructure Works".

2. The original owner may bring upon the scheme land any machinery, tools, equipment, vehicles and workmen to facilitate the carrying out of the Utility Infrastructure Works.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

Lots on Plan or Common Property	**Statutory Easement**	**Service Location Diagrams**
Common Property	Support, shelter and services	C and D
Lot 20 on SP10056	Support, shelter and services	
Lot 21 on SP10056	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use area(s) allocated to the lot(s) should be included in the appropriate format (see Example 2 for the format). A sketch plan of the exclusive use areas in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

Example 5 – New CMS for Existing Scheme – Small Schemes Module (Executed by a Sole Registered Owner – Natural Person)

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C (IF NO EXEMPTION TO THE PLANNING BODY CMS NOTATION APPLIES).

A NEW CMS MUST BE LODGED WITHIN THREE (3) MONTHS OF THE DATE OF CONSENT BY THE BODY CORPORATE

Office use only

CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name and number of community titles scheme

FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

2. Regulation module

STANDARD MODULE

3. Name of body corporate

BODY CORPORATE FOR FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

4. Scheme land

Lot on Plan Description	Title Reference
COMMON PROPERTY OF FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345	19201331
LOT 1 ON BUP1331	16482001
LOT 2 ON BUP1331	16482002
LOT 3 ON BUP1331	16482003
LOT 4 ON BUP1331	16482004

5. #Name and address of original owner

N/A

6. Reference to plan lodged with this statement (if applicable)

N/A

7. New CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*

*If there is no exemption a Form 18C must be deposited with the Request to record the CMS.

8. Consent of body corporate

SEE FORM 20 BCCM EXECUTION

Execution

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 Titles Queensland website.

SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on BUP1331	1	1
Lot 2 on BUP1331	1	1
Lot 3 on BUP1331	1	1
Lot 4 on BUP1331	1	1
TOTALS	4	4

N.B. –See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

Not applicable (or an indication that it is not applicable e.g. N/A).

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws applicable to this statement shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003,one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

SAMPLE

Lots on Plan or Common Property	Statutory Easement	Service Location Diagrams
Common Property	Support, shelter and services	C and D
Lot 1 on BUP1331	Support, shelter and services	
Lot 2 on BUP1331	Support, shelter and services	
Lot 3 on BUP1331	Support, shelter and services	
Lot 4 on BUP1331	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use are(s) allocated to the lot(s) should be included in the format below. A sketch plan of the exclusive use area(s) in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

Example 6 – New CMS for Existing Scheme where a Plan of Resubdivision has been Recorded – Standard Module (Executed by a Sole Registered Owner – Corporation)

THIS CMS MUST BE DEPOSITED WITH:
- A FORM 14 GENERAL REQUEST; AND
- A FORM 18C (IF NO EXEMPTION TO THE PLANNING BODY CMS NOTATION APPLIES).

A NEW CMS MUST BE LODGED WITHIN THREE (3) MONTHS OF THE DATE OF CONSENT BY THE BODY CORPORATE

Office use only

CMS LABEL NUMBER

This statement incorporates and must include the following:

Schedule A - Schedule of lot entitlements
Schedule B - Explanation of development of scheme land
Schedule C - By-laws
Schedule D - Any other details
Schedule E - Allocation of exclusive use areas

1. Name and number of community titles scheme

FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

2. Regulation module

STANDARD MODULE

3. Name of body corporate

BODY CORPORATE FOR FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

4. Scheme land

Lot on Plan Description — Title Reference

SEE ENLARGED PANEL

5. #Name and address of original owner

N/A

6. Reference to plan lodged with this statement (if applicable)

SP109001

7. New CMS exemption to planning body community management statement notation (if applicable*)

Insert exemption clause (if no exemption – insert 'N/A' or 'not applicable')

Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*

*If there is no exemption, a Form 18C must be deposited with the Request to record the CMS.

8. Consent of body corporate

SEE FORM 20 BCCM EXECUTION

Execution

Privacy Statement
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SAMPLE

EITHER **Title Reference [19201331]** *OR* **FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345**

4. Scheme Land

Description of Lot	**Title Reference**
Common property of Fawlty Towers Community Titles Scheme 2345	19201331
Lot 1 on BUP1331	16482001
Lot 2 on BUP1331	16482002
Lot 3 on BUP1331	16482003
Lot 4 on BUP1331	16482004
Lot 6 on SP109001	51006010
Lot 7 on SP109001	51006011
Lot 8 on SP109001	51006012
Lot 9 on SP109001	51006013
Lot 10 on SP109001	51006014

SAMPLE

SCHEDULE A SCHEDULE OF LOT ENTITLEMENTS

Lot on Plan	Contribution	Interest
Lot 1 on BUP1331	1	1
Lot 2 on BUP1331	1	1
Lot 3 on BUP1331	1	1
Lot 4 on BUP1331	1	1
Lot 6 on SP109001	1	1
Lot 7 on SP109001	1	1
Lot 8 on SP109001	1	1
Lot 9 on SP109001	1	1
Lot 10 on SP109001	1	1

TOTALS	9	9

N.B. – See [45-4120].

SCHEDULE B EXPLANATION OF THE DEVELOPMENT OF SCHEME LAND

Not applicable (or an indication that it is not applicable e.g. N/A).

SCHEDULE C BY-LAWS

(EITHER)

By-laws in Schedule 4 of the *Body Corporate and Community Management Act 1997* apply to this scheme.

(OR)

N.B. If Schedule 4 of the *Body Corporate and Community Management Act 1997* does not apply or is modified, either by addition or deletion, **the full text of the by-laws applicable to this statement shall be clearly set out**. If any exclusive use areas are included in the by-laws, a reference to their allocation in Schedule E should also be included.

SCHEDULE D OTHER DETAILS REQUIRED/PERMITTED TO BE INCLUDED

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

Insert a full explanation of any other details required or permitted that are to be included in the scheme.

N.B. – If the development approval date is on or after 4 March 2003, one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or

2. include the type of statutory easement in a matrix form if desired. An example matrix relevant to a building format plan is reproduced for reference.

SAMPLE

Lots on Plan or Common Property	Statutory Easement	Service Location Diagrams
Common Property	Support, shelter and services	C and D
Lot 1 on BUP1331	Support, shelter and services	
Lot 2 on BUP1331	Support, shelter and services	
Lot 3 on BUP1331	Support, shelter and services	
Lot 4 on BUP1331	Support, shelter and services	
Lot 6 on SP109001	Support, shelter and services	
Lot 7 on SP109001	Support, shelter and services	
Lot 8 on SP109001	Support, shelter and services	
Lot 9 on SP109001	Support, shelter and services	
Lot 10 on SP109001	Support, shelter and services	

SCHEDULE E DESCRIPTION OF LOTS ALLOCATED EXCLUSIVE USE AREAS OF COMMON PROPERTY

(EITHER)

Not applicable (or an indication that it is not applicable e.g. N/A).

(OR)

The description of the relative lot(s) and a description of the exclusive use are(s) allocated to the lot(s) should be included in the format below. A sketch plan of the exclusive use area(s) in accordance with the Registrar of Titles Directions for the Preparation of Plans must also be attached.

SAMPLE

Example 7 – Form 20 – BCCM Execution for New CMS

BCCM EXECUTION / RELEVANT CERTIFICATE

1. Community Titles Scheme (CTS) Name	CTS Number
Brighton Villa Community Titles Scheme	1010

2. Module Type of BCCM Scheme	Instrument being executed (using this certificate)
Small Schemes Module	New CMS

3. Execution by the Body Corporate for the above Scheme*

Signature	Andi Grafton	Signature	John Taylor
Signer Name	Andi Grafton	Signer Name	John Taylor
Signer Authority	Chairperson of the Body Corporate Committee	Signer Authority	Member of the Body Corporate Committee
Entity (if applicable)	Click or tap here to enter text.	Entity (if applicable)	Click or tap here to enter text.
Execution Date	9/09/2024	Execution Date	9/09/2024

*By executing above the Body Corporate confirms it is in compliance with Section 96 of the B*ody Corporate and Community Management Act 1997*.

When this Form should be used:

This form should be used for the execution by a Body Corporate of any titles instrument other than a Form 14.

Guidance

Please refer to Parts [45-2060] to [45-2081] of the Land Title Practice Manual for guidance on completion and execution of this form and refer to Part 45 generally for further guidance on titles instruments involving Community Titles Schemes. Some brief guidance on the completion of Item 3 has been included below for the quick reference of those who are already familiar with executions of titles instruments by a Body Corporate.

Signer Authority Guidance:

Representative of a Registered Owner means a natural person (individual) whose name is recorded on the body corporate's roll as the representative of the registered owner of a lot that is included in the scheme – Refer to Part [45-2070-1] of the Land Title Practice Manual.

Registered Owner – Individual means a natural person (individual) who is the registered owner of a lot that is included in the scheme. If a lot is owned by 2 or more people, it is acceptable for only one of the registered owners to sign the relevant certificate – Refer to Part [45-2070-2] of the Land Title Practice Manual.

Registered Owner - Corporation means the officeholder of the position of 'Director' or 'Secretary' for the corporate entity that is the registered owner of the lot. It is acceptable for only one office holder (Director or Secretary) of a Corporate Entity to execute on behalf of the Corporation in this instance, as by doing so they confirm they are signing as Agent on behalf of the Corporation and hold the requisite authority to do so – Refer to Part [45-2070-4] of the Land Title Practice Manual. The name and A.C.N of the corporation must be included in the 'Entity' field.

Body Corporate Manager under Chapter 3, Part 5 means a Body Corporate Manager appointed under Chapter 3, Part 5 of the respective Module Regulations to perform the functions of the body corporate committee. This is applicable only to Standard Module, Small Schemes Module and Accommodation Modules. This type of body corporate manager should not be confused with the more common type of body corporate manager that assists with the administration of the body corporate - Refer to Part [45-2070-5] of the Land Title Practice Manual.

Person specified as Signatory in the Body Corporate resolution authorising the transaction means the person identified (by name) and specifically authorised in the body corporate resolution, as the person who should execute the instrument. By signing in this way, the person signing confirms that they are one and the same person as is specified in the resolution to sign the instrument and that they have the authority to sign it. A copy of the resolution is not required to be deposited with this form to confirm this authority – Refer to Part [45-2060] of the Land Title Practice Manual.

Constructing Authority - Authorised Officer means the officer for the Constructing Authority that is authorised to execute on behalf of the Body Corporate pursuant to Section 12A of the *Acquisition of Land Act 1967* and Section 51 or 51A of the *Body Corporate and Community Management Act 1997*. The name of the Authorised Officer must be completed in the 'Signer Name' field, and the name of the Constructing Authority e.g. 'Department of Transport and Main Roads' must be entered into the 'Entity' section – Refer to Part [45-2068] of the Land Title Practice Manual.

SAMPLE

[45-4010] Requirements to Complete a CMS

The requirements for a CMS are set out in Chapter 2 Part 6 of the BCCMA. To enable a CMS to be recorded in the Titles Registry, it must be:

- deposited with a Form 14 – General Request to record First CMS / New CMS (see part 14 for completion). Note any Form 14 must be executed in accordance with the requirements contained in Part [45-2060].
- prepared in the format of a CMS with the required Schedules A to E attached.
- if the planning body CMS notation is required (i.e. there is no exemption) – deposited with a Form 18C – Planning Body Community Management Statement Notation signed by the planning body.

[45-4020] General Comments

All pages of the lodged document must be numbered consecutively (e.g. page 1 of 15), commencing with the Form 14 as page 1. The relevant CMS Form (First or New) and any annexures including enlarged panels and schedules must be placed in the appropriate order within the complete document and the pages numbered accordingly. The page number must appear in the top right hand corner of each page including any sketch plans.

The document should be securely bound, prepared and presented in the manner approved for Titles Registry forms. Where practicable, more than one schedule may be contained on the same page. However, where it is desired that a sketch plan be an integral part of the CMS, it may be international A3 size instead of international A4 size, provided it is folded to A4 size.

(Note – The requirements for a First CMS vary to that for a New CMS in items 1 and 3 to 8 below.)

[45-4030] Item 1

Insert the name of the community titles scheme.

(FIRST CMS) e.g. Seaview community titles scheme

(NEW CMS) e.g. Seaview community titles scheme 1234

[45-4040] Item 2

Insert a reference to one of the following regulation modules that is relevant to the scheme (e.g. Standard Module, Accommodation Module, Commercial Module, Small Schemes Module or Specified Two-lot Schemes Module).

[45-4050] Item 3

Insert full name of the body corporate:

(FIRST CMS) e.g. body corporate for Seaview community titles scheme

(NEW CMS) e.g. body corporate for Seaview community titles scheme 1234.

[45-4060] Item 4

Insert the Lot on Plan and Title Reference, if known, to all the land contained in the scheme and if applicable for a **New CMS**, any lot added to the scheme.

[45-4070] Item 5

Insert the full name and address of the original owner of the scheme land (i.e. the name of the registered owner immediately prior to registration of the plan for the scheme land) in respect of the **First CMS** only. For a **New CMS** insert ‘not applicable’ or ‘N/A’.

[45-4080] Item 6

Insert the number of the plan deposited with the **First CMS** or, if applicable, the number of the plan deposited with a **New CMS**. If there is no plan required for a **New CMS** insert ‘not applicable’.

[45-4090] Item 7

First CMS

For a **First CMS** – leave blank or insert 'N/A' or 'not applicable'.

A properly completed Form 18C – Planning Body Community Management Statement Notation (Form 18C) signed by an authorised officer/delegate of the planning body must be deposited with the Form 14 – General Request to record the First CMS (along with the deposited First CMS). The officer's/delegate's full name and designation must be shown.

Refer to [18-4200] to [18-4220] for the guide to completion for the Form 18C.

New CMS

For a **New CMS** where an exemption under s. 60(6) of the *Body Corporate and Community Management Act 1997* applies:

- insert the words 'Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*'; and
- there is no requirement for a Form 18C to be deposited with the Form 14 – General Request to record the New CMS.

Alternatively, for a **New CMS** where the planning body community management statement notation is required – insert 'N/A' or 'not applicable'.

A properly completed Form 18C – Planning Body Community Management Statement Notation (Form 18C) signed by an authorised officer/delegate of the planning body must be deposited with the Form 14 – General Request to record the New CMS (along with the deposited New CMS). The officer's/delegate's full name and designation must be shown.

Refer to [18-4200] to [18-4220] for the guide to completion for the Form 18C.

[45-4100] Item 8

Execute as required:

A **First CMS** must be dated and signed by the original registered owners of the scheme land. For further information see example 1.1 First CMS – Basic Scheme.

A **New CMS** must be dated and executed by the body corporate using a Form 20 – BCCM Execution and must be lodged in the Titles Registry within three (3) months of the date of consent. For further information see [45 2060] and example 1.2. New CMS – Basic Scheme and example 7 Form 20 – BCCM Execution for New CMS.

[45-4110] Schedules

A community management statement incorporates and must include Schedules A, B, C, D and E which are explained below see [45-4120] to [45-4160]). All information relating to a schedule must appear in that schedule. The words 'See Enlarged Panel' or similar are not permitted. Schedules must appear in order in the document.

[45-4120] Schedule A – Schedule of Lot Entitlements

Lot on Plan	Contribution	Interest
TOTALS		

The contribution schedule lot entitlement and the interest schedule lot entitlement for each lot and the aggregate totals of the contributions and interests schedules shall be shown as whole numbers only, in the above format. This format may be expanded adding additional lines and/or pages as required.

See ss. 46 to 47 of the BCCMA which sets out the application of the contribution schedule and interest schedule entitlements.

First CMS

A First Community Management Statement lodged after 14 April 2011 must address, in Schedule A, the requirements of ss. 66(1)(db) and (dc) of the BCCMA.

A statement identifying the contribution schedule deciding principle under section 46(7) of the BCCMA on which the contribution schedule lot entitlements have been decided must be inserted.

If the equality principle has been used to decide the contribution schedule lot entitlements, and the contribution schedule lot entitlements are not equal, an explanation as to why, in accordance with s. 66(1)(db)(ii) of the BCCMA, must be inserted.

If the relativity principle has been used to decide the contribution schedule lot entitlements, an explanation as to how the individual contribution schedule lot entitlements for the lots were decided in accordance with s. 66(1)(db)(iii) of the BCCMA must be inserted.

A statement identifying the market value principle under s. 46(8) of the BCCMA on which the interest schedule lot entitlements have been decided must be inserted.

If the interest schedule lot entitlements do not reflect the respective market values of the lots, an explanation as to why the interest schedule lot entitlements do not reflect the respective value of the lots in accordance with s. 66(1)(dc)(ii) of the BCCMA must be included.

New CMS

A New CMS lodged after 14 April 2011 that changes the individual contribution schedule lot entitlements or interest schedule lot entitlements for a lot, or adjusts the overall aggregate totals of the contribution schedule or the interest schedule, must address in Schedule A, the requirements of ss. 66(1)(db) and/or (dc) of the BCCMA outlined in the above paragraphs.

If another section of the BCCMA is being relied upon to decide the schedule of lot entitlements, a statement to reflect this must be inserted at Item 6 of the Form 14 and/or in Schedule A.

[45-4130] Schedule B – Explanation of the Development of Scheme Land

This schedule should be completed in accordance with s. 66(1)(f) and (g) of the BCCMA.

Each plan or other instrument lodged relating to the scheme land shall be in accordance with the provisions set out in this schedule.

[45-4140] Schedule C – By-Laws

If the by-laws contained in Schedule 4 of the BCCMA apply, this should be stated in this schedule. If they do not apply, or are modified, the full text of the by-laws applicable should be clearly set out.

[45-4150] Schedule D – Any Other Required or Permitted Details (if applicable)

Contained in this schedule, for example, will be details that the relevant regulation module says must or may be included in the CMS. If there are no other required or permitted details insert ‘Not applicable’, ‘N/A’ or ‘Nil’.

If the development approval date is on or after 4 March 2003 one (1) or more services location diagrams (SLD) must be annexed by way of alpha identifier to this schedule and may be identified in either of the following methods:

1. a statement referencing the inclusion of the SLD identifying the lots to be affected, or proposed to be affected, by statutory easements and state the type of statutory easement; or
2. include the type of statutory easement in a matrix form if desired (see [45-2230]).

[45-4160] Schedule E – Allocation of Exclusive Use Areas (If Applicable)

This schedule is in addition to the by-laws under which exclusive use is allocated.

If there is a by-law under which exclusive use is allocated in Schedule C then this schedule must identify the lots affected and include the relevant sketch plans required. Sketch plans identifying exclusive use of common property should be prepared in accordance with the Registrar of Titles Directions for the Preparation of Plans. The plans are to be page numbered and are to be referred to in this schedule and marked e.g. ‘sketch plan A’.

If there are no by-laws under which exclusive use is allocated in Schedule C insert ‘Not applicable’, ‘N/A’ or ‘Nil’.

[45-4170] Sketches for New Exclusive Use Areas

Sketch plans of new exclusive use areas **must** comply with the requirements of the Registrar of Titles Directions for the Preparation of Plans.

[45-4180] deleted

[45-4190] Guidelines for Updating Sketches of Existing Exclusive Use Areas

Any sketch of **new** exclusive use areas prepared on or after 13 July 1997 must fully comply with the Registrar of Titles Directions for the Preparation of Plans.

However, sketch plans currently included with the by-laws for building units and group titles plans that were lodged before 13 July 1997, may be used as part of a New CMS at a lower standard than required by the Registrar of Titles directions for the preparation of plans provided the sketch meets the standard set out below. This relaxation of requirements applies only to schemes with exclusive use areas existing as at 13 July 1997.

While each case will be determined on the standard of the existing sketch, the following points describe the minimum requirements:

1. The sketch must be to scale and no greater in size than international A3. Multiple sheet sketches are acceptable (however, see point 8 below);
2. It is not necessary for area to be given in square metres;
3. Where an exclusive use area is fully defined by structural elements, it will be sufficient to note the sketch accordingly. A sketch may consist of a mixture of areas fully defined by structural elements and some not;
4. A structural element must be sufficient to clearly define the whole of the area. The following would be some examples of structural elements that would be acceptable –
   - a fence;
   - a wall, not necessarily full height;
   - posts or columns at corners;
   - corners of paths, or other such permanently fixed features.

   Painted lines, coloured tiles or timber planks attached to floor or ceiling are **not** acceptable;
5. Where an exclusive use area is not fully defined by structural elements, it must be fully dimensioned and located in relation to the buildings or outer lot boundaries, but it will not be necessary for bearings to be shown, unless the area is irregular. An area is considered to be irregular where it is other than rectangular;
6. Where an existing sketch would be acceptable except that dimensions are missing, it shall be sufficient to add the distances to the sketch;
7. If an existing sketch showing existing exclusive use areas is not acceptable in that it does not comply with the above, it is possible to photocopy the appropriate sheets of the existing plan and locate the exclusive use areas in accordance with the requirements noted above;
8. When updating existing sketches, copies may be made from other than the registered plan, but it shall be the responsibility of the body corporate to ensure that the source copy agrees with the registered copy.

   It is not necessary for the sketch to be at a regular scale where it has been photocopied from existing records. Where the provisions of this paragraph are utilised –
   - the resulting photocopy must be clear and to a standard acceptable to the Registrar to enable imaging; and
   - the scale (graphic or written) shown on the sketch shall be ruled through;
9. Where all exclusive use areas on a sketch are defined by structural elements, or have no irregular boundaries, it is not necessary for the sketch to be prepared or updated by a cadastral surveyor;
10. Where exclusive use areas are not defined by structural elements, and are irregular, requiring their boundaries to be defined by bearings as well as distances, it is necessary for any new plan to be prepared and certified by a cadastral surveyor. In these cases, the plan should be certified in accordance with Direction 11.11.17 of the Registrar of Titles Directions for the Preparation of Plans.

[45-4200] Exclusive Use Areas – General

If exclusive use is to be given over a part of common property that other owners could reasonably utilise in the normal course of activity, it is necessary for the area to be defined as required under the Registrar of Titles Directions for the Preparation of Plans. These cases would include car parking areas and the like.

Where an exclusive use area is to be given in a part of common property that other owners would not be able to reasonably utilise in the normal course of activity, the area may be defined by description. These cases would include, for example, signs painted on the wall of a building.

Where an exclusive use area is to be given in part of common property and it is a definitely defined entity, the entity may be defined by description. These cases would include, for example, swimming pools and tennis courts.

[45-6000] deleted

[45-7000] Case Law

Nil.

[45-8000] Fees

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

[45-9000] Cross References and Further Reading

Part 14 – General Request

[45-9050] deleted

Titles QUEENSLAND

Part 49 – Water Allocations

LAND TITLE PRACTICE MANUAL

Updated: 31 October 2022

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Part 49 – Water Allocations[2,3]

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.

[49-0000] General Law

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.

[49-0010] Water Entitlement Notice

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.

[49-0020] Resource Operations Licence (ROL)

A resource operations licence (ROL) is a licence granted to operators of water supply storage infrastructure such as dams or weirs. The water supplied is a supplemented supply.

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 Regional Development, Manufacturing and Water) for the area applies.

[49-0030] Non-Resource Operations Licence (NRL)

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 Regional Development, Manufacturing and Water.

[49-0040] Water Allocation Register (WAR)

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 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.

[49-0050] Water Allocations

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.

[49-0060] Water Allocation Dealing Certificate

A certificate (Water Allocation Dealing Certificate) by the Chief Executive of the Department of 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 Regional Development, Manufacturing and Water which administers the Water Plan under which the water allocation is managed.

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.

[49-0070] Notice to registrar of water allocations of existence of supply contract – Form W2F152

Water allocations that are managed under a Resource Operation Licence (ROL) must have a supply contract between the ROL holder and the allocation holder. A Form W2F152 – Notice to registrar of water allocations of existence of supply contract must be deposited with certain dealings lodged over a water allocation that is managed under a ROL. The notice informs the registrar of water allocations of the existence of a supply contract between the allocation holder and the holder of the relevant Resource Operation Licence.

A Form W2F152 is required to be deposited with the following dealings lodged for registration:

- subdivision of a water allocation (of supplemented allocations);
- amalgamation of water allocations (of supplemented allocations);
- change (of resource attributes) of a water allocation (of supplemented allocations);
- transfer (of supplemented allocations);
- transmission by death (of supplemented allocations);
- lease (of supplemented allocations);
- record of death (of supplemented allocations);
- change of name of allocation holder (of supplemented allocations);
- correction of name of allocation holder (of supplemented allocations).

Some dealings may require a Water Allocation Dealing Certificate in addition to a Form W2F152. See [49-0060].

[49-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[3]

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].

[49-2000] Practice

[49-2000] Dealings that may not be registered

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.

[49-2010] Dealings with an Interest in a Water Allocation

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.

[49-2020] Subdivision of a Water Allocation

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].

[49-2030] Amalgamation of Water Allocations

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].

[49-2040] Change of a Water Allocation

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].

[49-2050] Water Allocation Notice

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].

[49-2060] Notice of Consent to Encumber Water Allocation

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

[49-2080] Notice of Distribution Operations Licence

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].

[49-2090] Forfeiture under section 164 of the *Water Act 2000*

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.

[49-7000] Case Law

Nil.

[49-8000] Fees

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

[49-9000] Cross References and Further Reading

Part 1 – Transfer

Part 2 – Mortgage (National Mortgage Form)

Part 11 – Caveat

Part 14 – General Request

Part 52 – Administrative Advices

[49-9050] Notes in text

Note[2] – This part does not apply to State land.

Note[3] – This part does not apply to freehold land.

Titles QUEENSLAND

Part 50 – Corporations and Companies

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 50 – Corporations and Companies

[50-0000] General Law

[50-0000] Purpose

The purpose of this part is to provide guidance in respect of dealings by corporations and, more particularly, companies. This part is supplementary to and should be read in conjunction with the rest of the Manual.

This part sets out certain background information in relation to corporations, certain aspects of the law relating to corporations which are relevant to this Manual and matters of practice specific to corporations.

[50-0010] Nature

A corporation is a creature of the law. It is a separate legal entity created by persons registering the new entity with the appropriate government authority under appropriate legislation. The process of creating the new entity is called 'incorporation'.

A company is one example of a corporation or body corporate and is distinguished by the method and place of its incorporation.

A body corporate includes a company, whether incorporated by charter, statute or common law.

A company is to be distinguished from a 'corporation sole', which refers to a particular public office held by a natural person. By virtue of holding the particular office, the natural person is vested with ownership of certain property used in conjunction with that office and with the capacity to do certain things. On a change in the person holding the office, the new holder is automatically vested with such property and has the same capacities. An example of a corporation sole is the Public Trustee of Queensland.

[50-0020] Governing Legislation

A company is registered and governed by the *Corporations Act 2001* (Cth) which commenced from 12 July 2001. This Act was made applicable to Queensland by a combination of the *Corporations (Commonwealth Powers) Act 2001*, *Corporations (Administrative Actions) Act 2001* and the *Corporations (Ancillary Provisions) Act 2001.* Prior to the commencement of the Corporations Act companies were registered and governed by the Corporations Law.

[50-0030] Corporate Constitution

Prior to the *Company Law Review Act 1998* on 29 June 1998 a company had a corporate constitution, which usually consisted of two documents, its memorandum of association and its articles of association. The memorandum of association defines the nature of the company. The articles of association contain regulations for the internal government of the company. The articles of a company will usually be found in a separate document specific to the company, but they may be deemed to be certain provisions set out in an attachment to the *Corporations Law.*

Under the Company Law Review Act a company's corporate constitution may be made up of replaceable rules, a constitution or a combination of both. The replaceable rules and/or constitution contain regulations for the internal government of the company.

In relation to certain matters, the provisions of the *Corporations Law* override any provisions to the contrary found in a company's constitution. The *Corporations Law* was repealed from 12 July 2001 by the Corporations Act, however, the provisions of that Act override any provisions found in the company's constitution that are contrary to the Act.

[50-0040] Classification

Companies are classified on a number of different bases, including:

1. the nature of the liability of members; and
2. restrictions on changes of membership.

These classifications are not relevant for the purposes of this Manual.

[50-0050] Capacity

A company has the legal capacity of a natural person plus certain powers that relate specifically to companies, including the power to issue shares and debentures and to grant a floating charge over its property. Accordingly, a company has the power to hold and deal with land under the *Land Title Act 1994* a State tenure under the *Land Act 1994* where authorised or a water allocation under the *Water Act 2000*.

A company's constitution may restrict or prohibit the exercise by the company of a power. However generally, an act in breach of such restriction or prohibition will not be invalid merely because of such breach so far as it relates to parties dealing with the company.

Thus in the ordinary course, any agreement entered into by a company cannot be set aside on the grounds that the company lacked the power to enter into it.

[50-0060] Name and ACN

On registration, a company is given an Australian Company Number ('ACN'). The ACN may be adopted as the name of the company.

A company must set out its name and the words 'Australian Company Number' or 'ACN' followed by its ACN on every public document it signs or issues (s. 153 of the *Corporations Act 2001* (Cth)). A power of attorney given by or to a company should also include the name and ACN of the company.

Foreign companies registered under the Corporations Act must similarly display their Australian Registered Body Number ('ARBN') (see [50-0140]).

From 29 May 2000 a company issued with an ACN or ARBN is permitted to use the company's Australian Business Number (ABN) on any document provided that the last nine digits of the ABN are the same as the company's ACN or ARBN.

Financial institutions not registered under the Corporations Act are not required to display any identifying number on documentation.

When describing a company, certain abbreviations of words in its name are acceptable:

1. 'Aust' for 'Australian';
2. 'A.C.N' for 'Australian Company Number';
3. 'Co.' or 'Coy' for 'Company';
4. 'Ltd.' for 'Limited';
5. 'N.L.' for 'No Liability';
6. 'No.' for 'Number';
7. 'Pty' for 'Proprietary'; and
8. '&' for 'and'.

Where these abbreviations are part of a company's name, it is also acceptable to use the corresponding words in place of such abbreviations. The omission of full stops from these abbreviations is also acceptable (s. 149 of the Corporations Act).

In certain circumstances, a limited company may be licensed to omit the word 'Limited' from its name. This is where it is formed for certain charitable or community purposes (s. 150 of the Corporations Act).

A change of name by a company does not create a new legal entity and does not affect the identity, property, rights or obligations of the company or its continuity as a body corporate or render defective any legal proceedings by or against the company (s. 161 of the Corporations Act).

[50-0070] Control

The constitution of a corporation invariably delegates to the directors all the powers of management. Thus, the directors alone are specifically responsible for the management of a corporation, except in matters specifically reserved to the corporation in general meeting.

Directors of a corporation stand in a fiduciary position in relation to the company.

Directors must act collectively as a board. Certain basic rules in relation to directors' meetings exist at law, such as requirements for proper notice, quorum and a requirement to keep minutes. Further regulations are found in the company's articles.

In certain circumstances, the power of directors to manage a company are suspended or curtailed. These circumstances are set out below.

[50-0080] deleted

[50-0090] Liquidation

Where a company is being wound up as a result of the insolvency of the company or by an order of the court, or where a provisional liquidator is acting, the powers of the directors to manage the affairs of the company and to deal with the assets of the company are effectively suspended. This generally does not affect the powers of a privately appointed receiver and manager of the property of the company.

On appointment, a liquidator or provisional liquidator is required to take into his/her custody or control all the property to which the company is entitled.

A liquidator may apply for a court order directing that some or all of the property be vested in the liquidator. Upon such order being made, the property vests in the liquidator in his/her office as an official liquidator, not personally.

[50-0100] Administration

On appointment, an administrator assumes control of the business, property and affairs of a company, may sell any property of the company and can exercise any power that the company or any of its officers could exercise if the company were not under administration (s. 437A(1) of the *Corporations Act 2001* (Cth)).

The powers of other officers, including directors, a liquidator, a provisional liquidator and a receiver or receiver and manager are suspended during the course of the administration of a company, unless the administrator otherwise approves in writing (s. 437C of the Corporations Act).

A purported transaction or dealing affecting property of a company under administration is void unless it was entered into by the administrator on the company's behalf, the administrator consented to it in writing before it was entered into or it was entered into under an order of the court (s. 437D(2) of the Corporations Act).

An administrator of a company may be appointed:

a. by the company itself in writing if the board of directors has resolved that the company is or is likely to become insolvent and that an administrator should be appointed (s. 436A(1) of the Corporations Act);

b. by a liquidator in writing (s. 436B of the Corporations Act); and

c. in writing by a person entitled to enforce a charge of the whole or substantially the whole of the company's property if the charge is enforceable (s. 436C of the Corporations Act).

If a deed of company arrangement commences, the original administrator's powers effectively cease and the terms of the deed of company arrangement will determine the respective powers of the company and the administrator of the deed in terms of dealing with property. The company's powers to deal with its property will be unfettered except as provided by the deed (s. 444A of the Corporations Act).

[50-0110] Execution of Documents

In relation to a corporation, an instrument is validly executed if it is:

a. executed in a way permitted by law; or

b. executed in accordance with s. 52 of the *Property Law Act 2023* (or, for documents executed before 30 April 2022, the former s. 46 of the *Property Law Act 1974*).

(s. 161(1) of the Land Title Act or s. 310(1) of the Land Act).

Execution in a way permitted by law

[50-0120] Execution in accordance with section 52 of the *Property Law Act 2023*

Under s. 52(1) of the Property Law Act, a corporation may execute a document that is to have effect as a deed, if the document is signed by —

a. 2 directors of the corporation; or

b. 1 director and 1 secretary of the corporation; or

c. for a proprietary company that has a sole director—that director, if—
   i. the director is also the sole secretary; or
   ii. the company does not have a secretary.
d. a lawfully authorised agent or attorney of the corporation – see Part [61-3050] for further information.

This applies whether or not the deed is signed in the presence of a witness (s. 52(6) Property Law Act).

Execution by a corporation using a common seal is provided for in s. 52(2) of the Property Law Act.

[50-0130] *Corporations Act 2001* (Cth)

In the absence of knowledge to the contrary, a person is entitled to assume that a document has been validly executed by a corporation in circumstances specified in the Corporations Act.

Examples of valid assumptions would occur if the persons executing or attesting the affixing of a common seal:

a. appear from returns lodged with the Australian Securities and Investments Commission to hold the positions of director and/or secretary (s. 129(2) of the Corporations Act); or
b. if they are held out by the company as holding such positions (s. 129(3) of the Corporations Act).

Instruments or documents lodged for registration in the registry will be accepted as validly executed by a corporation if they are executed:

a. in accordance with s. 52 of the *Property Law Act 2023;*
b. with a common seal and signed by two persons, both of whom are authorised officers of the corporation and their designations appear adjacent to their signature;
c. with a common seal and signed by one person who is the sole director and the sole secretary (or other authorised officer) of the corporation and that designation appears adjacent to the signature;
d. without a common seal and signed by two persons, both of whom are authorised officers of the corporation and their designations appear adjacent to their signature. The name and ACN or ARBN of the corporation must be shown in the execution;
e. without a common seal and signed by one person who is the sole director and the sole secretary (or other authorised officer) of the corporation and that designation appears adjacent to the signature. The name and ACN or ARBN of the corporation must be shown in the execution;
f. an attorney if the power of attorney is registered in the registry;
g. by its solicitor for transfers only if the company is transferee and for some requests (s. 11(1) of the *Land Title Act 1994* or s. 288(1) of the *Land Act 1994*).

[50-0135] *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth)

The Corporations (Aboriginal and Torres Strait Islander) Act commenced on 1 July 2007 and provides for the incorporation and regulation of Aboriginal and Torres Strait Islander corporations.

Once an application for registration as a corporation has been granted, a certificate of registration is issued by the Office of the Registrar of Indigenous Corporations. The certificate of registration must be deposited with any instrument or document that will record a corporation as a registered owner or holder of an interest. For information about options for the deposit of supporting documentation see part [60-1030].

The corporation's Indigenous Corporation Number (ICN) must be inserted as part of the corporation's name on a lodged instrument or document.

An Aboriginal and Torres Strait Islander corporation with a common seal may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:

a. 2 directors of the corporation; or
b. a director and a corporation secretary of the corporation; or
c. if the corporation only has one director – the sole director.

The seal must be a clear legible imprint (includes self-adhesive seals) and must include the corporation's name and ICN. The designations of the relevant officers must be included.

An Aboriginal and Torres Strait Islander corporation may execute a document without using a common seal if the document is signed by:

a. 2 directors of the corporation; or

b. a director and a corporation secretary (if any); or

c. if the corporation only has one director – the sole director.

The execution must include the corporation's name and ICN and the designations of the relevant officers must be included.

[50-0140] Foreign Company

A company or other body incorporated outside Australia must not carry on business in Queensland unless it has been registered under the *Corporations Act 2001* (Cth). A foreign company is not deemed to carry on business in Queensland if it conducts an isolated transaction, creates evidence of a debt or creates a charge on property.

On registration, the foreign company is given an Australian Registered Body Number ('ARBN') (s. 601CE of the Corporations Act). There is no requirement for the ARBN to be included in the company seal.

The ARBN must appear after the name of the foreign company on every public document that the foreign company publishes, issues or signs (s. 601DE of the Corporations Act).

If a foreign company acquires an interest in land in Queensland without carrying on business and is therefore not registered and does not have an ARBN, evidence of Incorporation must be produced. Translation to English of any evidence deposited is required where applicable. If that evidence has been produced for the registration of a prior dealing, reference may be made to that dealing after the company name (e.g. 'evidence of incorporation deposited with Instrument No [number]').

In many instances, the execution by a foreign company under the law of the country in which it is incorporated does not conform to the requirements of s. 52 of the *Property Law Act 2023* (for execution using a corporation's seal) or Section 127 of the Corporations Act. If the mode of execution by a foreign company does not conform, then substantive evidence must be submitted in support of the mode of execution by the corporation.

For example, if the legislation of a State or country provides that the execution by the president of a corporation binds the corporation with no requirement for a seal or a sealing clause in its articles, then evidence to this effect would be required.

[50-0150] deleted

[50-0160] Disclaiming Property

For information about disclaiming property see [14-2260].

[50-0170] Gift

Because a company is deemed to have the rights, powers and privileges of a natural person, a company would not lack the power to make a gift. However, the board of directors may not have authority to make a gift.

As regards gifts to directors, it should be noted that directors of a company stand in a special position of trust (a 'fiduciary position') in relation to the company and, in general, any benefit given by the company to a director requires the approval of the company in general meeting. If a transfer to a director is in registrable form, it is accepted that the appropriate procedures have been adhered to, and it will be registered.

[50-0180] Deregistered Company

Company Deregistered Prior to 1 July 1962[1]

When a company was dissolved under s. 300 of the *Companies Act 1931*, all property and rights whatsoever vested in the Crown. See [50-2070] and part 14 – General Request, esp. [14-2300].

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

When a corporation is deregistered under ss. 601AA, 601AB or 601AC of the *Corporations Act 2001* (Cth) and there remains outstanding property in the name of the corporation, such property vests in the ASIC (s. 601AD of the Corporations Act). See [50-2070] and part 14 – General Request, esp. [14-2300].

[50-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[50-2000] Practice

[50-2000] Execution of Documents

An instrument or document is validly executed by a corporation if

- it is executed in a way permitted by law or
- If it is executed with the corporation's seal in accordance with s. 52 of the *Property Law Act 2023* (or for documents executed before 30 April 2022 the former s. 46 of the *Property Law Act 1974*)

(s. 161(1) of the *Land Title Act 1994* or s. 310(1) of the *Land Act 1994*).

Section 127 of the *Corporations Act 2001* (Cth) authorises a corporation to execute a document, including a deed, with or without affixing a common seal.

The Registrar assumes that the execution by a corporation is valid without requiring evidence in the following situations:

1. Execution under common seal:
    a. the seal must be a clear legible imprint (includes self-adhesive seals); and
    b. the seal must include the corporation's name and ACN; and
    c. be signed by two persons, both of whom are authorised officers of the corporation; or
    d. be signed by one person who is the sole director and the sole secretary (or other authorised officer) of the corporation; and
    e. the signatory(s) must show their designation(s) typed or printed legibly adjacent to their signature(s).

    For documents executed on or after 30 April 2022, s. 52(4) of the *Property Law Act 2023* provides that the fixing of a seal to a document is taken to have been witnessed by a person if—

    a. the person observes the fixing of the seal by audio visual link; and
    b. the person signs the document; and
    c. the document includes a statement that the person observed the fixing of the seal by audio visual link.

    See s. 52(9) of the Property Law Act for a definition of 'Audio visual link'

    For executions made prior to 1 August 2025 (but on or after 30 April 2022) the repealed Property Law Act 1974 applied (s. 46F(3)) and the requirements were identical to those above.

2. Execution not under common seal:
    a. the name of the corporation and the ACN* must be included as part of the execution; and

b. be signed by two persons, both of whom are authorised officers of the corporation; or

c. be signed by one person who is the sole director and the sole secretary (or other authorised officer) of the corporation; and

d. the signatories must show their designation(s) typed or printed legibly adjacent to their signature(s).

*For the *National Mortgage Form* and *Priority Notice Form*, a company does not need to include its ACN/ARBN as part of its name in the relevant execution panel if the ACN/ARBN has already been included in the *Mortgagor Panel*, *Mortgagee Panel* or *Applicant Panel*.

An example of an execution by a corporation without a common seal and by a sole director who is also the sole secretary of the corporation could be:

A B PTY. LTD. ACN 987 123 654

A Signature

Sole director and secretary

An execution by a corporation (with or without a common seal) does not require a witness in accordance with Schedule 1 of the Land Title Act or s. 73 of the Land Regulation.

A corporation or an authorised officer of the corporation may appoint an attorney.

An execution by an individual as attorney for a corporation as transferor, mortgagor, lessor, etc must be witnessed. In that case, all instruments to be registered in the registry must be witnessed by a person with a qualification stated in Schedule 1 of the Land Title Act or s. 73 of the Land Regulation (e.g. justice of the peace, barrister, solicitor etc). However, in exceptional circumstances, when an attorney is executing on behalf of a corporation, the Registrar will consider a submission that seeks relaxation of this requirement (s. 161(3) of the Land Title Act or s. 310(3) of the Land Act).

Where specific provision is made in the constitution for execution by an attorney without a witness, execution in this manner is acceptable. A copy of the constitution, certified by the solicitor or an authorised officer of the corporation, must be produced to the Registrar with the document to be registered.

However, an instrument or document executed by a corporation as attorney (with or without a common seal) is not required to be witnessed (s. 161 of the Land Title Act or s. 310 of the Land Act).

Execution by an attorney for a corporation of an instrument or document in which the company is a transferee, mortgagee, lessee, grantee, chargee, etc need not be witnessed as there is no conveyance by the company involved. This does not apply to the execution of Releases of Mortgage, Surrenders of Lease, Surrenders of Easement, Releases of Charge, etc. In those instances, the corporation is the party releasing or surrendering and a conveyance is involved.

Instruments or documents that transfer to or create an interest in favour of a corporation must be executed by the corporation or a solicitor authorised by the corporation (s. 11(1) of the Land Title Act or s. 288(1) of the Land Act). If signed by a solicitor, the full name of the solicitor must be shown.

[50-2005] Incorporated Associations under the *Associations Incorporation Act 1981* (Qld)

Execution of instruments and documents

An instrument is validly executed by an incorporated association if it is executed in a way permitted by law or if it is executed in accordance with s. 52 of the *Property Law Act 2023* (s. 161(1) of the *Land Title Act 1994* or s. 310(1) of the *Land Act 1994*).

For incorporated associations incorporated under the *Associations Incorporation Act 1981* (Qld), the Registrar will accept an execution without using a common seal as permitted under s 28 of the Associations Incorporation Act for all Titles Registry forms executed after 22 June 2022. The incorporated association may choose to execute using its seal in accordance with its rules and s. 28 Associations Incorporation Act.

The Registrar will assume that an execution by an incorporated association without a common seal is valid if:

1. the name of the association (with Incorporated or Inc) is included as part of the execution;
2. the document or instrument is signed by a member of the management committee of the association whose designation appears printed legibly with their signature;
3. the document or instrument is countersigned by:
   a. the secretary of the association and their designation appears printed legibly with their signature; or

b. another committee member of the management committee of the association and their designation appears printed legibly with their signature; or

c. another person authorised by the management committee of the association and their designation appears printed legibly with their signature; and

4. in the case of another authorised person countersigning the document or instrument, suitable evidence is provided to show that the person is authorised by the management committee (e.g. a copy of the minutes of the management committee meeting certified by the association's legal representative or secretary that details the resolution providing the person with the authority).

The execution does not need to be witnessed.

The Registrar will assume that an execution by an incorporated association under seal is valid without requiring further evidence where the execution is carried out as follows:

1. The document or instrument has a clear legible imprint of the common seal of the incorporated association which includes the registered name (with "Incorporated" or "Inc") and
2. the document or instrument is signed by a member of the management committee of the association whose designation appears printed legibly with their signature, and countersigned by:
   a. the secretary of the association and their designation appears printed legibly with their signature: or
   b. another committee member of the management committee of the association and their designation appears printed legibly with their signature; or
   c. another person authorised by the management committee of the association and their designation appears printed legibly with their signature; and
3. in the case of another authorised person countersigning the document or instrument, suitable evidence is provided to show that the person is authorised by the management committee (e.g. a copy of the minutes of the management committee meeting certified by the association's legal representative or secretary that details the resolution providing the person with the authority).

The execution does not need to be witnessed.

Where an incorporated association has adopted rules providing for a different procedure for executing (whether with or without using its common seal) which is not detailed above – a copy of the adopted rules certified by the secretary or a legal representative of the association must be deposited to show that the particular method of execution is authorised by the adopted rules.

Execution by the secretary of the Incorporated Association

The Registrar will accept an execution by the secretary of an incorporated association for Form 14 – General Requests which are only lodged to record the occurrence of another legal process such as:

- recording a vesting in an incorporated association (see [14-2360]); or
- the change of the name of an incorporated association (see [14-2030]).

The execution must include the name of the association (with "Incorporated" or "Inc") and the designation "secretary". The execution does not need to be witnessed.

[50-2010] Correction of Name

Where a company is a registered owner or holder dealing with land or an interest, the name in the instrument or document should coincide with that under which it is registered. In a transfer by the company, minor discrepancies which raise no doubt as to identity can be corrected as a patent error (s. 155(3) of the *Land Title Act 1994* or s. 304(2) of the *Land Act 1994*).

These corrections may only be made if the error is:

a. obvious; and

b. will not prejudice the rights of any person.

[50-2020] Change of Name

Where a company changes its name, the interest registered in the former name can be amended by a lodgement of a Form 14 – Request to Change Name. For the requirements for a request to change name see part 14 – General Request, esp. [14-2020] and [14-2040].

Where a company, which has changed its name, is disposing of an interest that is registered on the title in the former name the instrument or document must recite the name in the following manner:

> [Current name and ACN (or ABN)] formerly [name registered on the title and ACN (or ABN)].

Evidence of the change of name must also be deposited with the instrument or document. In cases where the company name has been changed more than once, evidence that verifies each change of name must be deposited. For further information for the requirements or the deposit of supporting information see part 60 – Miscellaneous, esp. [60-1030].

[50-2030] Instrument or Document by Receiver or Receiver and Manager

An instrument or document for execution by a corporation where a receiver has been appointed should be prepared in the name of the corporation and not in the name of the receiver. The words '(Receiver appointed)' must appear after the name of the corporation where it appears in the instrument or document. No reference to the receivership is made in the title.

Evidence of appointment of the receiver or receiver and manager must be deposited with any instrument or document executed by a receiver or receiver and manager by way of:

- a current copy of the notification of the appointment from the Australian Securities and Investments Commission (ASIC) or an approved ASIC information broker; or
- a copy of a court order making the appointment.

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

The receiver of a corporation may execute an instrument or document under the seal of the corporation (ss. 420(2)(k) and (n) of the *Corporations Act 2001* (Cth)).

Section 420(2)(q) of the Corporations Act authorises a receiver or receiver and manager to appoint an agent (attorney) to do business that he/she is unable to do or that is unreasonable to expect the receiver to do in person. Evidence of appointment of a receiver or receiver and manager must be deposited with the power of attorney. The director/s of the corporation or an attorney appointed by the corporation prior to the appointment of a receiver/manager may continue to execute instruments or documents on behalf of the corporation in relation to charged assets only with the consent of the receiver/manager. This consent may be given in a *Form 18 – General Consent.*

Under the Corporations Act, a liquidator or court may authorise a receiver of a corporation being wound up to carry on the corporation's business. The approval of a liquidator may be given in a Form 18 – General Consent.

Unless this approval by the liquidator is granted, a receiver's authority as agent of the corporation terminates. This does not, however, terminate the receiver's power to control and deal with the property in relation to which the receiver was appointed.

A receiver's authority is limited to exercising the rights of a security holder and only as agent to deal with the property that is charged by the security holder. If necessary, the receiver may use the name of the corporation to exercise these rights.

Where there are two or more receivers appointed, unless otherwise specified in the document evidencing appointment, any one of them may execute an instrument or document on behalf of the corporation.

The execution of an instrument or document by a receiver should be substantially as shown below.

SEAL	*J N Jones*
(where applicable)	----------
	RECEIVER/RECEIVER AND MANAGER
	John Neal Jones

	FULL NAME (TO BE PRINTED)

Where the seal of the company is not affixed the company name and ACN must be printed adjacent to the execution.

[50-2040] Instrument or Document by Liquidator

An instrument or document to be executed by the liquidator of a corporation in liquidation should be prepared in the name of the corporation and not in the name of the liquidator. The words '(in liquidation)' must appear after the name of the corporation where it appears in the instrument or document. No reference to the winding up is made in the title.

Evidence of appointment of the liquidator must be deposited with any instrument or document executed by a liquidator by way of:

- a current copy of the notification of the appointment issued by the Australian Securities and Investments Commission (ASIC); or
- a copy of a court order making the appointment.

For more information about the deposit of supporting documentation see [60-1030]. A general meeting of a corporation in liquidation may approve the retention by the directors of their powers with the consent of the liquidator. Evidence of this must be deposited with any instrument or document executed by a director.

A liquidator executes in the name of the corporation. Section 477(2)(k) of the *Corporations Act 2001* (Cth) authorises a liquidator to appoint an agent (attorney) to do business that he/she is unable to do or that is unreasonable to expect the liquidator to do in person. Evidence of appointment of the liquidator must be deposited with the power of attorney.

An attorney appointed by the corporation prior to the appointment of the liquidator may continue to execute instruments or documents on behalf of the corporation only with the consent of the liquidator. This consent may be given in a *Form 18 – General Consent*.

A liquidator appointed in another State may execute instruments or documents for registration in Queensland. Evidence of the liquidator's appointment must be deposited as above.

If more than one liquidator is appointed by the Court, the Court shall declare whether all or any one of the persons appointed is required to execute on behalf of the corporation (s. 473(8) of the Corporations Act).

Where several liquidators are appointed under a members' voluntary winding up any one of them may execute any instrument or document, unless evidence to the contrary is provided (s. 530 of the Corporations Act).

The seal of a corporation in liquidation may be affixed by the liquidator in execution of an instrument or document (s. 477(2)(d) of the Corporations Act).

The execution of an instrument or document by a liquidator should be substantially as shown below.

SEAL (where applicable)

J N Jones

LIQUIDATOR

John Neal Jones

FULL NAME (TO BE PRINTED)

Where the seal of the company is not affixed the company name and ACN must be printed adjacent to the execution.

[50-2050] Instrument or Document by Administrator

Where an administrator has been appointed an instrument or document by a corporation must be prepared in the name of the corporation and not in the name of the administrator. The words '(Administrator appointed)' must appear after the name of the corporation where it appears in the instrument or document.

Evidence of appointment of the administrator must be deposited with any instrument or document executed by an administrator by way of:

- a current copy of the notification of the appointment issued by the Australian Securities and Investments Commission (ASIC); or
- a copy of a court order making the appointment.

Where a deed of company arrangement is in effect an instrument or document by a corporation must be prepared in the name of the corporation and the words '(Subject to deed of company arrangement)' must appear. No reference to appointment of an administrator or the operation of a deed of company arrangement is made in the title.

Where a deed of company arrangement has commenced, a copy of the deed must be deposited.

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

Where there are two or more administrators appointed, unless otherwise specified in the document evidencing the appointment, any one of them may execute an instrument or document on behalf of the corporation (s. 451B(2) of the *Corporations Act 2001* (Cth)).

The execution of an instrument or document by the administrator should be substantially as shown below.

SEAL

S N Blue

(where applicable)

ADMINISTRATOR

Stephen Norbert Blue

FULL NAME (TO BE PRINTED)

Where the seal of the company is not affixed the company name and ACN must be printed adjacent to the execution.

[50-2060] Disclaiming Property

For information about disclaiming property see [14-2260].

[50-2070] Deregistered Corporation

Company Deregistered Prior to the *Companies Act 1961*[1]

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'.

When dealing with the property of a company that was deregistered prior to 1 July 1962, see part 14 – General Request, esp. [14-2300].

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

When a corporation is deregistered, any assets, including real property, vest in the ASIC (s. 601AD(2) of the *Corporations Act 2001* (Cth)).

Section 601AE(2) provides that the ASIC may execute instruments or documents necessary to dispose of assets. An instrument or document that disposes of an asset of a deregistered corporation executed by the ASIC under the relevant legislation is registrable without first vesting the property in the ASIC.

If vesting of land in the ASIC is required, see part 14 – General Request, esp. [14-2300].

[50-2080] deleted

[50-2090] Financial Institution

There is no requirement to display any ARBNs on registry forms executed by any of the following institutions:

- a society or association within the meaning of the *Cooperatives Act 1997*;
- an association within the meaning of the *Associations Incorporation Act 1981*;
- a society within the meaning of the *Financial Intermediaries Act 1996*.

[50-6000] deleted

[50-7000] Case Law

Nil.

[50-8000] Fees

Refer to the relevant part for fee information.

[50-9000] Cross References and Further Reading

Part 1 – Transfer

Part 14 – General Request

Lipton, P and Herzberg, A, *Understanding Company Law*, 4th edn, The Law Book Company Limited, 1992

Ford, HAJ, *Principles of Company Law*, 6th edn, Butterworths, 1992

[50-9050] Notes in text

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.

Titles QUEENSLAND

Part 51 – Trusts

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 51 – Trusts

[51-0000] General Law

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 generally, primarily the *Trusts Act 1973*,or legislation relating to trusts established for particular purposes.

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

[51-0010] Bare Trust

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*.

[51-0020] Deceased Estate

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.

[51-0030] Vesting Order

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.

[51-0040] Resulting Trust

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.

[51-0050] Constructive Trust

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

[51-0060] Discretionary Trust

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.

[51-0070] Unit Trust

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.

[51-0080] Property Trust

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.

[51-0090] Superannuation Fund

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.

[51-0091] Managed Investment Scheme

Managed investment schemes are schemes under which multiple investors contribute to a fund which is invested on their behalf. They are regulated under Commonwealth legislation, namely Chapter 5C of the *Corporations Act 2001* (Cth). A managed investment scheme has a responsible entity which holds the scheme property on trust for the members of the scheme and administers the scheme.

[51-0100] Trusts Generally

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.

[51-0110] The Settlor

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.

[51-0120] The Trustee

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.

[51-0130] Trustee Corporation

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.

[51-0140] Trustee of a Settlement

The trustee of a settlement (or the tenant for life thereunder, if such settlement was made under the repealed *Settled Land Act 1886*) [2], is a trustee.

[51-0150] Trustee of a Deceased Trustee

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.

[51-0160] The Settlor as Trustee

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*).

[51-0170] Statutory Trustee

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.

[51-0175] Regulated Superannuation Funds

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.

[51-0180] Custodian Trustee

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.

[51-0190] Local Government Trustee

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.

[51-0191] Managed Investment Schemes

Under section 601FC(2) of the *Corporations Act 2001* (Cth), the responsible entity for a managed investment scheme holds scheme property on trust for its members. Managed investment schemes with more than 20 members must be registered with ASIC and will have an Australian Registered Scheme Number (ARSN).

The Corporations Act requires a responsible entity for a registered managed investment scheme to ensure that the scheme property is clearly identified as scheme property.

A responsible entity for a registered scheme will be recorded on title in the capacity of responsible entity. For further information refer to [Part 51-2105].

[51-0200] deleted

[51-0210] The Beneficiary

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.

[51-0220] Trustee's Powers

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).

[51-0230] Pre *Trusts Act 1973*

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)).

[51-0240] Under the *Trusts Act 1973*

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);
- subdivide land (s. 33(1)(e))[1,2];
- 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
- grant easements (s. 33(1)(h))[1].

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*).

[51-0245] Dealings that May Not Come Within the Scope of Trustees' Powers under the *Trusts Act 1973*

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.

[51-0250] Purchase of Land

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.

[51-0260] Sale of Land

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.

The consent of a life tenant is required to a sale by a trustee, even where the land was 'settled land' before 1 July 1973[2].

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. 37 of the *Property Law Act 2023*.

[51-0270] Lease of Land

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*).

Unless 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)[2]. Similarly, any amendment that extends the term must not result in an aggregate that exceeds the maximum allowed.

Mortgage of Land

[51-0280] As Mortgagor

See Part 2 – Mortgage (National Mortgage Form) esp. [2-0050].

[51-0290] As Mortgagee

See Part 2 – Mortgage (National Mortgage Form) esp. [2-0100].

[51-0300] Appropriation

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.

[51-0310] Death of Mortgagee Trustee

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].

[51-0320] Surrender of Onerous Lease or Land

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*.

[51-0330] Schedule of Trusts in a Form 20 – Trust Details Form

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.

[51-0340] Public Trustee under s. 53A of *Public Curator Act 1915*

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*.

[51-0350] Trustee Company

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

[51-0370] *Associations Incorporation Act 1981*

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:
    i. the association's governing body; or
    ii. 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).

[51-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[51-2000] Practice

[51-2000] Introduction

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

[51-2010] Primary

- *Trusts Act 1973*
- *Land Title Act 1994*
- *Land Act 1994*
- *Public Trustee Act 1978*
- *Trustee Companies Act 1968*
- *Succession Act 1981*

- *Partnership Act 1891*

[51-2020] Secondary

- *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

[51-2022] Transfer

It is not compulsory for a trust to be disclosed on the freehold land register however for a person to hold an interest in a State lease or sublease of a State lease as trustee, a transfer to, or instrument creating or vesting the interest in the person as trustee must be registered, i.e. the trust must be recorded (disclosed) on title (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 an original Form 20 - Trust Details Form is deposited, copies of the document(s) that created the trust referred to in the Form 20 – Trust Details Form should not be deposited.

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.

[51-2025] Request to Vest in Trustee under Order Made Under the *Trusts Act 1973* or Another Act

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.

[51-2027] Execution by an Attorney for an Undisclosed Trustee

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'.

[51-2030] Transfer to Trustees

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.

[51-2040] Instrument or Document Required to Record a Transfer to Trustees

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.

[51-2043] Deposit of Trust Document

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 Queensland Revenue Office.

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 *Stamp Act 1894*)	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 Queensland Revenue Office 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).

[51-2046] Vesting in Trustees

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.

[51-2049] Instrument or Document Required to Record Vesting in Trustees

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].

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*[1, 3].

See Part 14, esp. [14-2335].

[51-2050] Recording of New Trustees

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.

[51-2060] Instrument or Document Required To Record New Trustee

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.

[51-2065] Removal of Trustee without a New Appointment

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.

[51-2070] Retirement of Trustee without a New Appointment

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.

[51-2080] Death of Sole Surviving Trustee

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.

[51-2090] Second Trustee Nominated to Take After Death of First

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

[51-2105] Recording of a Responsible Entity

A responsible entity for a managed investment scheme holds scheme property on trust for its members. Managed investment schemes with more than 20 members must be registered with the Australian Securities and Investments Commission (ASIC) and will have an Australian Registered Scheme Number (ARSN).

The *Corporations Act 2001* (Cth) requires a responsible entity for a registered managed investment scheme to ensure that the scheme property is clearly identified as scheme property.

Section 601GB of the Corporations Act provides that a scheme constitution must be lodged with ASIC upon application to register the scheme.

It is not necessary for the scheme constitution to be deposited with the instrument recording the responsible entity. Instead, an original Form 20 – Responsible Entity Details Form should be deposited. For further information about completing the Form 20 - Responsible Entity Details Form refer to [51-4200].

A responsible entity for a registered scheme will be recorded on title in the capacity of responsible entity.

[51-2115] Dealing by Trustee

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

[51-2130] As Mortgagor

See Part 2 – Mortgage (National Mortgage Form), esp. [2-0050].

[51-2140] As Mortgagee

See Part 2 – Mortgage (National Mortgage Form), esp. [2-0100].

Trustee Registered Under a Transmission by Death

[51-2150] Where Death Occurred Before 1 January 1982[1]

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.

[51-2160] Where Death Occurred on or After 1 January 1982

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

[51-2200] Trust on Deed of Grant[1]

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.

[51-2210] Incorporation of Association

The various circumstances leading to registration of an incorporated association in the registry and the necessary documentation in relation thereto are set out below.

[51-2220] Change of Name of Incorporated Association

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.

[51-2230] Amalgamation of Two or More Incorporated Associations

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.

[51-2240] Incorporation of a Body Presently Holding Letters Patent under the *Religious Educational and Charitable Institutions Act 1861*

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.

[51-2250] Cancellation and Vesting of Property

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.

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[1, 2].

[51-2260] Property Held on Trust for Incorporated Association Prior to Incorporation

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 a certified copy of the certificate of incorporation issued by the Office of Fair Trading.

[51-4000] Forms

[51-4000] General Guide to Completion of Forms

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

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4

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 Titles Queensland website.

1. Nature of request

RECORDING UNDER THE ASSOCIATIONS INCORPORATION ACT 1981

Lodger (Name, address, E-mail & phone number)

JOHN WATERHEAD
24 FLATHEAD STREET
SURFHAVEN QLD 4999
(07) 3456 2354

Lodger Code

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

SAMPLE

Guide to Completion of Form 14

[51-4010] Item 1

Insert the name of the Request, i.e. a recording under the *Associations Incorporation Act 1981.*

[51-4020] Item 2

Freehold Description[1, 2]

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

Water Allocation Description[2, 3]

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

State Tenure Description[1, 3]

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

[51-4030] Item 3

The registered proprietor, holder of a water allocation or State tenure should be as shown on the current title or lease.

[51-4040] Item 4

Insert the relevant interest, e.g. 'fee simple'.

[51-4050] Item 5

The applicant is the incorporated association.

[51-4060] Item 6

The Request should be substantially as shown in the example.

[51-4070] Item 7

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

SAMPLE

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

SAMPLE

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)

Clause 4 of the Deed 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

SAMPLE

[51-4100] Guide to Completion of Form 20 – Trust Details Form

[51-4110] Title Reference

Insert at least one title reference from Item 2 of the Form 1 – Transfer or other instrument.

[51-4120] Item 1

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.

[51-4130] Item 2

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.

[51-4140] Item 3

If the trust has a name – insert the name of the trust. Otherwise insert 'N/A'.

[51-4150] Item 4

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.

[51-4160] Item 5

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. * **Example:** Clause 4 of the 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'.

[51-4170] Item 6

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'.

[51-4180] Item 7

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 circumstances where a Solicitor is not signing on behalf of one or more of the Trustees, and one or more of the current Trustees is a corporate entity, the form should be executed in accordance with the requirements for execution by a corporate entity which are set out in part [50-2000] and in some rare circumstances in parts [50-2030] to [50-2050].

In circumstances where a Solicitor is not signing on behalf of one or more of the Trustees, and an attorney is signing on behalf of one or more of the current Trustees, the power of attorney must be registered, and it should be executed in accordance with the requirements for execution by an attorney which are set out in part [61-3050].

In relation to the duty notations applicable to certain Trust Documents refer to [51-2043].

RESPONSIBLE ENTITY DETAILS FORM

Title Reference [51111011**]**

1. Name of Scheme Constitution

FIRST PLACE BALANCED PROPERTY FUND

2. Date of Scheme Constitution

2/09/2024

3. Name of Managed Investment Scheme and Australian Registered Scheme Number (ARSN)

FIRST PLACE BALANCED PROPERTY FUND ARSN 111 222 333

4. Name of Responsible Entity and Australian Company Number (A.C.N.)

FIRST PLACE PROPERTY LTD A.C.N 999 888 777

5. Declaration

The Responsible Entity signatory states that:

1. the information contained in this Form 20 – Responsible Entity Details Form is true and correct; and
2. the transaction and any change in Responsible Entity (if any) is authorised by the Scheme Constitution, the *Corporations Act 2001* (Cth), and any other legislation applicable to Managed Investment Schemes; and
3. any applicable duty under the *Duties Act 2001* has been accounted for.

Where a Solicitor signs on behalf of a Responsible Entity the Solicitor makes the above statements either from their own personal knowledge, or from information or assurances provided by the Responsible Entity.

Signature	
Signer Name	Andrew James Taylor
Signer Authority	Legal Practitioner acting for the Responsible Entity
Execution Date	21/11/2024

[51-4200] Guide to Completion of Form 20 – Responsible Entity Details Form

[51-4210] Title Reference

Insert at least one title reference from Item 2 of the Form 1 – Transfer or other instrument.

[51-4220] Item 1

Insert the name of the Scheme Constitution If the constitution is unnamed insert: 'Constitution for [name of Managed Investment Scheme]'.

[51-4230] Item 2

Insert the date of the Scheme Constitution.

[51-4230] Item 3

Insert the name of the Managed Investment Scheme and the Australian Registered Scheme Number (ARSN) for that scheme.

[51-4240] Item 4

Insert the name of the Responsible Entity and its Australian Company Number (ACN).

[51-4250] Item 5

The form must be signed by a company officer of the Responsible Entity or a Solicitor acting on behalf of the Responsible Entity.

Where a Solicitor is not signing on behalf of the Responsible Entity, the form should be executed in accordance with the requirements for execution by a corporate entity which are set out in Part [50-2000] and in certain circumstances in Parts [50-2030] to [50-2050].

If an attorney is signing on behalf of the Responsible Entity, the power of attorney must be registered, and it should be executed in accordance with the requirements for execution by an attorney which are set out in Part [61-3050].

[51-5000] eConveyancing

[51-5010] Electronic Conveyancing and Electronic Conveyancing Document

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under 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.

[51-5100] Scope Restrictions

Refer to the Titles Registry Electronic Conveyancing web page for the list of transactions currently available through eConveyancing.

[51-5200] Prescribed Requirements – Trust Details Form

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).

[51-5300] Attachments – Trust Details Form

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]).

[51-5400] Execution and Certification

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

[51-5600] Electronic Form

[51-5610] Approved Electronic Form

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:

[51-5620] Electronic Form Example

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
Clause 4 of the 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

SAMPLE

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]).

[51-5700] Electronic Form Notes for Completion

Refer to the table below for notes for the completion of a Form 20 (electronic) – Trust Details Form.

ITEM	NOTES
Item 5	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]). **Example:** 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. For instructions on the completion of Item 5, refer to [51 4160].

[51-6000] deleted

[51-7000] deleted

[51-8000] Fees

Fees payable to the Titles Registry are subject to an annual review. See the Titles fee calculator available online or [60-8000].

[51-9000] Cross References and Further Reading

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

[51-9050] Notes in text

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.

Titles QUEENSLAND

Part 52 – Administrative Advices

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 52 – Administrative Advices

[52-0000] General Law

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

[52-0005] Notice under Miscellaneous Legislation

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 and the Public Trustee's Certificate of Authority are required to be deposited. The Certificate of Authority also contains details of the appointment of the Public Trustee as attorney. The Notice of Suspension and Certificate of Authority are recorded on the relevant title.

The notice will remain on the title until the person is no longer the holder of the interest.

[52-0010] Caveator's Notice of Action under the *Land Title Act 1994*[2]

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.

[52-0020] Caveatee's Notice under s. 126(2) of the *Land Title Act 1994*[2]

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.

[52-0030] Notice of Pecuniary Penalty Order under the *Criminal Proceeds Confiscation Act 2002*[1]

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]).

[52-0040] Notice of Restraining Order under the *Drugs Misuse Act 1986*[1]

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]).

[52-0050] Registrar of Titles Noting under the *Land Title Act 1994* or *Land Act 1994*

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*

[52-0060] Water Allocation Notice under the *Water Act 2000*[2, 3]

Entered on title – WATER 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.

[52-0065] Notice of Distribution Operations Licence[2,3]

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).

[52-0070] Notice of Appointment of Administrator under the *Guardianship and Administration Act 2000*

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).

Prisoners

The Public Trustee is the manager of the estates of certain prisoners (for the purposes of this part, an 'affected prisoner'). As to who is an affected prisoner see LTPM [16-0040].

The Public Trustee 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's administrator for financial matters to execute the instrument or document dealing with the property themselves (s. 95 of the Public Trustee Act).

A letter from the lodging solicitor advising the term of the sentence should be deposited with the affected dealing. If the party is an affected prisoner, a statutory declaration from the Public Trustee stating that it has no objection to the administrator executing the relevant instrument or document must be deposited. Alternatively, the Public Trustee may

consent to the relevant dealing in its preferred form or by letter. This consent need not be given in a Form 18 – General Consent.

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.

[52-0080] Priority Notice, Extension of Priority Notice and Withdrawal of Priority Notice under the *Land Title Act 1994*[2]

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.

[52-0090] Notice of Road Licence under the *Land Act 1994*[1]

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

[52-0100] Notice of Intention to Resume under the *Acquisition of Land Act 1967*[1]

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).

If 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)[2]. The notice must specify the purpose for which the land to be taken is required and state the description of the land.

If 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[3]. 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.

[52-0110] Notice under the *River Improvement Trust Act 1940*[1]

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.

[52-0115] Notice under the *Land Valuation Act 2010*[1]

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.

[52-0120] Notice of Owner Builder Permit under the *Queensland Building and Construction Commission Act 1991*[1]

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. Alternatively, once the 7 year period has expired, if a registered owner requires the notice to be removed, then the registered owner (or their representative) can prepare and lodge a Form 14 General Request to remove the owner builder administrative advice.

[52-0125] Notice of Carbon Farming Initiative Project under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth)[1]

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.

[52-0130] Notice of Contaminated Land under the *Environmental Protection Act 1994*[1]

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).

[52-0140] Notice of Agreement under the *Nature Conservation Act 1992*[1]

Refer to [14-3020].

[52-0145] Notice of an Enforcement Order under the *Nature Conservation Act 1992*[1]

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.

[52-0150] Notice of Site Registered under the *Queensland Heritage Act 1992*[1]

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.

[52-0160] Notice of Access Right under the *Sugar Industry Act 1999*[1]

Entered on title – ACCESS RIGHT or TRAM EASE.

A notice of an access right granted under a repealed Act will appear on the title as 'TRAM EASE'. A notice of an access right granted under the Sugar Industry Act is shown on the title as 'ACCESS RIGHT'

Permits to Pass

Where a permit to pass 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 (s. 70(2) of the Sugar Industry Act).

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.

Cane railway easements

Where a cane railway easement under s. 63 of the Sugar Industry Act is granted, the grantee must give the Registrar notice within 28 days of the grant (s71(2) of the Sugar Industry Act).

The grantee may comply with section 71 by lodging a properly completed land registry Form 9—Easement. A Form 9—Easement must comply with the usual requirements for registration of a public utility easement under the *Land Act 1994* or the *Land Title Act 1994*. This includes the lodgement of a survey plan to identify the area affected by the easement (if not over the whole of a lot). Refer to the Land Title Practice Manual Part 9—Easement.

Registration of a cane railway easement as a public utility easement provides the parties with the benefits of the respective legislation under which it is registered.

Alternatively, the grantee may lodge a properly completed Form 14—General Request to record an administrative advice; stating that an easement has been granted, identifying the parties to the easement and the land affected by the easement (by way of sketch). A grantee who has notified the Registrar of the granting of a cane railway easement in this manner may subsequently lodge a Form 9 – Easement.

[52-0165] Notice of Relinquishment or Cancellation of Sugar Access Right[1]

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.

[52-0170] Notice under the *Wet Tropics World Heritage Protection and Management Act 1993*[1]

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) can request that the Registrar record an administrative advice over land that is within the Wet Tropics of Queensland World Heritage Area (the Wet Tropics Area). Land in the Wet Tropics Area is subject to prohibitions under section 56 of the Act and to other prohibitions and requirements under the Wet Tropics Management Plan 1998.

Removal

On notification by the Authority, the Registrar will 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).

Notices under the *Coastal Protection and Management Act 1995*[1]

[52-0180] Compliance Notice[1]

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).

[52-0190] Compensation Notice[1]

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).

[52-0200] Reconfiguration Notice[1]

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*

[52-0210] Vegetation Management Notice[1]

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.

[52-0211] Notice of Declared Area and Management Plan

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.

[52-0215] Restoration Notice[1]

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

[52-0230] Notice of Private Water Supply Agreement[2,3]

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

[52-0236] Notice of Closed Water Activity Agreement[2,3]

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]

[52-0250] Remedial Action Notice under the *Land Act 1994*[1,3]

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.

[52-0260] Change of Capabilities Notice under the *Land Act 1994*[1,3]

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.

[52-0270] Notice of Voluntary Environmental Agreement under the *State Development and Public Works Act 1971*[1]

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).

[52-0280] Notices under Miscellaneous Legislation

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:

Notice of Affected Area under Planning (Urban Encroachment— Milton Brewery) Act 2009[1]

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.

Notice of Compulsory Acquisition of Native Title Rights and Interests under the *Acquisition of Land Act 1967*[1]

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 115 of the *Property Law Act 2023* 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 (Property Law Act Form *4* – Notice of intention to exercise power of sale for disclaimed property – *Property Law Act 2023,* Section 115) 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 Property Law Act Form 4.

A deposit fee is applicable.

Notice of Licence Agreement under the *Transport Infrastructure Act 1994*[1]

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.

Notice of Pre-Acquisition Declaration under *Lands Acquisition Act 1989* (Cth)[1]

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.

Notice of Dedication of Low Impact Future Act under *Native Title Act 1993* (Cth)[1]

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.

Notice of Recreation Area Agreement under the *Recreation Areas Management Act 2006*[1]

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.

Notice of Transfer under the South East Queensland Water (Restructuring) Act 2007[1]

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.

Notice of Quarry Sales Permit under the *Forestry Act 1959*[1]

A notice may be given to the Registrar to record quarry sales permit information under section 56 of the Forestry Act (the Act).

A deposit fee is not applicable.

Removal

The chief executive officer will make a request for the removal of the record of quarry sales permit information from the register (s.58 of the Act). A deposit fee is not applicable.

[52-0290] Notice of Native Title Determination under the *Native Title Act 1993* (Cth)[1]

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.

[52-0295] Notice of Land Management Plan under the *Land Act 1994*[1]

Entered on title – LAND NOTICE.

Where approval of a land management plan for trust land has been given by the 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

[52-0305] Notice of an Affected Area under the *Planning Act 2016*[1]

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.

[52-0310] Notice of an Environmental Offset Protection Area under the *Environmental Offsets Act 2014*[1]

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.

[52-0315] Notice of a Conduct and Compensation Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*[1]

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 MERCP 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 MERCP 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 MERCP 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 MERCP 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.

[52-0320] Notice of an Opt-Out Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*

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 (MERCP 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 MERCP 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 MERCP 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 MERCP 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.

[52-0325] Notice of an Enforcement Order or Interim Enforcement Order under the *Planning Act 2016*[1, 2]

Entered on title – PLAN ENF ORD

Chapter 5 of the Planning Act (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).

[52-0330] Notice of an exemption from seeking written approval to transfer under the *Land Act 1994*[1, 3]

Entered on title – EXEMPT CONS

The transfer process for state leases in the Land Act (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 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.

[52-0335] Notice of Charitable Donation Deed for Housing under the *Housing Act 2003*[1]

Entered on title – HSG DON DEED

Under section 94J(1) of the Housing Act a non-profit organisation, that is party to a charitable donation deed for a lot, may give the Registrar of Titles notice of the existence of the deed.

Notice of the existence of the deed, using a Form 14 – General Request, is recorded on the title for the lot. The notice remains recorded on the title despite any change in ownership of the lot. The notice does not prevent a person from registering an interest in the lot, exercising their rights under a registered interest, or releasing or surrendering a registered interest.

There is no requirement for a copy of the deed to be deposited.

Deposit fees are applicable.

Removal

A party to the deed, or the registered owner of the lot, may request that the notice of the existence of the deed be removed from the title for the lot. The request is made using a Form 14 – General Request.

A deposit fee is applicable.

[52-0340] Notice of Termination Resolution for a Community Titles Scheme under the *Body Corporate and Community Management Act 1997*[1,2]

Entered on title – TERM RES SCH

Under Chapter 2, Part 9, Division 4 of the Body Corporate and Community Management Act (the BCCM), a motion can be passed by a body corporate for the termination of a community titles scheme for economic reasons (known as an economic reasons resolution).

A termination resolution is a resolution by the body corporate to implement the terms of a termination plan in order to terminate the scheme.

Notice of termination resolution must be provided to interested parties for the community titles scheme (section 81L of the BCCM).

Notice is provided to the Registrar of Titles using a Form 14 – General Request and is recorded on all titles for lots and common property within the relevant community titles scheme. A copy of the BCCM Form 30 – Notice of termination resolution must be deposited.

A deposit fee is applicable.

Removal

A notice of termination resolution may be removed only if a court has ordered that where a termination plan was passed, the termination plan is not to be implemented (s.81N(4) BCCM). The request is made using a Form 14 – General Request, with a copy of the relevant court order deposited.

A deposit fee is applicable.

[52-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[52-2000] Practice

[52-2000] Administrative Advice Types

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:

- **WATER NOTICE** (Water Allocation Notice under the *Water Act 2000*)[2, 3], see [52-0060] – **WAN**
- **ACCESS RIGHT** (Access Right under the Sugar Industry Acts)[1], 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**
- **CAPB NOTICE** (Change of Capabilities Notice under the *Land Act 1994*)[1, 3], see [52-0260] – **CCN**
- **CFI NOTING** (Notice of Carbon Farming Initiative project under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth))[1], see [52-0125] – **CFI**
- **COAST PROT** (Notice under the *Coastal Protection and Management Act 1995*)[1], see [52-0180 to 52-0200] – **CPN**
- **CON COM AGMT** (Conduct and Compensation Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*)[1], see [52-0315] – **CDC**
- **CONF PROFITS** (Order under the *Criminal Proceeds Confiscation Act 2002*/Pecuniary Penalty Order)[1], see [52-0030] – **CPR**
- **CONTAM LAND** (Notice of contaminated land under the *Environmental Protection Act 1994*)[1], see [52-0130] – **CLN**
- **DIST OPS LIC** (Notice of a Distribution Operations Licence under the *Water Act 2000*)[2,3], see [52-0065] – **DOL**
- **HSG DON DEED** (Notice under the *Housing Act 2003*)[1], see [52-0335] – **HSD**
- **DSI/ OFFSET** (Notice under the *Land Valuation Act 2010*)[1], see [52-0115] – **LVA**

- **HERITAGE SITE** (Site registered under the *Queensland Heritage Act 1992*)[1], see [52-0150] – **HRS**
- **EXEMPT CONS** (Exemption from Consent under the *Land Act 1994*)[1,3], see [52-0330] – **EXC**
- **LAND NOTICE** (Land Management Plan under the *Land Act 1994*)[1, 3], see [52-0295] – **LMP**
- **NATURE ENFORCEMENT ORDER** (Enforcement order under the *Nature Conservation Act 1992*)[1], see [52-0145] – **NEO**
- **NATURE REFUGE NOTING** (Agreement under the *Nature Conservation Act 1992*)[1], see [14-3020]
- **NOTC INT RES** (Notice of Intention to Resume under the *Acquisition of Land Act 1967*)[1], see [52-0100] – **NIR**
- **NOTICE** (Caveatee's Notice under the *Land Title Act 1994*)[2], see [52-0020] – **NOT**
- **NTCE OF ACTN** (Lodgement of Caveator's Notice of Action under *Land Title Act 1994*)[2], see [52-0010] – **NOA**
- **NT DETERM** (Notice of Native Title Determination under the *Native Title Act 1993* (Cth))[1], see [52-0290] – **NTD**
- **OFFSET AREA** (Notice under the *Environmental Offsets Act 2014*)[1], see [52-0310] – **EOA**
- **OPT OUT AGMT** (Opt-Out Agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*)[1], see [52-0320] – **OPA**
- **OWNER BUILDR** (Owner Builder Permit under the *Queensland Building and Construction Commission Act 1991*)[1], see [52-0120] – **OBN**
- **PLAN ENF ORD** (Enforcement Order or Interim Enforcement Order under the *Planning Act 2016*)[1, 2], see [52-0325] – **PAE**
- **PRIORITY NTC** (Priority Notice under the *Land Title Act 1994*)[2], see [52-0080] – **PNN**
- **REM ACT NOT** (Remedial Action Notice under the *Land Act 1994*) [1, 3], see [52-0250] – **RAN**
- **RESTORATION** (Restoration Notice under the *Vegetation Management Act 1999*)[1], see [52-0215] – **COM**
- **RESTR ORDER** (Restraining Order under the *Drugs Misuse Act 1986*)[1], see [52-0040] – **RSO**
- **RIV IMP NOT** (Notice under the *River Improvement Trust Act 1940*)[1], see [52-0110] – **RIT**
- **ROAD LICENCE** (Notice of Road Licence under the *Land Act 1994*)[1], 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**
- **TERM RES SCH** (Notice of Termination Resolution for a Community Titles Scheme under the *Body Corporate and Community Management Act 1997*)[1,2], see [52-0340] – **TRS**
- **TRAM EASE** (Access Right under the Sugar Industry Acts)[1], see [52-0160] – **STE**
- **VEG NOTICE** (Vegetation Management Notice or Notice of Declared Area and Management Plan under the *Vegetation Management Act 1999*)[1], see [52-0210] and [52-0211] – **VMN**
- **VOL ENV AGR** (Voluntary Environmental Agreement under the *State Development and Public Works Act 1971*)[1], see [52-0270] – **VEA**
- **W/D PRTY NTC** (Withdrawal of Priority Notice under the *Land Title Act 1994*)[2], see [52-0080] – **PNW**
- **WATER ADVICE** (Water Act Advice under the *Water Act 2000*), see [52-0230]; [52-0236] and [52-0240] — **WAA**
- **WET TROPICS** (Notice under the *Wet Tropics World Heritage Protection and Management Act 1993*)[1], see [52-0170] – **WTN**
- **XTD PRTY NTC** (Extension of Priority Notice under the Land Title Act 1994)[2], 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.

[52-2010] Recording an Administrative Advice

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*
- notices of a charitable donation deed for housing under the *Housing Act 2003*

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.

[52-2020] Removal of an Administrative Advice

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.

[52-4000] Forms

[52-4000] General Guide to Completion of Forms

For general requirements for completion of forms see part 59.

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

GENERAL REQUEST

Duty Imprint

FORM 14 Version 4

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 Titles Queensland website.

1. Nature of request

ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number)

Queensland Building and Construction Commission
22 Montague Road
West End Qld 4101
mail@qbcc.com.au
1300 272 272

Lodger Code

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

SAMPLE

General Guide to Completion of Form 14 - Request to record an administrative advice

[52-4010] Item 1

Insert nature of request, i.e. ‘administrative advice’.

[52-4020] Item 2

Each lot the subject of the notice must be fully identified with a lot on plan description and a title reference.

Freehold Description[1, 2]

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

Water Allocation Description[2, 3]

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

State Tenure Description[1, 3]

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

[52-4030] Item 3

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.

[52-4040] Item 4

Insert interest – fee simple, water allocation or State leasehold. Not Applicable may also be inserted.

[52-4050] Item 5

Insert full name of applicant.

[52-4060] Item 6

Insert full details of the request including reference to the provisions of relevant authorising legislation.

[52-4070] Item 7

Complete and execute where indicated.

QUEENSLAND TITLES REGISTRY

GENERAL REQUEST

FORM 14 Version 4

Land Title Act 1994, Land Act 1994 and Water Act 2000

Duty Imprint

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 Titles Queensland website.

1. Nature of request

REMOVAL OF ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number)

Queensland Building and Construction Commission
22 Montague Road
West End Qld 4101
mail@qbcc.com.au
1300 272 272

Lodger Code

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

SAMPLE

General Guide to Completion of Form 14 - Request to remove an administrative advice

[52-4100] Item 1

Insert nature of request, i.e. 'removal of an administrative advice'.

[52-4110] Item 2

Each lot the subject of the notice must be fully identified with a lot on plan description and a title reference.

Freehold Description[1, 2]

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

Water Allocation Description[2, 3]

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

State Tenure Description[1, 3]

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

[52-4120] Item 3

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.

[52-4130] Item 4

Insert interest – fee simple, water allocation or State leasehold. Not Applicable may also be inserted.

[52-4140] Item 5

Insert full name of applicant.

[52-4150] Item 6

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.

[52-4160] Item 7

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

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 Titles Queensland website.

1. Nature of request

ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number)

Peter Mayberry
2 Fields Road
West End Qld 4101
pmayberry@fields.com.au
3012 5205

Lodger Code

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

P Mayberry

21/01/2019
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:
- a copy of the sealed Enforcement Order or Interim Enforcement Order

SAMPLE

[52-4200] Guide to Completion of Form 14 for Example 1[1, 2]

[52-4210] Item 1

Insert nature of request, i.e. 'administrative advice'.

[52-4220] Item 2

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

[52-4230] Item 3

Insert 'Not Applicable' or 'N/A'.

[52-4240] Item 4

Insert 'Not Applicable' or 'N/A'.

[52-4250] Item 5

Insert the full name of the applicant (the defendant or respondent named in the enforcement order or interim enforcement order).

[52-4260] Item 6

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."

[52-4270] Item 7

Complete and execute where indicated.

[52-4280] Items to be deposited

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

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 Titles Queensland website.

1. Nature of request

REMOVAL OF ADMINISTRATIVE ADVICE

Lodger (Name, address, E-mail & phone number)

Peter Mayberry
2 Fields Road
West End Qld 4101
pmayberry@fields.com.au
3012 5205

Lodger Code

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.

SAMPLE

[52-4300] Guide to Completion of Form 14 for Example 2[1, 2]

[52-4310] Item 1

Insert nature of request, i.e. 'removal of an administrative advice'.

[52-4320] Item 2

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

[52-4330] Item 3

Insert 'Not Applicable' or 'N/A'.

[52-4340] Item 4

Insert 'Not Applicable' or 'N/A'.

[52-4350] Item 5

Insert the full name(s) of the applicant(s).

[52-4360] Item 6

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.

[52-4370] Item 7

Complete and execute where indicated.

[52-4380] Items to be deposited

A copy of the sealed compliance order must be deposited with the Form 14.

[52-7000] Case Law

Nil.

[52-8000] Fees

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

[52-9000] Cross References and Further Reading

Part 49 – Water Allocations

[52-9050] Notes in text

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.

Titles QUEENSLAND

Part 59 – Forms

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 59 – Forms

[59-0000] General Law

Section 194 of the *Land Title Act 1994* and s. 444 of the *Land Act 1994* provide that the Chief Executive of the Department administering the Act may approve Forms required to be lodged in the Titles Registry.

Section 7 of the Electronic Conveyancing National Law (Queensland) provides for forms to be lodged electronically under that Law, to be approved by the Registrar.

Section 10 of the Land Title Act and s. 286 of the Land Act provide that a lodged form must be in the appropriate form and comply with the directions of the Registrar about how the form is completed and how information is to be included in or given with the form.

[59-0010] eConveyancing

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) in accordance with the *Land Title Act 1994* (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [62-6000] for further information on the application of the eConveyancing mandate.

An Electronic Conveyancing Document is a document under the ECNL that is lodged electronically through an Electronic Lodgment Network (see s. 14B of the Land Title Act and s. 7 of the ECNL). A document that is lodged as an Electronic Conveyancing Document will have a label that is burnt into the image (similar to an eLodged document) and can be identified on the image of the document by the Office code of the relevant Electronic Lodgment Network Operator (e.g. “PX” for PEXA or “SY” for Sympli).

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.

[59-1000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[59-2000] Practice

[59-2000] General Requirements for Titles Registry Forms

A form (other than a plan of survey) must meet titles registry requirements.

A paper form must be printed on paper that is international sheet size A4 and white bond of density at least 80gm to a square metre and be free from discolouration and blemishes.

With the exception of the National Mortgage Form, Priority Notice, Withdrawal of Priority Notice and Extension of Priority Notice, there must be margins free from printing and writing of not less than 10mm on all sides of the form.

Leave a space of not less than 35mm from the top edge of the form to accommodate any duty notation and dealing label.

The form must be clearly printed (in dense blue or black ink) on one side of the sheet only and be produced in a way that is permanent and allows reproduction to the satisfaction of the Registrar in a print size no smaller than 1.8mm (10 point). An electronic form that is produced by a firm must retain the Arial font (or a similar font acceptable to the Registrar) and other formatting embedded within fields of the original file obtained from the Titles Queensland web site.

The whole of the Form, whether printed or processed, must appear on one side of one sheet only. Panels may be contracted or expanded to assist with this requirement, but **no panel may be removed** (i.e., the item must be shown in full even if not used).

Forms must not be folded.

A Titles Registry Form that has obviously been transmitted electronically (e.g. by facsimile) and presented for lodgement may be accepted provided all the following criteria are met:

- all signatures are originally signed and dated on the form lodged; and
- the form is presented on plain white paper (ie, sensitised or coloured paper is not acceptable); and
- the completed form presented meets the quality standards of Titles Registry Forms.

An Australian company name must in all circumstances be followed by its Australian Company Number, whether acquiring or disposing of an interest.

An acronym must not be used if it is not in common use as it may be unclear to a person conducting a search of the public register. For example, ATF is not acceptable in place of “as trustee for” or “as trustee”, however ACN may be used in place of Australian Company Number and JP may be used in place of Justice of the Peace.

Lodgers may include the lodger’s internal reference in the lodger section of an instrument or document; however, any internal reference included by the lodger must comply with the requirements set out in part [59-2030].

[59-2010] Items/Panels

All panels or numbered Items are to be completed, or if not applicable, to be either ruled through diagonally or marked N/A. (No panel/item is to be removed.)

Only in circumstances where there is insufficient space to include the necessary information in any item in any form, a Form 20 – Enlarged Panel may be used. For further information see Part 20 – Schedule, Enlarged Panel, Additional Page, Declaration, or Standard Terms Document.

Optional Items marked * # to be deleted must be ruled through if they do not apply in a particular form. Initialling is not required for these deletions.

Fields within Items for parties acquiring interests should be used to record Given Name, Surname and Tenancy.

The full given name/s and surname/s of each individual must be shown.

[59-2020] Interests

Shares in an Interest

An interest that is less than the whole (i.e. share) must be shown as a fraction and not expressed as a proportion or percentage, e.g.:

1/2 is acceptable, but 1:2 or 50% is not.

In cases where more than one share is involved, fractions must have a common denominator, e.g.:

6/12, 2/12, 1/12, 3/12.

Dealing with Different Interest Types

The Registrar will allow one form to be used for multiple interest types provided:

- the parties in the transaction are the same for each interest; and
- the interests are either all of a primary nature or all of a secondary nature. For example, a single transfer from A to B of a freehold lot and a State lease is acceptable as both interests are considered primary. However, a transfer from A to B of a freehold lot and transfer from A to B of a freehold lease (interest of a secondary nature) are not acceptable in a single form.

Where a single form is inadvertently prepared with primary and secondary interests, the form may be lodged only with prior approval of the Registrar.

Where a single form is used for multiple secondary interests separate lodgement fees will apply to each secondary interest as if each secondary interest was being dealt with in a separate form. Refer to the Titles Fee Calculator available online for more information.

[59-2030] Lodger

The lodger details must contain the minimum information necessary for positive identification and contact by mail, email, and telephone. However, in extenuating circumstances the Registrar may approve this panel to remain uncompleted, if requested in writing prior to lodgement and there is a substantive reason.

The lodger code (if applicable) should always be shown.

Lodger Reference

Lodgers may include an internal reference (relevant to their lodgement), in the lodger section of the form, to assist the lodger to identify the matter or transaction for which the lodgement is being made. However, this internal lodger reference must be confined to a single line of text, and may be made up of letters, numerals, and standard punctuation marks (full stops, commas, colons, semicolons, hyphens, etc) only. Lodgers must not use special symbols, QR Codes, barcodes, or link generators as an internal reference, or for any other purpose on any instrument or document lodged in the registry. Any instrument or document lodged with an internal lodger reference that is not made up of letters, numerals, and standard punctuation marks only, may be requisitioned, and will require the lodger to redact any internal reference that is not compliant with these requirements before relodging.

Amending Lodger details

Only the lodger of the instrument or document can request a change to the lodger details. The request must be made before the dealing is registered. Lodger details can be changed by sending the request using our online enquiry form or by email or letter.

[59-2040] Alterations and Minor Corrections to Titles Registry Forms

General

In this part the following applies:

Alteration means change to some detail which may alter the nature and effect of the instrument or document or is of a substantial nature—for example:

- adding or deleting a lot;
- adding or deleting a party;
- adding or deleting an interest;
- adding or deleting a middle name of a party;
- changing a title reference other than by one digit or a transposition of two digits;
- changing a statement about a previous lease; or

- inserting or changing the tenancy or shares of parties.

Minor correction means a change to correct a minor error—for example, a correction of:

- a digit or a transposition of two digits in a title reference;
- a digit or a transposition of two digits in a plan number;
- the spelling of part of the name of an individual or corporation; or
- a digit or a transposition of two digits in an Australian Company Number.

An *alteration* or a *minor correction* must be made in the following manner:

- a deletion must be ruled through and not erased or obliterated by painting over; and
- any addition must be clearly printed in the correct item on the form itself, or if insufficient space is available, on a Form 20 – Enlarged Panel. See Part [20-2020] for further information.

Titles registry forms do not include the following:

- Form 21 – Survey Plan (Main Plan)
- Form 21A – Survey Plan (Additional Sheet)
- Form 21B – Survey Plan (Administration Sheet)
- Form 24 – Property Information (Transfer)
- Form 24A - Property Information (Transmission Application)
- Form 25 – Foreign Ownership Information
- First CMS - First Community Management Statement
- New CMS - New Community Management Statement
- Power of Attorney instrument

Each party and each witness to a Titles Registry form must initial any alteration. However, as the Registrar has discretion under s. 10 of the *Land Title Act 1994* to waive a requirement relating to a form where it is considered reasonable to do so, the Registrar will not usually require a witness to initial a change to a form. The witness will be required to initial an alteration where it may impact on their responsibilities under s. 162 of the Land Title Act or s. 311 of the *Land Act 1994*. It is advisable to have the alteration initialled by the witness if there is doubt on whether or not the alteration impacts on the witness's responsibilities.

The Registrar may require further evidence to substantiate who has made an alteration or a minor correction to an instrument or document and the nature of their authority.

If there is doubt on whether a change is considered an alteration or a minor correction, it is advisable to have the changes made in accordance with the practice for an alteration.

Please note that Survey Plan Forms 21, 21A and 21B can only be amended by the surveyor in accordance with Direction 23 of the Registrar of Titles Directions for the Preparation of Plans.

Alterations or Minor Corrections Made Before Lodgement

The following applies whether the alteration or minor correction was made before or after execution.

Alterations Made Before Lodgement

An *alteration* made to a form before lodgement must be initialled by:

- each party to the form who executed the document—except where the change is of no consequence to a party, then that party's initial is not required, for example inserting or changing the tenancy of transferees would not require the transferor's initials.

  Note: A solicitor who signed on behalf of a party is not a party to the form; or
- a person authorised to alter the instrument or document—provided that a statement about the alteration is deposited with the instrument or document when lodged (see below).

Minor Corrections Made Before Lodgement

A *minor correction* made before lodgement must be initialled by at least:

- one of the parties to the form who executed the document; or
- a solicitor for one of the parties; or
- another person authorised to make a minor correction to the instrument or document—in this case, a statement about the minor correction must be deposited with the instrument or document when lodged (see below).

Alterations or Minor Corrections Made After Lodgement

Alterations Made After Lodgement

The practice stated above for *alterations* made before lodgement, also applies to *alterations* made to an instrument or document after lodgement, that is, where a dealing is under requisition. However, additional requirements apply to:

- adding a party— the following are required:
  - The additional party must execute the instrument or document; and
  - the lodger must provide a letter requesting that the dealing be withdrawn and re-lodged under s. 159 of the *Land Title Act 1994* or s. 308 of the *Land Act 1994*.
- withdrawing a lot or an interest from the instrument or document before the dealing is registered—the lodger must also provide a letter requesting that the dealing be withdrawn only so far as relates to the lot/interest
- adding a lot or an interest to an instrument or document before the dealing is registered—the following are required:
  - the instrument or document must be re-executed by all parties—if the instrument or document is unable to be re-executed a written submission, supported by a statutory declaration stating the facts, must be deposited; and
  - any additional lodgement fee for extra lot/interest must be paid; and
  - the lodger must provide a letter requesting that the dealing be withdrawn and re-lodged under s. 159 of the Land Title Act or s. 308 of the Land Act.

Minor Corrections Made After Lodgement

The practice stated above for *minor corrections* made before lodgement, also applies to *minor corrections* made to an instrument or document after lodgement, that is, where a dealing is under requisition.

Statement by Authorised Person

A statement providing information about an *alteration* or a *minor correction* that is required to be deposited with an instrument or document may be made by:

- a solicitor for either party to the instrument or document; or
- at least one person who was authorised to make changes.

The statement must include:

- the title reference and the form number/name; and
- the name of the authorised person/s and the name of their firm, institution or settlement agency; and
- the details of the alteration and/or minor correction; and
- the name of the party represented where the statement is signed by a solicitor; and
- the signature of the person/s who made the statement.

A pro forma Form 20 – Schedule with relevant blank fields is shown below and is available on the Titles Queensland web site.

Title reference: ……

Form being altered or corrected: ……

Name of authorised person or solicitor: ……

Name of authorised person's firm or employer (legal practice, commercial lender or settlement agency):

……

Item/s being altered or corrected: ……

Details of alteration or correction: ……

Party represented (where signed by solicitor): ……

……

Authorised person's or Solicitor's Signature

The statement may be on either letterhead or a Form 20 – Schedule, if the authorised person is a solicitor or an employee (whether authorised directly or by chain of authority) of a legal practice, a commercial lender or a settlement agency.

If the authorised person is not one of the above, the statement must be on a Form 20 – Schedule.

[59-2050] Annexures

An annexure (for example a declaration, an enlarged panel or a schedule) must be prepared on a Form 20 and form part of the completed Titles Registry form. Other documentation (for example an original will, certificate of death, Form 24 – Property Information (Transfer), Form 25 – Foreign Ownership) accompanying the Titles Registry form are only deposited with the form.

For further information see part 20 – Schedule, Enlarged Panel, Additional Page, Declaration, or Standard Terms Document.

[59-2060] Binding

The form and its supporting documents may be bound with one staple at the top left corner. An original will must not be stapled or otherwise attached to another document including by a paper clip.

[59-2070] deleted

[59-4000] Current Forms

Chronological List of Dates of Effect – Based on Date of Signing of the Particular Form/Version

1 September 1986	Real Property Act Panel Forms commenced
1 May 1992	Form 100s commenced
24 April 1994	Land Title Act forms commenced (Real Property Act repealed)
1 August 1994	Real Property Act forms no longer acceptable
24 October 1994	Land Title Act Version 2 forms commenced
1 December 1994	Forms executed in Version 1 not acceptable
6 February 1995	Form 23 Version 1 (Settlement Notice) commenced
30 October 1995	Form 24 Version 1, Form 23 Version 2 and Version 3 of Forms 1, 4, 5, 6, 7, 13 and 18 commenced
1 January 1996	Common Form 100, Version 1 of Form 23 and Version 2 of Forms 1, 4, 5, 6, 7, 13, 18 are no longer acceptable
12 July 1997	Version 4 of Form 13, Version 2 of Form 21and Version 1 of Forms 21A, 29 to 34 and CMS commenced
13 September 1997	Form 21 Version 1 no longer acceptable
1 December 1997	Form 13 Version 3 no longer acceptable
18 February 2000	Form 7 Version 4 commenced
1 July 2000	Form 7 Version 3 no longer acceptable
1 September 2002	Form 24 Version 2 commenced
1 September 2003	Version 2 of Forms 20, 25, 29 to 34 and CMS, Version 3 of Forms 2, 3, 5A, 8 to 12, 14 to 17, 19, 23 and 24, Version 4 of Forms 1, 4, 5, 6 and 18, Version 5 of Forms 7 and 13 commence

1 December 2003	Version 1 of Forms 20, 25, 29 to 34 and CMS, Version 2 of Forms 2, 3, 5A, 8 to 12, 14 to 17, 19, 23 and 24, Version 3 of Forms 1, 4, 5, 6 and 18, Version 4 of Forms 7 and 13 no longer acceptable
1 April 2006	Version 4 of Form 5A, Version 5 of Forms 5 and 6 commence
1 July 2007	Version 1 of Form 24A, Version 3 of Forms 25, 29 to 34 and CMS, Version 4 of Forms 2, 3, 8 to 12, 14 to 17, 19, 23 and 24, Version 5 of Forms 1, 4, 5A and 18, Version 6 of Forms 5 to 7 and 13 commence
1 October 2007	Versions of forms prior to those that commenced 1 July 2007 no longer acceptable
10 October 2011	Form 24 Version 5 and Form 24A Version 2 commenced
1 March 2012	Version 4 of Form 24 and Version 1 of Form 24A no longer acceptable
14 December 2012	Version 3 of Form 21 and Version 1 of Forms 36, 37, 38 and 38A commenced.
10 May 2013	Version 6 of Form 5A, Version 7 of Form 6 and Version 5 of Form 23 commenced.
31 May 2013	Version 1 of Forms 39 and 40 commenced.
27 September 2013	Version 1 of Forms 41 and 42 commenced
11 December 2013	Version 1 of Form 2 (Electronic) and Form 3 (Electronic) commenced.
21 March 2014	Version 4 of Form 25 commenced
1 July 2014	Version 6 of Form 24 commenced
25 May 2015	Version 1 of Form 11 (Electronic), Form 14 (Electronic) and Form 23 (Electronic) commenced
1 December 2015	Version 4 of Form 21, Version 1 of Form 21B, Version 2 of Form 38 and Version 1 of Form 38B commenced
1 December 2015	County and Parish fields removed from Forms 1,2,3,4,5,5A,6,7,8,9,10,11,12,13,14,15, 17,18,19,23,29,30,31,32,33,34,36,37,39,40,41,42 and Form CMS
21 March 2016	Version 7 of Form 24 and Version 3 of Form 24A commenced
29 May 2017	National Mortgage Form (NMF) commenced
30 June 2017	Form 38, Form 38A and Form 38B no longer used following the decommissioning of the eSurvey system
17 July 2017	Version 7 of Form 5A and Version 8 of Form 6 commenced
18 September 2017	Version 8 of Form 24 commenced
16 October 2017	Version 1 of Priority Notice Form approved
(1 January 2018)	(accepted for deposit from 1 January 2018)
16 October 2017	Version 1 of Extension of Priority Notice Form approved
(1 January 2018)	(accepted for deposit from 1 January 2018)
16 October 2017	Version 1 of Withdrawal of Priority Notice Form approved
(1 January 2018)	(accepted for deposit from 1 January 2018)
1 January 2018	Form 23 Version 1 (Settlement Notice) no longer accepted for deposit irrespective of when signed (replaced with Priority Notice mechanism)
	Version 1 of Priority Notice Form (electronic) accepted for deposit
	Version 1 of Extension of Priority Notice Form (electronic) accepted for deposit
	Version 1 of Withdrawal of Priority Notice Form (electronic) accepted for deposit
5 March 2018	Form 2 – Mortgage (version 4) forms executed by all parties after this date no longer accepted (forms executed by at least one party prior to this date still accepted)

24 April 2018	Version 1 of Form 5 Transmission Application by Personal Representative (electronic) approved
	Version 1 of Form 20 Trust Details Form (electronic) approved
27 April 2018	Version 7 of Form 5 and Version 8 of Form 5A commenced
30 September 2018	Version 6 of Form 5 and Version 7 of Form 5A no longer accepted
1 October 2019	Form 17, Form 19 and Form 22 no longer used following the discontinuance of Paper Certificates of Title
24 April 2020	Version 1 of Form 18A Registered Owners/Lessees Consent to Survey Plan and
	Version 1 of Form 18B Planning Body Approval of Survey Plan commenced
24 April 2020	Version 2 of Form 21B commenced
8 June 2020	Version 1 of Form 21Z (Plan Cover Sheet) commenced
1 July 2020	Version 7 of Form 13 and Version 5 of Form 25 commenced
30 November 2020	Version 4 of CMS commenced
	Version 1 of Form 18C Planning Body Community Management Statement Notation commenced
	Version 2 of Form 21Z commenced.
1 January 2021	Version 6 of Form 13 executed by all parties after this date no longer accepted (forms executed by at least one party on or before this date still accepted)
	Version 4 of Form 25 signed after this date no longer accepted (forms signed on or before this date still accepted)
28 February 2021	Version 3 of CMS signed after this date no longer accepted (forms signed on or before this date still accepted)
	Version 1 of Form 21Z no longer accepted for deposit after this date.
6 February 2023	Version 1 of Form 4 (electronic) commenced
20 December 2023	Form 20 Declaration introduced
28 August 2024	Form 20 BCCM Execution introduced
28 August 2024	Version 1 of First CMS commenced
28 August 2024	Version 1 of New CMS commenced
23 October 2024	Version 4 of CMS removed
9 December 2024	Version 3 of Form 21Z commenced
9 December 2024	Form 20 – Responsible Entity Details Form introduced
20 March 2025	Version 5 of Form 12 commenced
31 March 2025	Version 7 of Form 7 commenced.
31 March 2025	Form 20 – Lease Declaration introduced
1 August 2025	Privacy Statement on all Forms updated

List of Forms

Paper Forms

Form 1	Version 5	Transfer
Form 3	Version 4	Release of Mortgage
Form 4	Version 5	Request to Record Death
Form 5	Version 7	Transmission Application by Personal Representative (Grant in Queensland or Queensland recognised grant)

Form 5A	Version 8	Transmission Application by Personal Representative (No Grant in Queensland or no Queensland recognised grant)
Form 6	Version 8	Transmission Application for Registration as Devisee/Legatee
Form 7	Version 7	Lease/Sub-Lease
Form 8	Version 4	Surrender of Lease
Form 9	Version 4	Easement
Form 10	Version 4	Surrender of Easement
Form 11	Version 4	Caveat
Form 12	Version 5	Request to Register Writ/Warrant of Execution
Form 13	Version 7	Amendment
Form 14	Version 4	General Request
Form 15	Version 4	Request to Amalgamate
Form 16	Version 4	Request to Register Power of Attorney/Revocation of Power of Attorney
Form 18	Version 5	General Consent
Form 18A	Version 1	Registered Owners/Lessees Consent to Survey Plan
Form 18B	Version 1	Planning Body Approval of Survey Plan
Form 18C	Version 1	Planning Body Community Management Statement Notation
Form 20	Version 2	Schedule/Enlarged Panel/Additional Page/Declaration
Form 21	Version 4	Survey Plan (Main Plan)
Form 21A	Version 1	Survey Plan (Additional Sheet)
Form 21B	Version 2	Survey Plan (Administration Sheet)
Form 21Z	Version 3	Plan Cover Sheet
Form 24	Version 8	Property Information (Transfer)
Form 24A	Version 3	Property Information (Transmission Application)
Form 25	Version 5	Foreign Ownership Information
Form 29	Version 3	Profit a prendre
Form 30	Version 3	Mortgage Priority
Form 31	Version 3	Covenant
Form 32	Version 3	Building Management Statement
Form 33	Version 3	Release of Covenant/Profit a prendre
Form 34	Version 3	Extinguishment of Building Management Statement
Form 36	Version 1	Carbon Abatement Interest
Form 37	Version 1	Surrender of Carbon Abatement Interest
Form 39	Version 1	High-density Development Easement
Form 40	Version 1	Surrender of High-density Development Easement
Form 41	Version 1	Indigenous Cultural Interest
Form 42	Version 1	Surrender of Indigenous Cultural Interest
First CMS	Version 1	Format for First Community Management Statement
New CMS	Version 1	Format for New Community Management Statement
NMF	Version 1.5	National Mortgage Form
PNN	Version 1	Priority Notice Form
PNE	Version 1	Extension of Priority Notice Form
PNW	Version 1	Withdrawal of Priority Notice Form

Electronic Conveyancing (electronic) Forms

Form 1	Version 2	Transfer (electronic)
Form 3	Version 2	Release of Mortgage (electronic)
Form 4	Version 1	Request to Record Death (electronic)
Form 5	Version 1	Transmission Application by Personal Representative (electronic)
Form 11	Version 2	Caveat (electronic)
Form 14	Version 1	General Request (electronic)
Form 20	Version 1	Trust Details Form (electronic)
Form 24	Version 3	Property Information (Transfer) (electronic)
Form 25	Version 2	Foreign Ownership Information (electronic)
NMF	Version 1.5	Mortgage Form (electronic)
PNN	Version 1	Priority Notice Form (electronic)
PNE	Version 1	Extension of Priority Notice Form (electronic)
PNW	Version 1	Withdrawal of Priority Notice Form (electronic)

[59-9000] Cross References and Further Reading

Part 62 – eConveyancing.

[59-9050] Notes in text

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.

Titles QUEENSLAND

Part 60 – Miscellaneous

LAND TITLE PRACTICE MANUAL

Updated: 20 March 2025

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Part 60 – Miscellaneous

Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000* [2,3]

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].

[60-0000] Requisitions

[60-0000] General Law

Requisition pursuant to s. 156(1) of the *Land Title Act 1994* or s. 305(1) of the *Land Act 1994*

The Registrar may, by written notice (the 'requisition'), require a person who has lodged an instrument or other document (or another person who reasonably appears to the Registrar to be relevantly associated with the instrument or other document) to re-execute, complete or correct the instrument or document, or to provide specific information (s. 156(1) of the Land Title Act or s. 305(1) of the Land Act).

If the requisition is not complied with within the time specified in the requisition or as extended by the Registrar, the instrument or document may be rejected with a consequent loss of priority (ss. 157(1) and (2) of the Land Title Act or ss. 306(1) and (2) of the Land Act). It is at the Registrar's discretion whether the time to comply with the requisition will be extended (s. 156(4) of the Land Title Act or s. 305(4) of the Land Act).

A rejected instrument or document other than an electronic conveyancing document (see below) may be relodged after the requisition has been complied with (s. 157(6) of the Land Title Act or s. 306(6) of the Land Act).

Electronic conveyancing document

Refer to [62-4000].

Requisition pursuant to s. 156(7) of the *Land Title Act 1994* or s. 305(7) of the *Land Act 1994*

The Registrar also has the power to give a written notice (also a 'requisition') to a person who has lodged an instrument or other document (or another person who reasonably appears to the Registrar to be relevantly associated with the instrument or other document) where the Registrar is satisfied that:

- the instrument or document is not capable of registration; and

- the reason the instrument or document is not capable of registration is not a matter for which a requisition may be given under s. 156(1) of the Land Title Act or s. 305(1) of the Land Act.

The requisition will state that the instrument or document is not capable of registration and why it is not capable of registration (s. 156(7) of the *Land Title Act 1994* or s. 305(7) of the *Land Act 1994*).

[60-0030] Practice

All documentation is returned to the lodger of the instrument or document that has been requisitioned. When the instrument or document is to be returned to the registry all the documentation originally lodged, and any additional documentation requisitioned for must be deposited.

If an instrument or document that has been returned to the lodger is lost or misplaced, the lodger must seek the approval of the Registrar to use a copy that has been certified by the Registrar in place of the original. The request for approval must be made in writing and once approval is granted, the lodger can order and use a certified copy of the instrument or document from the Titles Registry in place of the original. The prescribed fee for a certified copy is payable.

The details of a requisition will only be disclosed by the Registrar to a person to whom the requisition was issued.

Usually, the time to comply with the requisition in the first instance will be eight weeks, however, the requisition period for caveats and priority notices will usually be four weeks. All requests for extension must be in writing and contain substantive reasons including:

- the details of actions being undertaken to comply with the requisition; and
- the reasons inhibiting the lodger or other parties from complying with the requisition within the prescribed time.

Where an instrument or document is to be rejected all instruments or documents dependent on registration of the rejected instrument or document will also be rejected.

If an instrument or document is rejected, the fees that have already been paid for lodging the instrument or document are forfeited. The lodgement fee payable on relodgement of an instrument or a document is set out in s. 157A of the *Land Title Act 1994*, s. 306A of the *Land Act 1994*, or s. 1013CC of the *Water Act 2000*.

Requisition of a caveat or writ or warrant of execution

If a caveat or writ or warrant of execution is requisitioned pursuant to s. 156(1) of the Land Title Act 1994 or s. 305(1) of the Land Act 1994 and the requisition is not complied with by the end of the period stated in the requisition, a notice of intention to reject is generally given by the Registrar, allowing seven days for the lodger to respond to the rejection (see part 11 – Caveat, esp. [11-2100] and part 12 – Writ or Warrant of Execution, esp. [12-2110]).

[60-0040] Fee for a Requisition

Every requisition that is issued attracts the prescribed fee unless there is a statutory exemption applicable to the lodger or the transaction. The legislative authority for the exemption may be required to be provided.

[60-0050] The Registrar's Powers of Correction

General Law

[60-0050] Error in Lodged Instrument or Document

The Registrar may correct an obvious error in:

- a lodged plan of survey (s. 155(1) of the *Land Title Act 1994* or s. 304(1) of the *Land Act 1994*) by:
  a. drawing a line through the error without making the original words illegible; and
  b. writing in the correct information; and
  c. dating and initialling the correction.

or

- a lodged instrument or document (s. 155(2) of the Land Title Act or s. 304(1) of the Land Act) by making the correction under the provisions of s. 155(2)(b) of the Land Title Act or s. 304(1)(b) of the Land Act. That is, the error is treated

as if there was no error, an electronic notation is made in the register and the face of the instrument or document is left as it was lodged.

An obvious error may only be corrected if the Registrar is satisfied that the instrument or document is incorrect and the rights of a person will not be prejudiced (s. 155(3) of the Land Title Act or s. 304(2) of the Land Act). An instrument or document so corrected has effect as if the error had not been made (s. 155(4) of the Land Title Act or s. 304(3) of the Land Act).

Note: an error in an instrument will not be considered an obvious error if the face of the instrument or document may, in the future, lead to ambiguity, even though it may at the time of examination appear to be an obvious error within the meaning of the above provisions. For example, it would be unclear from the face of a registered mortgage which property the mortgage applies to where the mortgage shows an erroneous title reference (even if there is only one incorrect digit) and this was treated as an obvious error.

[60-0060] Error in the Register

The Registrar may correct an error in the register or an instrument or document forming part of the register if satisfied that the Register is incorrect and the rights of a holder of an interest recorded in the register would not be prejudiced (ss. 15(1), (2) and (5) of the *Land Title Act 1994* or ss. 291(1) and (2) of the *Land Act 1994*).

If the holder of an interest recorded in the register has acquired or dealt with the interest with actual or constructive knowledge that the register was incorrect, then the rights of that holder are not prejudiced (s. 15(8) of the Land Title Act)[2].

Section 151 of the *Water Act 2000* allows the Registrar to make any necessary corrections to the name of an existing water entitlement holder if it has been recorded incorrectly when a water allocation has been created[2, 3].

The Registrar may correct an error in the Register, whether or not the correction will prejudice the rights of the holder of an interest recorded in the register, only if:

- the register to be corrected is the freehold land register or leasehold land register and the correction is to show, in relation to a lot, an easement the particulars of which have been omitted from or misdescribed in the register; or
- the Supreme Court has ordered the correction under s. 26 of the Land Title Act.

Upon making the correction, the Registrar must record the state of the Register before the correction and the time, date and circumstances of the correction (s. 15(6) of the Land Title Act or s. 291(3) of the Land Act). The Register so corrected has the same effect as if the error had not been made (s. 15(7) of the Land Title Act or s. 291(4) of the Land Act).

The Registrar only corrects errors that the Titles Registry has made. The Registrar does not use this section to correct errors that are the result of errors made in the preparation of registered instruments or documents, except pursuant to a court order.

[60-0090] Practice

The examiner may register an instrument or document that contains an error, provided the error is obvious and there is no ambiguity. An internal dealing note is entered against the instrument or document to indicate the error did not impede registration of the instrument or document. If the intent is not clear, the lodger will be requisitioned to resolve the matter.

In the case of a water allocation where an administrative error has occurred that caused the name to be recorded incorrectly when a water allocation was created the Registrar will require information to show that the correction will not prejudice the rights of the holder of an interest in the water allocation[2, 3]. This information may be in the form of a consent from an interest holder, such as a mortgagee, and evidence that the Resource Operations Licence (ROL) holder has been consulted where the water allocation is managed under a ROL. The Registrar also requires a statutory declaration signed by the Director Water Allocations that includes:

- facts that caused the change to be requested;
- facts regarding consultation with registered interest holders, where appropriate; and
- facts regarding consultation with existing allocation holders, where appropriate.

If it is determined from evidence produced that an incorrect entry has been made in the register, the Registrar may prepare and lodge an internal dealing to effect a correction, provided the correction does not prejudice any party.

[60-0095] Standard Terms Document

[60-0095] General Law

Many instruments or documents require the inclusion of covenants, e.g. leases, mortgages, and easements etc. which are generally incorporated in the instrument or document by a Form 20 – Schedule.

If a class of instrument or document has a standard set of covenants, a standard terms document may be lodged and registered.

Any subsequent instruments or documents may then refer to the dealing number of the standard terms document in lieu of including covenants, however, a schedule may be included in the instrument or document to insert additional terms if required.

[60-0097] Practice

A standard terms document may be used to define the provisions that are treated as the terms that relate to an instrument or document.

A standard terms document must be lodged for registration with a Form 14 – General Request.

A standard terms document may be amended by lodging a further standard terms document, however, additional terms may be incorporated in an instrument or document by also including a schedule.

If there is a conflict between the provisions in the schedule to the instrument or document and the standard terms document, the instrument or document will prevail (s. 171(2) of the *Land Title Act 1994* and s. 320(2) of the *Land Act 1994*).

No lodgement fees or duty are payable.

For information on withdrawal or cancellation of a registered standard terms document, see [60-0110].

[60-0100] Withdrawing an Instrument or Document

General Law

[60-0100] Withdrawing Lodged Instrument or Document Prior to Registration

The Registrar may withdraw an instrument or document or permit an instrument or document to be withdrawn if satisfied that:

a. the instrument or document will not give effect to intention expressed in it or a related instrument or document because of the order in which the instrument or document has been lodged in relation to other instruments or documents; or

b. the instrument or document should not have been lodged (s. 159(1) of the *Land Title Act 1994* or s. 308(1) of the *Land Act 1994*).

An instrument or document so withdrawn, unless it is of a type that should not have been lodged, remains in the registry (s. 159(2) of the Land Title Act or s. 308(2) of the Land Act). The Registrar may relodge an instrument or document that has been withdrawn by the Registrar and may, on the written application of the lodger, relodge an instrument or document that the Registrar has permitted to be withdrawn (ss. 159(3) and (4) of the Land Title Act or ss. 308(3) and (4) of the Land Act).

Except in the case of plans of subdivision, an instrument or document that is withdrawn from registration loses its priority and is taken to have been lodged on the date and at the time endorsed on it by the Registrar at the time of its relodgement (ss. 159(5) and (6) of the Land Title Act or s. 308(5) of the Land Act).

[60-0110] Withdrawing or Cancelling Registered Standard Terms Document

On application of the lodger, the Registrar may withdraw a registered standard terms document as defined in s. 168 of the *Land Title Act 1994* (s. 172(1) of the Land Title Act) or s. 317 of the *Land Act 1994* (s. 321(1) of the Land Act).

After giving one month's notice in the Gazette, the Registrar may cancel a registered standard terms document lodged by the Registrar (s. 172(2) of the Land Title Act or s. 321(1) of the Land Act).

The Registrar must keep, and if asked produce for inspection, a copy of a standard terms document cancelled or withdrawn pursuant to s. 172 of the Land Title Act (s. 172(3) of the Land Title Act) or s. 321 of the Land Act (s. 321(3) of the Land Act). Withdrawal or cancellation of a standard terms document does not affect an instrument that is already registered or one that is executed within seven days after its withdrawal or cancellation (s. 172(4) of the Land Title Act or s. 321(4) of the Land Act).

Practice

[60-0150] Withdrawing Lodged Instrument or Document Prior to Registration

A request under s. 159 of the *Land Title Act 1994* or s. 308 of the *Land Act 1994* by a lodger to withdraw an unregistered instrument or document is made in writing and not by another document.

The lodgement fees paid on a lodged instrument or document that has not been registered and is withdrawn, are forfeited, other than any additional fee paid under Schedule 1 Part 2 of the *Queensland Future Fund (Titles Registry) Act 2021* for a transfer of fee simple.

For the requirements for withdrawing an unregistered Caveat see part 11 – Caveat, esp. [11 2070] or for withdrawing an unregistered Warrant of Execution see part 12 – Request to Register Writ or Warrant of Execution, esp. [12-2100].

The requirements for removing a lot/interest from a lodged instrument or document are in [59-2040].

[60-0160] Imaging Instruments or Documents

[60-0160] Practice

An electronic image is held permanently of each instrument or document (and associated documentation) lodged in the registry since July 1998.

Section 166 of the *Land Title Act 1994* or s. 315 of the *Land Act 1994* authorises the Registrar to destroy an original instrument or document, in accordance with the State Archivist's standards. However, original wills are not destroyed.

Retrieval of registered instruments or documents not already imaged requires the original to be imaged. This is normally processed within three business days.

[60-0170] The Registrar's Power of Inquiry[2]

[60-0170] General Law

The Registrar has the power to hold an inquiry to decide whether the Register should be corrected, to consider whether a person has:

a. fraudulently or wrongfully obtained, kept or procured an instrument affecting land in the Register; or
b. procured a particular in the Register or an endorsement on an instrument affecting land (s. 19 of the *Land Title Act 1994*).

The Registrar also has power to hold an inquiry in circumstances prescribed by regulation under s. 19(e) of the Land Title Act. No such circumstances, nor procedural rules for such inquiries as contemplated by s. 21(2) of the Land Title Act, have been prescribed.

When conducting such inquiries, the Registrar:

- must observe natural justice;
- must act as quickly and with as little formality and technicality as is consistent with a fair and proper consideration of the issues;
- is not bound by the rules of evidence;

may inform himself/herself in any way he/she considers appropriate;

- may decide the procedures to be followed at the inquiry;
- may act in the absence of a person who has been given reasonable notice;

- may receive evidence on oath or affirmation or by statutory declaration;
- may adjourn the inquiry;
- may disregard a defect, error or insufficiency in a document;
- may permit or refuse to permit a person to be represented at the inquiry; and
- may administer an oath or affirmation to a person appearing as a witness before the inquiry (ss. 20, 21 and 22 of the Land Title Act).

A person may be required, by written notice given by the Registrar, to attend an inquiry as a witness to give evidence or to produce specific documents or things (ss. 23(1) and (2) of the Land Title Act). Witnesses required to appear before an inquiry are entitled to witness fees (s. 23(3) of the Land Title Act).

Witnesses may commit an offence by:

- not attending without reasonable excuse;
- not continuing to attend without reasonable excuse;
- failing to take an oath or make an affirmation as required by the Registrar;
- failing, without reasonable excuse, to answer a question asked by the Registrar; and
- failing, without reasonable excuse, to produce a document or thing (ss. 24(1) and (2) of the Land Title Act).

In any of the above circumstances, the Registrar may apply to the Supreme Court for an order to compel the person to comply with the notice or requirement and the Supreme Court may make any order to assist the Registrar as the Supreme Court considers appropriate (s. 25 of the Land Title Act). A person may fail to answer a question or produce a document or thing if doing so would tend to incriminate that person (s. 24(3) of the Land Title Act).

[60-0260] Declarations

[60-0260] Practice

When a statutory declaration is required with a form under the *Land Title Act 1994*, *Land Act 1994* or *Water Act 2000*, it may be made on a Form 20 – Declaration. (See [20-2040]).

The Registrar will accept a statutory declaration taken by the following–

a. a person authorised by the *Oaths Act 1867* (Qld) to take a declaration, even if taken outside Queensland, provided the declaration is in the form provided for by that Act, for example:
   - a justice of the peace, a commissioner for declarations or a notary public under the law of the State, the Commonwealth or another State; or
   - a lawyer; or
   - a conveyancer, or
   - *another person authorised to administer an oath under the law of the State, the Commonwealth or another State for example:
     - an Australian Consular Officer or authorised employee under the *Australian Consular Officers' Notarial Powers and Evidence Act 1946* (Qld).

     *To clarify, persons who are not authorised by law of the Commonwealth or another State to administer an oath (for example, take a sworn affidavit) must not take a statutory declaration on a form under the *Oaths Act 1867*.
b. a person authorised to take a declaration by an Act of another State, the Commonwealth or another country provided the declaration complies with the relevant law, for example:
   - one of the various classes of persons authorised under the *Oaths and Affirmations Act 2018* (Vic) and the declaration is taken on the relevant form under that legislation;
   - one of the various classes of persons authorised under the *Oaths, Affidavits and Statutory Declarations Act 2005* (WA) and the declaration is taken on the relevant form under that legislation;
   - one of the various classes of persons authorised under the *Statutory Declarations Act 1959* (Cth) and the declaration is taken on the relevant form under that legislation.
c. a notary public.

d. another person if the lodger substantiates the authority of the person to take declarations in another jurisdiction by providing a reference to the authorising legislation and the declaration is taken on the relevant form under that legislation.

The above also applies to the declarations contained in Forms 5A and 6 – Transmission Applications.

Where there is insufficient space on the declaration for all declarants to execute on the same page as the declaration, separate declarations must be completed and executed.

Where a declaration is made on the wrong form a statutory declaration in the proper form may be required. For example, a Victorian police officer incorrectly takes a declaration on the form under the *Oaths Act 1867* (Qld) rather than the form under the *Evidence (Miscellaneous Provisions) Act 1958* (Vic).

It is not appropriate to amend a statutory declaration after execution by the declarant. If further matters are required to be declared, a supplementary statutory declaration should be made.

Where a statutory declaration is made by an attorney for a person who is a party to an instrument or a document, the declaration must be made by the attorney in their own right, under the attorney's own name and the statement of facts declared to must be based on the attorney's own knowledge and belief. The declaration must also state the attorney is an attorney for the party. The power of attorney must be registered before the instrument or document to which the declaration relates may be registered.

[60-0280] to [60-0350] deleted

Witnesses to Executions – General Law [60-0360] moved to [61-1000]

Witnesses to Executions – Practice [60-0390] moved to [61-2000]

[60-0710] deleted

[60-0720] Compensation

[60-0720] General Law[1, 2]

In certain circumstances a person is entitled to be indemnified by the State if that person is deprived of an interest in a lot or suffers loss. The circumstances are set out in ss. 188, 188A and 189A of the *Land Title Act 1994*.

Circumstances in which there is no entitlement to compensation are set out in ss. 188AA and 189 of the Land Title Act.

Pursuant to s. 190 of the Land Title Act, the State has a right of subrogation against any other person in relation to the deprivation or loss. However, if the State receives an amount greater than that paid to the claimant, the difference must be paid to the claimant less the State's costs.

[60-0760] Public Notice – Advertising

[60-0760] General Law

The Registrar, under s. 18 of the *Land Title Act 1994*, by written notice, may require an applicant to give public notice before doing any of the following things:

- register a transmission application[2]
- register a person as an adverse possessor[1, 2].

The Chief Executive, under s. 294(1) and (2) of the *Land Act 1994*, by written notice, may require an applicant to give public notice before registering a transmission application[1, 3]. The Chief Executive has delegated all responsibility relating to administration under Chapter 6 of the Land Act to the Registrar.

There is no stipulation in the above Acts as to the manner or vehicle for publication. If the Registrar determines that public notice is warranted, the content, time and place of advertisements will be specified in the notice given (s. 18(4) of the Land Title Act or s. 294(3) of the Land Act).

The applicant must satisfy the Registrar that the Registrar's requirements as to public notice have been met (s. 18(5) of the Land Title Act). A person claiming an interest in a lot may lodge a caveat pursuant to s. 122(1)(a) of the Land Title Act or s. 294(4) of the Land Act.

In addition to the Registrar requiring public notice to be given in the above circumstances, the court may order that a person advertise in a specified form, content or way where an application is made that a named person be registered as a proprietor of a lot (s. 114 of the Land Title Act).

[60-0830] Practice

Registry staff will prepare a written notice to the lodger requiring the applicant to give public notice usually within one calendar month of the date of the notice. The registry notice specifies what must be included in the public notice and how and when the public notice is to be published. All advertising is done by and at the expense of the applicant.

To satisfy the Registrar that the public notice has been given, the applicant must provide a tear sheet of the newspaper. A tear sheet must, as well as displaying the advertisement, show the name of the newspaper and the date of publication. No affidavit or statutory declaration confirming that the notice was advertised is required. Where the newspaper provides a tear sheet by e-mail to the lodger, that email may be attached to an email by the lodger and forwarded to the registry. The dealing number and the position of the notice on the tear sheet (e.g. column 2 notice 6) should be included in the e-mail.

[60-0840] to [60-0890] deleted

[60-0892] Statutory Exemption from Lodgement Fees

An instrument or document may only be exempted from the payment of lodgement or deposit fees where the exemption is authorised by an Act or Regulation. It must be noted that just because a legislative provision for an exemption exists the exemption may not extend to all instruments or documents in a transaction.

For the purpose of this practice, lodgement fees include all fees payable when an instrument or document is lodged or deposited. Where an instrument or document is exempt from payment of a lodgement fee it is also exempt from payment of a requisition fee.

Due to the extent of legislation, an exemption will only be considered if reference to the authorising provision is provided:

a. by a letter; or

b. on the face of the submitted document where the form permits – for example in item 6 of Form 14 – General Request.

Some examples where a letter is required are:

- a plan of survey signed by the registered owner, subdividing a lot as part of a transaction to transfer to the State of Queensland, by agreement, part of a former lot, and not accompanied by a transfer to the State
- a document under the *Criminal Proceeds Confiscation Act 2002* to give effect to a Queensland or an interstate forfeiture or restraining order
- a transfer to an entity with the privileges and immunity of the State

Reference to instruments or documents lodged previously without payment of a fee is not a basis for considering an exemption.

The above requirement may be waived in cases where the Registrar is reasonably satisfied that a document is part of a common transaction and the face of the document provides information sufficient to readily identify that a legislative exemption exists.

Examples:

- a transfer pursuant to an order made under the provisions of the *Family Law Act 1975* (Cth) provided this is clearly stated in item 4.
- a transfer where the transferee is 'The State of Queensland'

However, to facilitate timely lodgement processing and registration of instruments or documents that may come within the above scope, a letter may still be provided.

Examples where there is an Exemption from Lodgement Fees

Example A

Under s. 167A of the *Land Title Act 1994* or s. 316A of the *Land Act 1994* a fee is not payable for the lodgement and registration of:

- an acquisition by the State of any interest in land; or
- the release or surrender by the State of an interest in land, other than a fee simple interest.

Under Schedule 1 of the *Queensland Future Fund (Titles Registry) Act 2021* a fee is not payable for the deposit or removal of an administrative advice by the State.

An acquisition by the State mentioned in s. 167A of the Land Title Act or s. 316A of the Land Act includes:

- a resumption or an absolute surrender of land; and
- the taking by agreement or a resumption of an easement.

Under s. 1013CD of the *Water Act 2000* a fee is not payable for the lodgement and registration of:

- a transfer to the State of a water allocation; or
- the acquisition or lease of a water allocation by the State.

The above provisions extend to an entity that has the privileges and immunity of the State (for example, the Coordinator-General) and also includes instruments or documents that are considered an integral part of the transaction, for example:

- a notice of intention to resume or a plan of subdivision for an acquisition action; or
- a plan of survey for a lease of part of the land.

However, the above provisions do not provide an exemption from fees payable on a plan of survey or another instrument or document for any purpose lodged by the State where the State is already the registered proprietor.

Section 167A of the Land Title Act and s. 316A of the Land Act and s. 1013CD of the Water Act do not apply to similar instruments or documents involving a local government.

Example B

Under the provisions of s. 90(1) of the *Family Law Act 1975* (Cth) instruments or documents executed for the purpose of, or in accordance with an order made under Part VIII are not subject to any duty or charge under any law of a State or Territory. Similar provisions exist also in Part VIIIA and Part VIIIAB.

These provisions give complete exemption from all fees for any instrument or document to give effect to an order or a financial agreement made under the abovementioned parts of the *Family Law Act 1975* (Cth). For example, if the order or agreement also states 'the property is to be refinanced' the exemption would extend to a release of the existing mortgage and to a new mortgage.

Example C

Under the provisions of s. 154(a) of the *State Penalties Enforcement Act 1999* no fee is payable by the State Penalties Enforcement Registry for lodging any order or instrument or document under that Act or any instrument or document lodged to transfer property to the State under the Act.

Example D

The provisions of s. 114 of the Commonwealth Constitution prohibit a State, without the consent of the Parliament of the Commonwealth, from imposing any tax on property of any kind belonging to the Commonwealth.

The above provision exempts the Commonwealth from the payment of only the additional fee specified in Schedule 1 Part 2 of the *Queensland Future Fund (Titles Registry) Act 2021*. All other lodgement fees for a transfer or another instrument or document, and requisition fees, must be paid.

[60-0895] Overpayment of Fees

When a person (including an Electronic Lodger) lodges instruments or documents in the registry they are required to pay the correct prescribed fee at the time of lodgement.

Where a lodger pays an amount for lodgement of a document that exceeds the prescribed fees, any request for a refund must be in writing. A refund is not paid immediately and may take several business days to be processed.

Execution of Instruments or Documents [60-0900] moved to [61-3000]

Execution by Public Trustee [60-0910] moved to [61-3100]

Execution by Local Government – General Law [60-0920] moved to [61-3210]

Execution by Local Government – Practice [60-0970] moved to [61-3220]

Execution by Local Government – Practice – Style of Local Government Name [60-0980] moved to [61-3230]

[60-0990] deleted

Execution by Local Government – Practice – Local Government Reform [60-1000] moved to [61-3240]

[60-1010] deleted

[60-1020] Translation of Instrument or Document in Foreign Language

Translations of supporting documentation or parts of instruments or documents (including any details relating to witnessing) from another language to English will be considered on the merits of the competency of the person who made the translation.

Translations of supporting documentation must be of the complete document and not merely an extract of some relevant details.

Translators considered acceptable include, for example:

- a person who holds an accreditation or a qualification (for example by the National Accreditation Authority for Translators and Interpreters Ltd (NAATI)) to make translations; or
- a person of ethnic origin who was educated in their country of origin, migrated to Australia and continued to study in the English language may well be competent to translate from their native language to English.

The following is required to be provided with the original document and translation.

a. for an accredited/qualified translator:
   - a statement explaining or evidence of (stamp) their accreditation/qualification; and
   - a statement that clearly identifies the document being translated and that the entire document was translated. For example, 'I have translated the entire document appearing as attachment 'A' into the English language, which translation appears as attachment 'B'.

b. for a non-accredited or non-qualified person, a statutory declaration that includes statements about the following:
   - the basis of his/her competency; and
   - the circumstances under which his/her competency was acquired; and
   - the identity of the document being translated. For example, 'I have translated the entire document appearing as attachment 'A' into the English language, which translation appears as attachment 'B'.

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

[60-1030] Deposit of Supporting Documentation

In many instances it is necessary for documentary evidence to be deposited to support an instrument or document. Each instrument or document submitted for lodgement must be complete regarding its supporting documentation. The following are some examples of evidence that may be required:

a. a death certificate issued by the Registry of Births, Deaths and Marriages with a Form 4 – Request to Record of Death or with a Form 5A or Form 6 – Transmission Application;

b. a birth certificate or marriage certificate issued by the Registry of Births, Deaths and Marriages with a Form 14 – General Request to Change Name;

c. a grant of representation issued by the Supreme Court of Queensland with a Form 5 or 6 – Transmission Application;

d. a search from the Australian Securities and Investments Commission;

e. a trust deed and other trust documentation with a Form 1 – Transfer to Trustees;

f. a sealed order made by a court with a Form 1 – Transfer or with a Form 14 – General Request;

g. the court proceeding sealed by the court with a Form 14 – General Request notifying the Registrar of a commencement of a court action (for example an Originating Application or Claim and Statement of Claim);

h. a writ of execution/enforcement warrant with a Form 12 – Request to Register Writ/Warrant of Execution;

i. a contract of sale or an agreement with a Form 1 – Transfer.

For information about the requirements for a certified copy of a power of attorney under s. 14 or s. 45 of the *Powers of Attorney Act 1998* for deposit with a Form 16 – Request to Register Power of Attorney see [16-0195].

Where a contract of sale or an agreement is required to be deposited only to support the calculation of the lodgement fee for a Form 1 – Transfer, a photocopy without certification will also be acceptable.

Where a will of a deceased is required (for example with a Form 5A or Form 6 – Transmission Application) the original will must be deposited. An original will is retained in the Titles Registry.

Options for Deposit

The options below are available to lodgers when depositing documentation, which is **not** an original will, a power of attorney, or a revocation of a power of attorney.

***Office copy** means the actual certificate or document issued from the issuing agency and certified or otherwise authenticated by the agency where this is the agency's practice. Office copy includes an order or court proceeding of the Federal Circuit Court of Australia or Family Court of Australia which has been stamped or sealed electronically and downloaded from the Commonwealth Courts portal or a grant of representation which has been issued by the Supreme Court of Queensland via its online portal.

A **good quality photocopy** produced from the original, must meet the following criteria:

- it must be of sufficient quality to allow for subsequent reproduction or imaging;
- it must be on one side of A4 paper only; and
- it must not have black marks, including along the top, bottom or sides, as a result of photocopying or facsimile processes.

Options for a Lodger other than an eLodger

1. a good quality photocopy of the original office copy* (or other original documentation) that has been properly certified as a true copy of the original; or
2. the appropriate item of a form may provide a reference to a prior lodged instrument/s or document/s (other than an instrument or document rejected under s. 157 of the *Land Title Act 1994* or s. 306 of the *Land Act 1994* or an instrument or document withdrawn before registration under s. 159(2) of the Land Title Act or s. 308(2) of the Land Act) with which the documentation was deposited (the reference may be provided in a supplementary letter instead of in the form); or
3. the original office copy* (or other original documentation) may be deposited. However, this option is not available for a document creating or amending a trust (e.g. deed of trust).

   Note: The original evidence deposited **will not be returned**.

The certification of a copy of an electronically stamped or sealed order or court proceeding, or grant of representation issued by the Supreme Court of Queensland, should include words to the effect that:

- it is a true and correct copy of an electronic order or grant of representation or court proceeding made by the applicable court on the applicable date; and
- the electronic order or court proceeding was downloaded from the relevant portal.

Options for a Lodger that is an eLodger

An eLodger may deposit supporting documentation by:

- scanning one of the copies listed below; and
- entering an appropriate message (dealing note) against the relevant instrument or document, for example 'ORIGINAL TRUST DEED SIGHTED P/COPY DEPOSITED' or 'CERTIFIED COPY OF ORIGINAL TRUST DEED DEPOSITED' or 'ORIGINAL COURT DOCUMENT DOWNLOADED'.

1. a good quality photocopy that an employee of the eLodging firm has compared with the original office copy* (or other original documentation); or
2. a good quality photocopy of an original office copy* (or other original documentation) where the photocopy is properly certified as a true copy of the original; or

3. the original office copy* (or other original documentation).
4. the electronic order, grant of representation, or court proceeding, downloaded from the relevant portal.

Alternatively the form may, in the appropriate item, provide a reference to a prior lodged instrument/s or document/s (other than an instrument or document rejected under s. 157 of the *Land Title Act 1994* or an instrument or document withdrawn before registration under s. 159(2) of the Land Title Act) with which the documentation was deposited (the reference may be provided in a supplementary letter instead of in the form).

Certification by Qualified Witness

For a copy mentioned in item (2) above to be properly certified, a qualified witness mentioned in Schedule 1 of the *Land Title Act 1994* or s. 73 of the Land Regulation 2020, who is not a party to the lodged document, must sign a certification clause to the effect that the document is an identical copy of the original, which has been sighted by them. The clause must contain information necessary to clearly identify the signatory; for example, a Justice of the Peace (Qualified) must legibly print their full name or registration number while a solicitor must legibly print their full name. The completed clause must be on the face of the copy and comply with regulatory requirements that provide for forms to be able to be reproduced by photocopy.

The following certifications are provided as a guide for documents other than a certified copy of a general power of attorney made under s. 14 of the *Powers of Attorney Act 1998* or a certified copy of an enduring power of attorney made under s. 45 of the Powers of Attorney Act (see [16-0195] for certifications of powers of attorney).

Endorsement on a copy of single-page document is as follows:

> This is to certify that this is a true copy of the original, which I have sighted.
>
> Date
> Signed
> Full name (or registration number, if applicable)
> Title/Qualification

Endorsement on a copy of a multi-page document is as follows:

If the original document has more than one page the witness must either (a) certify each page or (b) sign or initial each page, number the page as 1 of 40, 2 of 40 and so on (if the pages are not already numbered) and make the following certification on the last page:

> This is to certify that this [number of pages]-page document (each page of which I have numbered and signed) is a true copy of the original [number of pages]-page document that I have sighted.
>
> Date
> Signed
> Full name (or registration number, if applicable)
> Title/Qualification

Sensitive or Confidential Information in supporting documentation

A party to an instrument or document or their solicitor may request that the Registrar suppress in the public register, certain sensitive or confidential information deposited to support an instrument or document. Only sensitive or confidential information not directly relevant to examination or other processing of the instrument or document may be approved for suppression.

The Registrar's discretion to suppress sensitive and confidential information is generally exercised to suppress personal information. Requests made to suppress information on grounds of commercial sensitivity will not generally be approved.

Some examples of the type of sensitive and confidential information which the Registrar may suppress are:

- a person's medical or health information;
- details of minor children contained in agreements or orders made under the *Family Law Act 1975* (Cth);
- a person's bank account details.

Some examples of information that will not be suppressed are:

- names of registered owners or holders of an interest and other information required for the register because of the operation of s. 28 and s. 35(1)(a) of the *Land Title Act 1994* or s. 278 and s. 284(1)(a) of the *Land Act 1994*;
- address of a person or party in an instrument under the Land Title Act or document under the Land Act as a requirement of the form or law e.g. an applicant in a Form 14 or request to record death or a caveator in a caveat;
- the amount paid or details of other consideration as required under s. 61(1)(c) of the Land Title Act;
- any part of a will or a grant of representation.

A request to suppress sensitive or confidential information must be made in writing to the Registrar before the instrument or document is lodged and must contain substantive reasons for the suppression.

If supporting documentation must be deposited to satisfy a requisition, a request to suppress sensitive and confidential information must be made in writing to the Registrar before the supporting documentation is deposited. In both cases, the requesting party must allow a reasonable timeframe before lodgement for the request to be considered and responded to. To clarify, a request will not be considered if it is made immediately before lodgement.

The following must be provided with the request:

- a copy of the completed instrument or document;
- a complete copy of the supporting documentation; and
- a copy of the supporting documentation that otherwise complies with requirements for deposit, with the relevant information removed.

The request must be addressed to the Registrar and together with supporting documents must:

- be sent by email to info@titlesqld.com.au; or
- be sent by post to GPO Box 1401, Brisbane QLD 4001; or
- be deposited by hand on Level 7 at 259 Queen Street Brisbane QLD 4000. The request must be contained in a sealed envelope and clearly marked as a request to the Registrar and not for lodgement.

The information may be removed by either:

- removing pages; or
- overlaying text with white paper before photocopying; or
- obliteration by black marking pen, if the information is in only one or two lines.

Where approval is given, the letter or email of approval must be deposited with the instrument or document at time of lodgement. If approved while the instrument or document is under requisition, the letter or email of approval must be deposited with the instrument or document when returned from requisition.

All supporting documentation deposited with a lodged dealing, including the letter or email of approval, will be imaged and form part of the publicly searchable registers.

[60-1040] Dealing with or Disposing of an Interest Held by the State

Disposing of freehold land[1, 2]

Where government controlled land or interest in land is being disposed of, the following will be acceptable:

- the form shows, in the relevant item, The State of Queensland in the same style name recorded on title; or
- the form shows, in the relevant item, 'The State of Queensland (represented by [current name of department] formerly [previous name of department])'. Because of a Machinery of Government change, a former department name shown on title is not current; or
- the form shows, in the relevant item, 'The State of Queensland (represented by [current name of department] and the title shows the style name as 'The State of Queensland' without the name of the representing department.

However, it is not acceptable where the title shows 'The State of Queensland (represented by [name of department])' and the form shows another style or departmental name but without the words 'formerly [previous name of department]'. This may indicate there has been a transfer of administrative responsibility without being recorded on title. The style name

shown on title must first be changed by lodging and registering a Form 14 – General request to change the administrative details (department representing the State). (See [14-2420]).

Dealing with freehold land[1, 2]

Where government controlled land or interest in land is being dealt with (e.g. plan of subdivision, lease or easement) and the interest is remaining in the control of the government, the style name of The State of Queensland shown on title must be the same as that shown in a lodged an instrument. In these instances, a Form 14 – General request to change the administrative details shown on title (department representing the State or Act) must be lodged prior to registration of the lodged instrument/s. (See [14-2420]).

Unallocated State land (USL)[1, 3]

Where USL is recorded in the style name of:

- 'The State of Queensland'; or
- 'The State of Queensland (represented by [name of department])';

the style name may be changed to:

- 'The State of Queensland (represented by [name of new or different department])'; or
- 'The State of Queensland (represented by [name of department] – [name of Act])'

by lodging and registering a Form 14 – General request to change the administrative details shown on title. (See [14-2420]).

Verification of Identity Standard [60-2000] moved to [61-2700]

[60-8000] Fees

Section 12 of the *Queensland Future Fund (Titles Registry) Act 2021* authorises the Titles Registry to collect fees for titles registry functions performed under a titles registry Act.

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online.

[60-9000] Cross References and Further Reading

Part 62 – eConveyancing.

[60-9050] Notes in text

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.

Titles QUEENSLAND

Part 61 – Witnessing and Execution of Instruments or Documents

LAND TITLE PRACTICE MANUAL

Updated: 1 August 2025

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Part 61 – Witnessing and Execution of Instruments or Documents

[61-0000] Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*[2,3]

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].

[61-1000] Witnesses to Executions

[61-1000] General Law

An 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)[2].

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)[1, 3].

[61-1100] Witnesses mentioned in Schedule 1 of the L*and Title Act 1994* and section 73 of the Land Regulation 2020

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).

[61-1110] A notary public

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].

[61-1120] A justice of the peace or commissioner for declarations

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.

[61-1130] A lawyer

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]).

[61-1140] A licensed conveyancer from another State

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.

[61-1150] Another person approved by the Registrar

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].

[61-1160] A person prescribed by regulation

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.

[61-1200] Instrument or document not witnessed

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.

[61-1300] Obligations of witnesses for individuals

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).

[61-1400] Electronic conveyancing documents

Refer to [62 3000].

[61-2000] Practice

[61-2010] When witnessing is required

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].

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[2]. 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].

[61-2020] Additional witnessing requirement for Form 1, Mortgage (National Mortgage Form) and Form 3

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

[61-2030] Multiple executions

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].

[61-2040] General witnessing requirements

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.

[61-2100] Practices for witnessing within Australia

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]).

[61-2110] Witnesses who can witness instruments or documents within Australia

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].

[61-2120] Specific practice requirements for witnessing instruments or documents within Australia

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.

[61-2200] Witnessing outside Australia (including external Australian territories)

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]).

[61-2210] Witnesses who can witness instruments or documents outside Australia

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]).

[61-2220] Specific practice requirements for witnessing instruments or documents outside Australia

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.

[61-2300] Obligations of witnesses

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.

[61-2310] Take reasonable steps to verify the identity of the individual

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.

[61-2320] Take reasonable steps to ensure the individual is entitled to sign

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.

[61-2330] Recordkeeping obligations

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.

[61-2340] Have the individual execute the form in the witness's presence

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.

[61-2350] Not be a party to the instrument

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.

[61-2400] Another person approved by the Registrar

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.

[61-2500] Certifications

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 Queensland Forms Page.

[61-2510] Types of certification

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.

[61-2520] Separate certification required for each and every individual execution

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.

[61-2530] Australian Embassy/High Commission/Consulate Identity and Witnessing Certification

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 redacted prior to lodgement of the instrument or document e.g. by obliteration by black marking pen or other appropriate method. See [60-1030].
- 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.

(This form is for use in association with services provided at Australian Embassies, High Commissions and Consulates only)

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."

Post Stamp

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
Australian passport
Australian drivers licence

SAMPLE

[61-2540] Form 20 - Identity/Witnessing Certification

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 redacted prior to lodgement of the instrument or document e.g. by obliteration by black marking pen or other appropriate method. See [60-1030].
- 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.

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

IDENTITY/WITNESSING CERTIFICATION

FORM 20 Version 2

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~~").
Australian Passport
Australian Drivers Licence
Title search
Rates Notice

J Jones
.....
Signature of witness

Notary Stamp
Stamp (if applicable)

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[61-2600] Witnessing not in accordance with the Registrar's requirements

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.

[61-2610] Legal or other Restrictions applying to a particular witness

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.

[61-2620] Any other reason

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.

[61-2700] Verification of Identity Standard

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:

https://www.titlesqld.com.au/econveyancing/

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 whole 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 plus Australian drivers licence or Photo Card plus 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 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
3	Australian drivers licence or Photo Card 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
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. *Note: Refer to Verification of Identity Standard paragraph 4.*
	For Persons who are not Australian citizens or residents:
6	a. Foreign passport plus another form of government issued photographic identity Document plus change of name or marriage certificate if necessary b. Foreign passport plus full birth certificate plus another form of government issued identity Document plus 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(b) 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.

[61-3000] Execution of Instruments or Documents

[61-3010] General

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.

[61-3020] Execution Where Different Capacities in Same Instrument or Document

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.

[61-3030] Execution by Corporation

See part 50, esp [50-2000] and [50-2030] to [50-2050]).

[61-3035] Execution by a Body Corporate for a Community Titles Scheme

See part 45, esp [45-2060].

[61-3040] Execution with Marksman Clause

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.

[61-3050] Execution by Attorney

All transactions executed by an attorney must be in accordance with the terms of a registered power of attorney. Where an instrument or document is executed by an attorney, the name of the attorney, and the dealing number of the relevant registered power of attorney must be stated, either in an execution clause (see below), or as specified in the appropriate execution section of the form being executed (for example, a National Mortgage Form).

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 an instrument or document being lodged is signed under a power of attorney that restricts the attorney to dealing with certain property only, and the construction of the terms of the power of attorney identified the property by other than a lot on plan description, a Form 20 - declaration may be required to identify the property in the instrument or document is the property referred to in the power of attorney. This also applies in instances where the property identified in the power of attorney has been subdivided after the power of attorney was signed, in which case a Form 20 – Declaration should identify the parent lot, and the new lot(s), and affirm the attorney's authority to deal with the land as it is currently identified. A more detailed explanation of the execution requirements and the manner of execution of instruments and forms by an attorney is outlined below, and all should be read in conjunction with the information provided in Part 16.

[61-3051] Execution by Attorney (an individual)

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 must be witnessed. When an individual is signing in their capacity as an attorney for a corporation, their signature must be witnessed in the same manner as for individuals when they execute the following:

- a transfer, mortgage, lease etc. as transferor, mortgagor, lessor etc. or
- a release of mortgage or a surrender of lease or easement as mortgagee, lessee or grantee.

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.

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'.

[61-3052] Execution by Attorney (a Corporation)

Where an instrument or document is executed by a corporation as an attorney (with or without a common seal), it is not required to be witnessed in accordance with Schedule 1 of the *Land Title Act 1994* 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 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].

[61-3053] Execution by a Substitute Attorney

Where an instrument or document is executed by a substitute attorney (refer to [16-0160]), 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'.

[61-3054] Execution by a Supplementary Attorney

Where an instrument or document is executed by a supplementary attorney (refer to [16-0170]), the execution clause must include a reference to both the supplementary power of attorney and the head power of attorney. For example:

> 'John Smith [or John Smith & Co Pty Ltd ACN 001 002 003] by his [its] duly constituted supplementary-attorney William Smith [name in full] under supplementary power of attorney No X9999999Y under head power of attorney No X8888888Z'.

[61-3055] Execution Of National Mortgage Form

Refer to Part [2-4090], and the relevant guide to completion for information about completing the execution panel of the *National Mortgage Form*, for an execution by an attorney.

Where the *National Mortgage Form* is being executed by a substitute or supplementary attorney, the dealing numbers of the substitutionary or supplementary power of attorney and the head power of attorney may be shown as in the example below:

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 / 09 / 2023

[61-3056] Execution of Priority Notice Forms (including extension and withdrawal)

Refer to Part [23-4070] and the Guide to Completion for the Priority Notice Form (at Part 2.6.1) for a further explanation of the execution of Priority Notice Form, Extension of Priority Notice Form and Withdrawal of Priority Notice Form by an attorney.

Where the Priority Notice Form, Extension of Priority Notice Form and Withdrawal of Priority Notice Form is being executed by a substitute or supplementary attorney, the dealing numbers of the substitutionary or supplementary power of attorney and the head power of attorney may be shown as in the example below:

Applicant Execution

Executed on behalf of PETER JAMES MAY
under power of attorney numbers 712345678 & 798765432

Signer Name	JODIE SMITH
Signer Organisation	
Signer Role	ATTORNEY
Signature	*J Smith*
Execution Date	27 / 09 / 2023

[61-3057] Execution by a Common Attorney or for a Common Principal

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.

[61-3058] Execution by an Attorney on behalf of a Custodian

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.

[61-3059] Execution by an Attorney (specified officer or holder of a specified office)

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 attorney (an individual) who has been appointed by reference only to the title of their office or position within an organisation (pursuant to s 13(1)(b)(ii) Powers of Attorney Act 1998), the execution clause must read:

'Big Bank Pty Ltd ACN 001 002 003 by its duly constituted attorney William Smith [name in full], Senior Manager [position] under power of attorney No X9999999Y'.

If the attorney's office or position is within a different organisation from the Principal, the execution clause must read:

'Big Bank Pty Ltd ACN 001 002 003 by its duly constituted attorney William Smith [name in full], Senior Manager [position] at Mortgage Discharge Hub Pty Ltd A.C.N. 004 005 006 [entity they hold the position in] under power of attorney No X9999999Y'.

The term 'office' as defined by the *Acts Interpretation Act 1954* includes a 'position' and the two words can be used interchangeably.

The signature of an individual as attorney for a corporation must be witnessed (see [61-3051]).

[61-3060] Execution by a legal practitioner

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.

[61-3070] Execution by a Receiver Appointed by a Mortgagee for an Individual

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.

[61-3080] Execution by an Administrator under the *Guardianship and Administration Act 2000*

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.

The Public Trustee is the manager of the estates of certain prisoners (for the purposes of this part, an 'affected prisoner'). As to who is an affected prisoner see LTPM [16-0040].

The Public Trustee 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's administrator for financial matters to execute the instrument or document dealing with the property themselves (s. 95 of the Public Trustee Act).

A letter from the lodging solicitor advising the term of the sentence should be deposited with the affected dealing. If the party is an affected prisoner, a statutory declaration from the Public Trustee stating that it has no objection to the administrator executing the relevant instrument or document must be deposited. Alternatively, the Public Trustee may consent to the relevant dealing in its preferred form or by letter. This consent need not be given in a Form 18 – General Consent.

[61-3090] Execution for a Minor

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].

[61-3100] Execution by Public Trustee

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*'.

[61-3110] Seal of the public trustee

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. 223 (1)(b) of the *Property Law Act 2023*).

[61-3120] Execution by delegates of the Public Trustee

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*'.

[61-3130] Execution for prisoners

The Public Trustee is the manager of the estates of certain prisoners (for the purposes of this part, an 'affected prisoner'). As to who is an affected prisoner see LTPM [16-0040].

The Public Trustee 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) or has given consent for the affected prisoner (or their attorney for financial matters or their administrator for financial matters) to execute the instrument or document dealing with the property themselves (s. 95 of the Public Trustee Act).

A letter from the lodging solicitor advising the term of the sentence should be deposited with the relevant dealing. If the party is an affected prisoner, a statutory declaration from the Public Trustee stating that it has no objection to the affected prisoner (or their attorney for financial matters or their administrator for financial matters) must be deposited. Alternatively, the Public Trustee may consent to the relevant dealing in its preferred form or by letter. This consent need not be given in a Form 18 – General Consent.

[61-3140] Witnessing requirements

The usual witnessing requirements apply to the execution.

[61-3200] Execution by Local Government

[61-3210] General Law

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.

[61-3220] Practice

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.

[61-3230] Style of Local Government Name

Under the provisions of s. 4(2) of the Local Government Regulation 2012 a local government may be called either–

a. 'Council of the… (*insert* /City/Town/Shire/Region) of… (*insert* name of local government area)'; or

b. '… (*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. 4(3) of the Local Government Regulation 2012).

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.

[61-3240] Local Government Reform

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 Queensland Revenue Office.

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*'.

[61-3300] Execution by a Trustee in Bankruptcy

Where an instrument or document is executed by the trustee of a bankrupt, their name must be clearly printed adjacent to their signature. Where the Official Trustee in Bankruptcy or an authorised signatory executes, the Seal of the Official Trustee in Bankruptcy must be affixed, and the signatory must state their name, designation and the district for which they are the Official Trustee or authorised signatory.

[61-9000] Cross References and Further Reading

Part 62 – eConveyancing.

[61-9050] Notes in text

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.

Titles QUEENSLAND

Part 62 – eConveyancing

LAND TITLE PRACTICE MANUAL

Updated: 11 September 2023

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Part 62 – eConveyancing

[62-0000] Introduction

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) in accordance with the Land Title Act 1994 (Qld) and the Electronic Conveyancing National Law (Queensland) (the ECNL). eConveyancing is the primary method of conveyancing in Queensland, and its use is mandated for a number of instruments and documents. Refer to part [62-6000] for further information on the application of the eConveyancing mandate. eConveyancing is facilitated by a national law and national regulatory framework and involves eligible participants (Subscribers), such as Australian legal practitioners and authorised deposit taking institutions, utilising the systems (Electronic Lodgment Networks or ELNs) of approved private operators (Electronic Lodgment Network Operators or ELNOs) to complete conveyancing transactions electronically.

Only eligible Subscribers can utilise Electronic Lodgment Networks to lodge Electronic Conveyancing Documents. Eligibility criteria include specific insurance and character requirements. Non-eligible transacting parties can engage an Australian legal practitioner to lodge Electronic Conveyancing Documents on their behalf.

The eConveyancing mandate, which commenced on 20 February 2023 pursuant to the *Land Title Regulation* 2022, requires that certain instruments, known as 'required instruments', must be lodged through an ELN. Therefore, industry professionals lodging required instruments must do so through an ELNO.

In accordance with the nature and purpose of the Land Title Practice Manual, the information in this part is limited to general information about the law, regulatory framework and general practice requirements. Additional information relating to specific dealings is available in the relevant part of the Land Title Practice Manual under the heading eConveyancing.

Information about the requirements for using eConveyancing, including becoming a Subscriber, is available online at the Titles Queensland website and on the Australian Registrars' National Electronic Conveyancing Council (ARNECC) website.

[62-1000] Regulatory Framework and ARNECC

The foundation for the national regulatory framework for electronic conveyancing in Australia is a 2011 intergovernmental agreement entered into by the State and Territory governments and known as the Electronic Conveyancing National Law Agreement 2011.

Amongst other things, the Electronic Conveyancing National Law Agreement 2011 provided for each Australian State and Territory to adopt or implement the Electronic Conveyancing National Law (ECNL) and the formation, composition and operation of the Australian Registrars' National Electronic Conveyancing Council (ARNECC). ARNECC's functions include developing and maintaining national Model Operating Requirements (MOR) and Model Participation Rules (MPR) to be implemented as Operating Requirements and Participation Rules respectively in each jurisdiction.

The ECNL was first enacted in New South Wales as an appendix to its *Electronic Conveyancing (Adoption of National Law) Act 2012*. The ECNL was adopted in Queensland by the *Electronic Conveyancing National Law (Queensland) Act 2013*. The *Electronic Conveyancing National Law (Queensland) Act 2013* also made a number of amendments to the *Land Title Act 1994* and *Land Act 1994* to facilitate eConveyancing.

The ECNL provides for, amongst other things:

- the lodgement, processing and registration of instruments and other documents (Electronic Conveyancing Documents) in electronic form for the purposes of the Land Title Act, Land Act and other titling legislation;
- the existence of electronic systems for lodgement of Electronic Conveyancing Documents called Electronic Lodgment Networks (ELNs);
- the Registrar to provide and operate an ELN and / or approve Electronic Lodgment Network Operators (ELNOs) to provide and operate ELNs;
- an attribution rule which provides that a digital signature created for an Electronic Conveyancing Document is binding on certain parties and cannot be repudiated except in very limited circumstances;
- for Subscribers to access and use an ELN to complete conveyancing transactions electronically, either on their own behalf (e.g. financial institutions) or on behalf of transacting parties who have authorised them to do so using a properly completed client authorisation (e.g. Australian Legal Practitioners);

- the Registrar to determine Operating Requirements relating to the operation of an ELNO and the provision and operation, by an ELNO of an ELN;
- the Registrar to determine Participation Rules relating to the use of an ELN by Subscribers;
- the conduct of investigations, called compliance examinations to determine whether the Operating Requirements and Participation Rules are being complied with and investigate any suspected or alleged case of misconduct with respect to the operation of or use of an ELN.

[62-1010] Participation Rules

In accordance with section 22 of the Electronic Conveyancing National Law (Queensland) (ECNL) the Registrar of Titles has determined Participation Rules, relating to the use of an Electronic Lodgment Network in Queensland. The Queensland Participation Rules apply to all Subscribers using eConveyancing in Queensland. The Queensland Participation Rules are available on the Titles Queensland website.

As required by section 24 of the ECNL, the Queensland Participation Rules are consistent with the Model Participation Rules (MPR) published by the Australian Registrars' National Electronic Conveyancing Council (ARNECC) which are available on the ARNECC Model Participation Rules web page. Any Queensland specific Participation Rules are listed in Schedule 1 of the Queensland Participation Rules.

ARNECC publishes MPR Guidance Notes to assist Subscribers in understanding what is expected of them in complying with the Registrars' Participation Rules in each jurisdiction. The Model Participation Rule Guidance Notes are available on the ARNECC Model Participation Rules Guidance Notes web page.

With the introduction of the eConveyancing Mandate on 20 February 2023 it is mandatory for industry professionals lodging required instruments to do so through an Electronic Lodgment Network Operator (ELNO). For more information, refer to [62-6000].

[62-1020] Operating Requirements

In accordance with section 22 of the Electronic Conveyancing National Law (Queensland) (ECNL) the Registrar of Titles has determined Operating Requirements relating to the operation of an Electronic Lodgment Network Operator (ELNO) and the provision and operation by an ELNO of an Electronic Lodgment Network. The Queensland Operating Requirements are available on the Titles Queensland website.

As required by section 24 of the ECNL, the Queensland Operating Requirements are consistent with the Model Operating Requirements (MOR) published by the Australian Registrars' National Electronic Conveyancing Council (ARNECC) which are available on the ARNECC Model Operating Requirements web page. Any Queensland specific Operating Requirements will be listed in Schedule 4 of the Operating Requirements.

ARNECC publishes MOR Guidance Notes to assist ELNOs in understanding what is expected of them in complying with the Registrars' Operating Requirements in each jurisdiction. The Model Operating Requirements Guidance Notes are available on the ARNECC Model Operating Requirements Guidance Notes web page.

[62-2000] eConveyancing (electronic) Forms

An Electronic Conveyancing Document is a document under 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). Refer to [59 4000] for a list of the current electronic forms approved by the Registrar.

A representation of each electronic form approved by the Registrar is shown in each relevant part of the Land Title Practice Manual.

[62-3000] Witnessing and Execution of Electronic Conveyancing Documents

If the *Land Title Act 1994* or the *Land Act 1994* provides for an instrument or document to be signed or executed and the instrument or document is an Electronic Conveyancing Document, the Electronic Conveyancing Document must be digitally signed as provided for under the Electronic Conveyancing National Law (Queensland) (s. 14C of the Land Title Act and s. 290Q of the Land Act).

If an instrument or document is digitally signed in accordance with the Queensland Participation Rules, the requirements of any other Queensland law relating to the execution, signing, witnessing, attestation or sealing of documents must be regarded as having been fully satisfied (s. 9(3)(b) of the Electronic Conveyancing National Law (Queensland)).

[62-4000] Requisitions of Electronic Conveyancing Documents

An instrument or document that is lodged as an Electronic Conveyancing Document, and is subsequently requisitioned, will be printed as a rendered paper version of the Electronic Conveyancing Document with a dealing number attached (the rendered paper form) and forwarded to the lodger of the document.

To respond to the requisition notice the rendered paper form must be returned to Titles Queensland's Brisbane office and may not be relodged electronically.

If the deficiencies identified in the requisition notice result in changes needing to be made to the rendered paper form then generally the electronic conveyancing document will need to be withdrawn and a new electronic conveyancing document or paper dealing will need to be lodged. Any changes which alter the nature and effect of the Electronic Conveyancing Document or are otherwise of a substantial nature (adding or deleting parties or lots etc.) will require the Electronic Conveyancing Document to be withdrawn. Refer to [60-0150] for information on the process for withdrawing a lodged instrument or document prior to registration.

If, however, the deficiencies identified in the requisition are very minor (e.g. the transposition of two digits in the dealing number of a standard terms document referenced in the Electronic Conveyancing Document), once the deficiencies are addressed, the amended rendered paper form may be returned for further examination. Please note however that no assurances can be provided as to whether the Electronic Conveyancing Document will be capable of registration. Any changes made to the rendered paper form must comply with the requirements detailed in [59 2040].

Refer to [60 0000] to [60 0040] for more information on requisitions.

[62-4010] Withdrawn or rejected Electronic Conveyancing Documents cannot be relodged

An Electronic Conveyancing Document that has been withdrawn or rejected cannot be relodged (s. 157(5) of the *Land Title Act 1994* and s. 306(5) of the *Land Act 1994*).

A new Electronic Conveyancing Document or paper dealing will need to be lodged.

[62-5000] Available Instruments

Not all instruments and documents are capable of being lodged using eConveyancing and not all instruments and documents are available for lodgement through all Electronic Lodgment Network Operators (ELNOs).

The instruments that are able to be lodged through an ELNO are known as available instruments. A list of available instruments is accessible on the Titles Queensland website.

Subscribers should also check with the ELNO they subscribe to as to which instruments are available to be lodged through their ELNO in conjunction with the list of available instruments provided on the Titles Queensland website, as there can be instances where the functionality differs between ELNOs.

Some available instruments executed on or after 20 February 2023 are required to be lodged through eConveyancing unless a valid exemption applies. Refer to [62-6000] for further information.

[62-6000] eConveyancing Mandate

The eConveyancing mandate, introduced by the *Land Title Regulation 2022*, applies to all industry professionals who are eligible to become Subscribers of an Electronic Lodgment Network Operator (ELNO); as well as to corporations and entities other than natural persons, that are lodging an instrument which is captured by the mandate.

The mandate, which commenced on 20 February 2023, requires that some instruments which are able to be lodged using eConveyancing in Queensland (available instruments), must be lodged using eConveyancing, unless a valid exemption applies.

The instruments which are captured under the mandate are known as 'required instruments' and are the instruments that are required to be lodged through an ELNO. Required instruments are those defined in s. 4 of the *Land Title Regulation 2022* and are detailed in [62-6010].

It is important to be aware that not all available instruments are required instruments under the mandate, that is to say that there are some instruments which can (and may) be lodged through eConveyancing, but are not captured by the mandate and therefore are not mandatory to be lodged through eConveyancing. In addition, the mandate applies only to instruments dealing with freehold land. For a list of 'required instruments' captured by the mandate, and the list of exemptions to the mandate, refer to [62-6010 to 62-6020] and to the Titles Queensland website.

[62-6010] Required Instruments

In accordance with s. 5 of the *Land Title Regulation 2022* a 'required instrument' must be lodged or deposited using an Electronic Lodgment Network if it is an instrument or document that may be lodged electronically under the Electronic Conveyancing National Law (Queensland), section 7.

The following instruments and documents are required instruments in accordance with s. 4 of the *Land Title Regulation 2022*:

a. an instrument of transfer for a lot (Form 1);
b. an instrument of mortgage for a lot (NMF);
c. an instrument releasing a mortgage of a lot (Form 3);
d. a caveat for a lot (Form 11);
e. a request to withdraw a caveat lodged over a lot (Form 14);
f. a priority notice for a lot (PNN);
g. a request to extend a priority notice over a lot (PNE);
h. a request to withdraw a priority notice over a lot (PNW);
i. an application to be registered as a personal representative for a registered owner of a lot who has died (only Form 5 is currently available).

[62-6020] Exemptions

Exemptions to the eConveyancing mandate are provided for in sections. 5(2) and 5(3) of the *Land Title Regulation 2022* and can be divided into two categories, which are:

a. Instrument Specific Exemptions; and
b. General Exemptions.

A required instrument under the eConveyancing mandate does not need to be lodged using an Electronic Lodgment Network (ELN) if it meets any of the following criteria:

1. It meets one of the applicable 'Instrument Specific Exemptions' listed on the Titles Queensland website.
2. It is covered under one of the 'General Exemptions' to the Mandate provided for in section 5(2) and 5(3) of the *Land Title Regulation 2022* (see [62-6022] below); or
3. The instrument was executed by a party prior to 20 February 2023 (refer to section 6 of the *Land Title Regulation 2022*).

Instrument Specific Exemptions are those exemptions that are specific to the type of instrument being lodged. Refer to [62-6021] for a further explanation.

General Exemptions are those exemptions that apply to all the instruments captured by the eConveyancing mandate and are contained in s. 5 of the *Land Title Regulation 2022*. Refer to [62-6022] for a further explanation.

[62-6021] Instrument Specific Exemptions

Because no Electronic Lodgment Network (ELN) presently has the functionality to allow for every possible variation that every instrument can be utilised for (in the way that a paper form would), an exemption is provided for in the mandate for circumstances where the functionality to prepare, lodge or deposit the required instrument does not exist.

For example, some types of Form 1 – Transfer (e.g. Mortgagee exercising power of sale) cannot be processed through an ELN. Such transfers are therefore exempt from the mandate and are permitted to be lodged in paper form.

For a full list of the instrument specific exemptions for each of the required instruments refer to the Titles Queensland website.

[62-6022] General Exemption Categories

Under sections 5(2) and 5(3) of the *Land Title Regulation 2022*, the eConveyancing Mandate does not apply if any of the following exemptions apply:

1. The Electronic Lodgment Network and/or Titles Queensland system does not have the functionality to complete the particular transaction; or
2. When the eConveyancing lodgement was attempted, circumstances beyond the lodger's control prevented the lodgement from proceeding e.g. internet access issues for the entirety of the day; the eConveyancing platform is unavailable for use for the entirety of the day; or
3. A party to the transaction, is an individual who is not a Subscriber and is not represented by an Australian legal practitioner or an incorporated legal practice. Note: This exemption applies to a natural person and does not apply to a corporate entity.
4. The transaction is required to be lodged with:
   - another instrument that cannot be lodged using eConveyancing e.g. a transfer that must be lodged with a plan of survey and the plan of survey cannot be lodged using eConveyancing; or
   - another instrument for which a party to that instrument is an unrepresented natural person.
5. The transaction replaces an instrument:
   - that was initially lodged using eConveyancing, but was rejected or withdrawn under section 157 or section 159 of the *Land Title Act 1994*; and
   - for which an associated financial transaction has been completed e.g. purchase price for the property has been paid; money has been given in return for granting a mortgage or charge over the property; taxes, duty (including stamp duty), fees or charges payable relating to the transaction have been paid.
6. The instrument(s) being lodged give effect to a transaction that is not an ELN lodgement or ELN transfer within the meaning of the *Duties Act 2001* section 156D.

[62-6030] Application of the Mandate

The mandate applies to all required instruments executed on or after 20 February 2023 in accordance with s. 5 of the *Land Title Regulation 2022*. The mandate applies only to instruments dealing with freehold land. For a list of required instruments see [62-6010].

[62-6040] Practice Requirements where an exemption applies

Where an exemption applies, an 'eConveyancing Mandate - Exemption Request Form' (ERF) should be completed and deposited in conjunction with the required (mandated) instrument. The ERF, properly completed, is a formal request deposited by the lodger for a required instrument to be accepted for lodgement in paper form.

The exemption to the mandate that applies to the lodgement must be selected on the ERF. For more information see [62-7000].

[62-7000] Exemption Request Form (ERF)

In circumstances where an exemption applies (see [62-6020]) an 'eConveyancing Mandate – Exemption Request Form' (ERF) should be completed and deposited with the required instrument being lodged. The ERF, properly completed, is a formal request deposited by the lodger for a required instrument to be accepted for lodgement in paper form. For a list of required instruments refer to [62-6010].

The ERF can be obtained from the Titles Queensland website. This form should have the reason for the exemption clearly ticked and should be signed and dated by the party lodging the form. An example of a completed request for a fictitious entity is provided on the Titles Queensland website, inside the guide to completion. See Guide to Completion - ERF [62-7010].

[62-7010] Guide to Completion – Exemption Request Form (ERF)

To assist with the completion of the 'eConveyancing Mandate – Exemption Request Form' (ERF), Titles Queensland has produced a guide to completion document which covers all aspects of the completion of the ERF. The guide to completion also includes an example of a completed ERF for a fictitious entity to further demonstrate the practical completion of the ERF. The guide to completion for the ERF can be obtained from the Titles Queensland website.

[62-8000] Attachments to Electronic Conveyancing Documents (Supporting Evidence or other documents)

Including an attachment with an Electronic Conveyancing Document is only permitted in limited circumstances.

Unlike paper instruments or documents, in most instances, Electronic Conveyancing Documents are not required to be accompanied by supporting evidence or other documentation.

The Registrar relies on certifications made by the Subscriber who digitally signs the Electronic Conveyancing Document under the Participation Rules, including certifications that they have retained evidence supporting the Electronic Conveyancing Document and that they have taken reasonable steps to ensure that the Electronic Conveyancing Document is correct and compliant with relevant legislation.

Information on the attachments to be included with each dealing type is detailed in each relevant part of the Land Title Practice Manual under the heading eConveyancing.

[62-9000] Cross References and Further Reading

Part 59 – Forms

Part 60 – Miscellaneous